

MILLICAN RESERVE

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS FOR
MILLICAN RESERVE TO CREATE THE VILLAGE OF THE CREEK**

TABLE OF CONTENTS

ARTICLE I – PURPOSE 2

ARTICLE II – DEFINITIONS 3

2.01 “Ancillary Building” 3

2.02 “Barn” 3

2.03 “Board” 3

2.04 “Creek Access Easement” 3

2.05 “Creek Access Easement Area” 3

2.06 “Creek Assessment” 3

2.07 “Creek Bylaws” 3

2.08 “Creek Certificate of Formation” 3

2.09 “Creek Common Property” 3

2.10 “Creek Development Period” 3

2.11 “Creek Easement Area” 4

2.12 “Creek Facilities” 4

2.13 “Creek Fee Schedule” 4

2.14 “Creek Fund” 4

2.15 “Creek Initial Owner” 4

2.16 “Creek Member” and/or “Creek Members” 4

2.17 “Creek Owner” 4

2.18 “Creek Parcel” 4

2.19 “Creek Property” 4

2.20 “Creek Rules” 4

2.21 “Creek Supplemental Declaration” 5

2.22 “Creek Tract” 5

2.23 “Creek Utility Easement” 5

2.24 “Creek Utility Easement Area” 5

2.25 “Foundation” 5

2.26 “Meadow” 5

2.27 “Stewardship Committee” 5

2.28 “The Creek” 5

2.29 “Wilderness Buffer” 5

2.30 “Wildlife Management Use” 5

2.31 “Wildlife Management Use Plan” 5

2.32 “Wildlife Management Use Practices” 5

ARTICLE III - REGULATIONS OF USES 5

3.01 Additions to the Creek Property 5

3.02 Mergers of the Foundation 6

3.03 Commercial Activity 6

3.04 Combining of Creek Parcels 6

3.05 Required Construction Timeline 6

3.06 Clearing of Tracts..... 7

3.07 Household Pets and Livestock..... 7

3.08 Outdoor Laundry Drying..... 7

3.09 The Creek Entry Features..... 7

3.10 Town Founder's Use..... 8

3.11 Restriction Upon Sale of Creek Parcels..... 8

ARTICLE IV - THE FOUNDATION..... 9

4.01 Organization and Purpose..... 9

4.02 Membership..... 9

4.03 Voting Rights..... 9

4.04 Board of Directors and Officers..... 10

4.05 Powers and Authority of the Foundation..... 10

4.06 Creek Rules..... 12

4.07 Liability of Creek Initial Owner, Town Founder, Board, ARC and Foundation..... 12

4.08 Reimbursement of Creek Initial Owner and/or Town Founder..... 13

ARTICLE V - ARCHITECTURAL REVIEW COMMITTEE..... 13

5.01 Coordination with the Master Declaration..... 13

ARTICLE VI – CREEK COMMON PROPERTY..... 13

6.01 Conveyance..... 13

6.02 Improvement of Creek Common Property..... 14

6.03 Property Rights..... 14

6.04 Use of Creek Common Property..... 14

6.05 Exculpation from Liability and Responsibility for Maintenance and Design..... 15

6.06 Exculpation from Liability and Responsibility for Damages..... 15

6.07 Conveyance to the Foundation..... 16

ARTICLE VII - STEWARDSHIP COMMITTEE..... 16

7.01 Purpose of Stewardship Committee..... 16

7.02 Composition of Stewardship Committee..... 16

7.03 Duties and Responsibilities..... 16

7.04 Timely Review..... 17

7.05 Meetings of the Stewardship Committee..... 17

7.06 No Waiver of Future Approval..... 17

7.07 Decisions Conclusive..... 17

7.08 Non-Liability of Stewardship Committee..... 17

7.09 Variances..... 18

7.10 Reimbursement..... 18

7.11 Enforcement of Habitat Management and Wildlife Management Use..... 18

7.12 Cause and Method for Replacement..... 18

7.13 Annual Report..... 18

ARTICLE VIII - CREEK ASSESSMENTS..... 18

8.01 Purpose of Creek Assessments..... 18

8.02 Creation of the Lien and Personal Obligation for Assessments..... 18

8.03	Creek Annual Assessment.....	19
8.04	Distributions.....	20
8.05	Amount.....	20
8.06	Increases.....	20
8.07	Creek Special Assessments for Capital Improvements.....	21
8.08	Creek Individual Assessments.....	21
8.09	Creek Fund.....	22
8.10	Effect of Nonpayment of Creek Assessments.....	22
8.11	Contractual Lien.....	22
8.12	Notice of Lien.....	22
8.13	Creation of Lien.....	22
8.14	Enforcement of Lien.....	23
8.15	Additional Matters Pertaining to Foreclosure.....	23
8.16	Non-Use, Etc.....	23
8.17	Exempt Portions of the Properties.....	23
8.18	No Offsets.....	23
8.19	Subordination of the Lien to Mortgages.....	24
ARTICLE IX - RESERVATIONS AND EASEMENTS.....		24
9.01	Reservation of Utility Easements on Survey.....	24
9.02	Grant of Easements.....	24
9.03	Use of Easements.....	24
9.04	Reservations and Restrictions.....	24
9.05	Construction and Maintenance of Road.....	25
9.06	Reservation of Right to Consent to Construction.....	25
9.07	Future Easements.....	26
9.08	General Easement.....	26
9.09	Maintenance of Easements.....	26
ARTICLE X - GENERAL COVENANTS AND RESTRICTIONS.....		26
10.01	Duration.....	26
10.02	Compliance.....	26
10.03	Enforcement.....	27
10.04	Fines for Violations.....	27
10.05	Notices.....	27
10.06	Attorney Fees.....	27
10.07	Conflicts.....	27
10.08	Severability.....	27
10.09	Amendment.....	27
10.10	Security.....	28
10.11	De-annexation of the Creek Property.....	28
10.12	Waiver.....	28
10.13	Ratification, Confirmation and Approval of Agreements.....	28
10.14	Constructive Notice and Acceptance.....	28

10.15	Assignment of Town Founder's Rights and Interests.....	29
10.16	Word Meanings.....	29
10.17	Captions and Section Headings.....	29
10.18	Exhibits.....	29
	Exhibit A: Millican DPC Property.....	32
	Exhibit B: Jaques Property.....	37
	Exhibit C: The Creek Common Property.....	39
	Exhibit D: The Creek Access Easement Area.....	40
	Exhibit E: The Creek Utility Easement Area.....	45

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS FOR
MILLICAN RESERVE
TO CREATE THE VILLAGE OF THE CREEK

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS FOR MILLICAN RESERVE TO CREATE THE VILLAGE OF THE CREEK (this "Creek Supplemental Declaration") is made and entered into as of the 27th day of October, 2015, by Millican DPC Partners, LP a Texas limited partnership ("Millican DPC"), Millican DPC also being herein called the "Creek Initial Owner".

WITNESSETH

WHEREAS, Millican DPC is the record owner of fee simple title to that certain 135.658 acre tract or parcel of real property, more particularly described in *Exhibit A* attached hereto and made a part hereof (the "Millican Property") which, together with the Jaques Property, is known as "The Creek"; and

WHEREAS, John T. Jaques and Kamela A. Jaques ("Jaques") are the record owners of fee simple title to that certain 11.972 acre tract or parcel of real property, more particularly described in *Exhibit B* attached hereto and made a part hereof (sometimes referred to as the "Jaques Property"); and

WHEREAS, The Creek is currently encumbered by the Agreement of Negative Reciprocal Covenants dated August 14, 2009 and recorded in the Official Public Records of Brazos County, Texas, in Volume 9286, Page 85, *et. seq.*, which was subsequently amended by the following instruments: that certain First Amendment to Agreement of Negative Reciprocal Covenants dated December 17, 2010 and recorded in Volume 9980, Page 107, *et. seq.*, of the Official Public Records of Brazos County, Texas; that certain Second Amendment to Agreement of Negative Reciprocal Covenants dated February 25, 201 and recorded in Volume 10051, Page 292, *et. seq.*, of the Official Public Records of Brazos County, Texas; that certain Third Amendment to Agreement of Negative Reciprocal Covenants dated September 3, 2013 and recorded in Volume 11593, Page 262, *et. seq.*, of the Official Public Records of Brazos County, Texas; and that certain Fourth Amendment to Agreement of Negative Reciprocal Covenants dated effective March 20, 2015 and recorded in Volume 13019, Page 238, *et. seq.*, of the Official Public Records of Brazos County, Texas (as amended, the "Creek Covenants"); and

WHEREAS, Article 6, Section 6.08 of the Creek Covenants provides that the Creek Covenants can be amended by an amendment approved by owners of 75% of The Creek, by acreage; and

WHEREAS, Millican DPC owns more than 75% of The Creek, by acreage, and Millican DPC desires to amend and restate the Creek Covenants as set forth below and as is set forth in the Master Declaration (hereinafter defined); and

WHEREAS, Rock Barn Conservation Partners, LLC, a Texas limited liability company (the "Town Founder"), is the developer of The Creek; and

conservation community which will create a model for others; and where residents value the health of their environment and the soil, live in harmony with nature, and where the unique and important natural, agricultural, ecological, open space and scenic resources of The Creek are maintained and enhanced in connection with, and as part of, the promotion of the health, safety and welfare of the Creek Owners; and

WHEREAS, the Town Founder and the Creek Initial Owner desire to provide a general and uniform plan for the orderly development and improvement of the Property and for the maintenance of the Creek Common Property (as hereafter defined) to insure that The Creek is developed, improved, used, occupied, maintained and enjoyed as an architecturally harmonious, environmentally sensitive, and desirable residential area which will enhance the general welfare, quality of life, and the property values of all the Creek Owners; and

WHEREAS, Millican DPC desires to have the Millican DPC Property made subject to this Creek Supplemental Declaration and to convey to the Town Founder all rights and interest of the Town Founder as set forth under this Creek Supplemental Declaration; and

WHEREAS, The Creek Community Foundation ("Foundation") has been or will be incorporated under the laws of the State of Texas as a nonprofit corporation, for the purpose of administering and enforcing the said covenants, conditions, restrictions, reservations, easements, rights, charges and liens, and of disbursing assessments and charges hereinafter created:

NOW THEREFORE, Millican DPC, along with the approval of the Town Founder, does hereby amend and restate the Creek Covenants with the Master Declaration and with this Declaration and declare that the Creek Covenants, as originally written, including amendments thereto, are no longer effective. Accordingly, in addition to the Master Declaration, the Creek Property, together with such additions thereto as may hereafter be made, shall hereafter be held, conveyed, sold, encumbered, developed, occupied, leased and used subject to the following covenants, conditions, restrictions, reservations, easements and rights which are for the purpose of protecting the value and desirability of, and which will run with the Creek Property; shall be binding on all parties having or acquiring any right, title or interest in the Creek Property, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Creek Property and any interest therein; and shall inure to the benefit of and be binding upon the Creek Owners of the Creek Property or any part thereof, or their successors in interest, and may be enforced as more specifically set forth herein, by the Town Founder and its successors and assigns, as provided herein, by any Creek Owner or the Creek Owner's successors in interest, by the Foundation, or by the Conservancy.

ARTICLE I – PURPOSE

The purpose of this Creek Supplemental Declaration is to create the Village to be known as The Creek. The Creek is also encumbered by the Master Declaration of Covenants, Conditions, Restrictions Reservations, Easements and Rights for Millican Reserve (the "Master Declaration") dated as of October 27, 2015 and recorded in Volume 13020, Page 62, *et. seq.*, of the Official Public Records of Brazos County, Texas, (sometimes referred to herein as the "County").

ARTICLE II – DEFINITIONS

All capitalized terms not defined herein shall have the meanings ascribed to them in the Master Declaration.

2.01 “Ancillary Building” shall mean any non-residential building that is used for storage or machinery. All Ancillary Buildings must meet the architectural requirements of the Design Guidelines and must be approved in writing by the ARC prior to construction.

2.02 “Barn” shall mean any building used primarily for the purpose of housing of livestock, storage of crops, or equipment storage, but which may also include conditioned space for a workplace or office, or for temporary residential housing. All Barns must meet the architectural requirements of the Design Guidelines and must be approved in writing by the ARC prior to construction.

2.03 “Board” shall refer to the body responsible for administration of the Foundation and serving as the board of directors of the Foundation under Texas law. The initial Board shall be appointed by the Town Founder. Subject to Section 4.04, the Town Founder hereby retains the right to appoint and remove all directors of the Foundation until the end of the Creek Development Period. The Board appointed by Town Founder shall serve after the Creek Development Period until an election can be conducted to elect a new Board pursuant to the Bylaws of the Foundation.

2.04 “Creek Access Easement” shall mean a non-exclusive easement in the Creek Access Easement Area, subject to the conditions and restrictions in Article IX of this Creek Supplemental Declaration, for pedestrian and vehicular ingress, egress and access over and across the Creek Access Easement Area.

2.05 “Creek Access Easement Area” shall mean the area described in *Exhibit “D”*, attached hereto and made a part hereof for all purposes, affected by and encumbered by the Creek Access Easement.**2.06 “Creek Assessment”** shall mean assessments of the Foundation and includes regular Creek Annual Assessments, Creek Special Assessments, and Creek Individual Assessments in accordance with Article VIII herein.

2.07 “Creek Bylaws” shall mean the Bylaws of the Foundation, which have been or will be adopted and approved by the Board, and as may be from time to time amended.

2.08 “Creek Certificate of Formation” shall mean the Certificate of Formation of The Creek Community Foundation, which has been or will be filed in the office of the Secretary of State of the State of Texas, as the same are from time to time amended.

2.09 “Creek Common Property” shall mean and refer to all real and personal property from time to time owned by the Foundation, the Creek Initial Owner, or Town Founder for the common use, enjoyment and benefit of all Creek Owners including the Creek Access Easement Area, the Creek Utility Easement Area, and the areas of land shown on Exhibit “C” and designated in this Creek Supplemental Declaration for use as entry features, meadows, as easements and facilities for surface water management, and the easements for ingress and egress to the public rights of way, and such other property or easements conveyed or dedicated to the Foundation hereafter. The Creek Common Property shall include such areas marked as “Creek Common Property” on Exhibit “C”.

2.10 “Creek Development Period” shall mean and refer to the period of time during which the Town Founder reserves the right to facilitate the development, construction, and marketing of the Creek Property or the right to direct the size, shape, and composition of the Creek Property; which

period of time shall begin upon the recordation of this Creek Supplemental Declaration in the Official Public Records of Brazos County, Texas, and shall terminate on the earlier of: (i) the date on which all of the Creek Parcels have been conveyed by the Creek Initial Owner and all Creek Parcels have been improved with a Dwelling; or (ii) such earlier date as may be established by the Town Founder in a written instrument recorded in the Official Public Records of Brazos County, Texas.

2.11 "Creek Easement Area" shall refer, collectively, to the Creek Access Easement Area and the Creek Utility Easement Area.

2.12 "Creek Facilities" shall mean any security gates or other devices controlling access, community trash receptacles, picnic areas, clubhouses, community mailboxes, and any other property, real or personal, commonly benefiting the Creek Owners, located within the Creek Property and owned by the Foundation, the Creek Initial Owner and/or Town Founder.

2.13 "Creek Fee Schedule" shall mean and refer to a list of fees, fines, and Creek Assessments associated with The Creek and Creek Owner activity therein. The Foundation reserves the right to add, remove, and/or revise any of the items in the Creek Fee Schedule at any time, and any omission of fees, fines, and Creek Assessments from the Creek Fee Schedule does not render them invalid for future inclusion in the Creek Fee Schedule. It is each Creek Owner's responsibility to confirm all fees, fines, and Creek Assessments pertaining to the Creek Parcel as specified within this Creek Supplemental Declaration and within the Creek Fee Schedule before taking any action which may incur fees. A copy of the most current Creek Fee Schedule will be maintained at all times by the Foundation.

2.14 "Creek Fund" shall mean and refer to a fund composed of the total revenues received by the Foundation from the Creek Assessments levied by the Foundation pursuant to this Creek Supplemental Declaration.

2.15 "Creek Initial Owner" shall mean and refer to Millican DPC.

2.16 "Creek Member" and/or "Creek Members" shall mean and refer to all those Creek Owners who are entitled to membership in the Foundation as provided in this Creek Supplemental Declaration.

2.17 "Creek Owner" shall mean and refer to a person, whether one or more persons or entities, who holds record fee simple title to any Creek Parcel including the Creek Initial Owner and Jaques, their successors and assigns, but excluding those having an interest in any such Creek Parcel, merely as security for the payment of a debt or the performance of any obligation.

2.18 "Creek Parcel" shall mean a portion of the Creek Property, whether improved or unimproved, which may be independently owned and conveyed or any subsequent subdivision thereof.

2.19 "Creek Property" shall mean and refer to all lands included within and comprising The Creek as herein described in this Creek Supplemental Declaration, together with all land added to this Creek Supplemental Declaration as amendments or additional exhibits added in accordance with the provisions hereof.

2.20 "Creek Rules" shall mean and refer to the rules adopted by the Board pursuant to this Creek Supplemental Declaration, as they may be amended from time to time.

2.21 "Creek Supplemental Declaration" shall mean and refer to this Creek Supplemental Declaration of Covenants, Conditions, Restrictions, Reservations, Easements and Rights for Millican Reserve to Create the Village of the Creek.

2.22 "Creek Tract" shall mean the Creek Parcels greater than ten (10) acres in size, which may be used primarily for Wildlife Management Use but also for Single Family Residential Use.

2.23 "Creek Utility Easement" shall mean a non-exclusive easement in the Creek Utility Easement Area for the installation, construction, operation, maintenance, replacement, repair, upgrade and removal of the Utilities.

2.24 "Creek Utility Easement Area" shall mean the area described in Exhibit "E", attached hereto and made a part hereof for all purposes, affected by and encumbered by the Creek Utility Easement.

2.25 "Foundation" shall mean and refer to The Creek Community Foundation, a corporation not for profit which the Town Founder or the Creek Initial Owner shall cause to be formed and to which shall be delegated and assigned the power, authority, duty and obligation defined under Article IV.

2.26 "Meadow" shall mean and refer to a naturalized area on a Creek Parcel where all Improvements, such as a Dwelling, buildings and parking, shall be located. The Design Guidelines shall govern the size, shape and location of the Meadow and may restrict the types of Improvements that may be located in portions of the Meadow.

2.27 "Stewardship Committee" shall mean the committee created and established pursuant to Article VII of this Declaration and having the responsibilities set forth therein.

2.28 "The Creek" shall mean and refer to the single Family residential, conservation and agrarian community planned for and developed on the Creek Property.

2.29 "Wilderness Buffer" shall mean an area along the perimeter of Creek Tracts in which there shall be no Improvements or clearing of any trees or understory plants, except as described in the Design Guidelines. The size, shape and location of the Wilderness Buffer shall be governed by the Design Guidelines.

2.30 "Wildlife Management Use" shall mean devoting the principal use of the Property to a Wildlife Management program carried out in compliance with Texas Tax Code Section 23.51(7).

2.31 "Wildlife Management Use Plan" shall mean the written plan used to implement a Wildlife Management program and filed with the Brazos County Appraisal District in Brazos County, Texas.

2.32 "Wildlife Management Use Practices" shall mean the wildlife management practices that are identified in the Wildlife Management Use Plan that are required to be implemented on the Common Property and each Creek Tract.

ARTICLE III - REGULATIONS OF USES

3.01 Additions to the Creek Property. During the Creek Development Period, the Town Founder, its successors and assigns, shall have the unilateral right, in its sole and absolute discretion, to bring within the scheme of this Creek Supplemental Declaration additional properties in future stages of the development (including without limitation, subsequent sections of the Millican Reserve subdivision and all or portions of other properties developed by Town Founder or affiliated or subsidiary entities) without the consent or approval of owners of any Creek Parcels or otherwise. The Town

Founder shall also have the unilateral right, in its sole and absolute discretion, to designate easements, designate different land uses including but not limited to multi-family attached Dwellings and commercial areas, and further define or change boundary lines of a Creek Parcel with the consent of the owner of such Creek Parcel.

3.02 Mergers of the Foundation. Upon a merger or consolidation of the Foundation with another association, the Foundation's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Foundation as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the other association. No such merger or consolidation, however, shall affect any covenants established by this Creek Supplemental Declaration or any amendment thereto. In addition, the Town Founder reserves the right to merge and subordinate the Foundation, during the Creek Development Period, with another Foundation, which may or may not be governing additional property owners associations, at Town Founder's sole discretion.

3.03 Commercial Activity. No industry, trade, business, occupation or profession shall be conducted, maintained or permitted upon any portion of any Creek Parcel; except that a Creek Owner may maintain a home office for his/her own business use solely limited to office work as long as employees, clients, customers or the like do not come onto any Creek Parcel for any purpose related to the Creek Owner's use of any home office. Creek Owners may produce agricultural products acceptable to the Board or the Town Founder on their Creek Parcel, but may not sell directly to the public from their Creek Parcel or otherwise invite customers onto their Creek Parcel. The Creek Common Property shall not be used for commercial purposes, provided however, that the Town Founder or the Creek Initial Owner may use the Creek Common Property in promoting the sale and development of Creek Parcels; and, provided, that this restriction shall not prohibit the use of the Creek Common Property in the entertainment of guests, who may also be customers or clients of Town Founder or Creek Owners. In addition, the Foundation may implement and advertise certain commercial uses (such as an event or meeting facility or a farm or garden related facility or another compatible use) within the Creek Common Property for the benefit of the Foundation, and the Foundation may retain a professional management firm, including one affiliated with the Town Founder or the Creek Initial Owner, to manage such limited commercial uses on behalf of the Foundation.

3.04 Combining of Creek Parcels. A Creek Owner of two contiguous Creek Parcels may, with prior written approval of the Foundation, combine said Creek Parcels into one Creek Parcel. Such combination shall be at the sole expense of said Creek Owner. The Foundation may withhold approval of such a combination of Creek Parcels in its sole discretion.

3.05 Required Construction Timeline. Construction of a Dwelling must be started within three (3) years from the initial date of purchase of the Creek Parcel from the Creek Initial Owner or within three (3) years from the date the water and electrical lines are installed within the Utility Easement Area to allow for such construction to commence on the Creek Parcel, whichever is later. The "start of construction" for purpose of this Section is defined as a Creek Owner in receipt of all written approvals and permits prior to beginning the construction of an Improvement upon a Creek Parcel including, but not limited to, written architectural approval from the Foundation and any required governmental body as well as some physical evidence on the Creek Parcel that construction of a residence has begun. Failure to begin construction of a residential Improvement as defined above within three (3) years of the above-designated date will result in the imposition by the Foundation of a fee equal to \$5,000.00 per Creek Parcel per year. Construction of Improvements shall be continuous and proceed in an orderly fashion without interruption and any

individual improvement on a Creek Parcel shall be completed in a reasonable time, not to exceed eighteen (18) months (please refer to the Creek Fee Schedule for any applicable penalties) from ARC's receipt of the compliance deposit per the Design Guidelines.

3.06 Clearing of Tracts. Any clearing of trees or underbrush within any Creek Tract must be approved by the ARC pursuant to the Design Guidelines. The clearing and construction process is to be carefully conceived and managed to ensure minimal site disruption and development impact. Clearing is to be performed using manual tools or a rotary mulcher for larger jobs; in certain instances, such as opening up a Meadow where root systems need to be extracted, bulldozers or similar scale equipment may be used with approval by the ARC. Existing trees and plants are to be salvaged to the extent possible.

Possible strategies for minimizing impact, in order to skillfully carve the Creek Tract out of a delicate ecosystem, include using site elements (such as trees that must be cleared) for mulch/dust to provide erosion control along vehicular paths for soil stabilization. Strategically placed lay down areas can be used to store mulch during construction to limit landscape disturbance. Excavated soils and fill materials can be accumulated and used to restore disturbed landscape areas; this approach more effectively promotes revegetation than imported topsoil because it contains existing seed characteristics of the site's native plants and grasses. These suggestions and other techniques can ensure minimal disruption to a precious and fertile ecosystem throughout the project's implementation.

3.07 Household Pets and Livestock. As may be further regulated by the Rules or the Creek Rules from time to time promulgated by the Foundation or the Conservancy, Creek Owners may keep up to five (5) Household Pets on their Creek Parcel. The Creek is a community which values the health of the environment and the soil, and is supportive of a wildlife conservation and agrarian lifestyle; therefore certain farm animals are permitted on a Creek Parcel insofar as these farm animals do not interfere with other Creek Owners' enjoyment of their Creek Parcel or change the use of the Property. As may be further regulated by the Creek Rules from time to time promulgated by the Foundation and only with the written approval of the Foundation, the following farm animals are permitted on Creek Parcel: 12 chickens per Creek Parcel. Creek Owners may be permitted to conduct limited accredited agricultural activities (i.e. 4-H) on a Creek Parcel upon written approval of their plan and activities from the Stewardship Committee, such approval to be granted or withheld in the sole discretion of the Stewardship Committee.

The construction and location of any animal enclosures including but not limited to chicken coops, runs, or related improvements require the written approval of the ARC pursuant to the Design Guidelines prior to construction. All such enclosures and related improvements must be maintained and remain in sanitary conditions without noxious odors, at all times. The Foundation reserves the right to enter a Creek Parcel to inspect condition of any such enclosures and related improvements, and any violations may result in the immediate removal of all farm animals on the Creek Parcel, permanent denial of any future use related to the housing of farm animals, and is subject to fines.

3.08 Outdoor Laundry Drying. Air-drying clothes in a "solar dryer", i.e. outdoor clothes line, is permitted and encouraged as an energy-saving measure, so long as clothes lines are not Visible From Neighboring Property, Common Property, or Creek Common Property.

3.09 The Creek Entry Features. The Creek is a private community and public access is restricted. Town Founder or the Creek Initial Owner may install and own entry features, mailboxes and entry gates to The Creek ("Entry Features"), but the Foundation is required to maintain these Entry Features. Town Founder or the Creek Initial Owner, in their sole discretion, can convey the Entry Features to the Foundation at any time or move the location of the Entry Features.

3.10 Town Founder's Use. Notwithstanding anything stated to the contrary herein, until the expiration of the Creek Development Period, neither any of the Creek Owner's, nor the Foundation's use of the Creek Property shall interfere with the completion of Town Founder's or the Creek Initial Owner's contemplated improvements and the sale of the Creek Parcels by Town Founder or the Creek Initial Owner. It is the obligation of Town Founder to provide certain utilities, easements, and roads within the Creek Common Property. Any additional improvements are in the Town Founder's sole discretion to build. Town Founder may make such use of the unsold Creek Parcels and the Creek Common Property, or any part thereof, without any charge, as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, construction office, storage barn, security area, the showing of the Creek Property and the display of signs and the use of the Creek Parcels as parking areas or to walk or drive upon to reach another portion of the Creek Property.

3.11 Restriction Upon Sale of Creek Parcels. Prior to the expiration of the Creek Development Period, the Creek Initial Owner and the Town Founder reserve the right to restrict the offering of a Creek Parcel for sale by a Creek Owner, if the proposed listing price for such Creek Parcel is below the current price, determined on a per acre basis, established by Town Founder or the Creek Initial Owner for Creek Parcels owned by the Town Founder or the Creek Initial Owner. There shall be no restriction on the offering or sale of any Creek Parcel at a price equal or higher than the current purchase price established by Town Founder or the Creek Initial Owner for their own Creek Parcels. Prior to listing a Creek Parcel for sale below the current purchase price determined by Town Founder or the Creek Initial Owner for Creek Parcels, the selling Creek Owner must provide written notice of his intention and the complete sale listing terms to Town Founder. Following receipt of such notice, Town Founder shall have 15 days to notify the Creek Owner in writing of his intention to contract to purchase the Creek Parcel pursuant to the proposed sale listing terms; any closing under such a contract shall occur within 60 days of the original notice to the Town Founder by the Creek Owner.

In the event any Creek Owner receives a bona-fide offer for his or her Creek Parcel for a price less than the current purchase price determined by Town Founder or the Creek Initial Owner for their own Creek Parcels (whether or not the Creek Owner has listed the Creek Parcel for sale and whether or not Town Founder previously declined to purchase the Creek Parcel), and the Creek Owner intends to accept such offer, the Town Founder shall have a right of first refusal relating to the purchase of the Creek Owner's Creek Parcel. Such right of first refusal shall be exercised under the following conditions:

- (a) **Notice of Creek Parcel Owner.** Prior to expiration of the Creek Development Period, any Creek Owner who receives a bona fide offer for the purchase of his Creek Parcel at a price below the current purchase price, determined on a per acre basis, established by Town Founder or the Creek Initial Owner for Creek Parcels owned by them (hereinafter called "Outside Offer") which the Creek Owner intends to accept, shall give written notice to the Town Founder of such offer and of such intention, the name and address of the proposed grantee and such other information as the Town Founder may reasonably require.
- (b) **Offer to Town Founder.** The Creek Owner shall thereupon offer to sell such Creek Parcel to the Town Founder or its designee, corporate or otherwise, on the same terms and conditions as contained in such Outside Offer; however, if the terms and conditions provide for a mortgage at the time of transfer, the Town Founder may, at its option, pay for the Creek Parcel in cash.

- (c) **Representation by Creek Owner.** The giving of such notice shall constitute a warranty and representation by the Creek Owner who has received such offer, to the Town Founder on behalf of the other Creek Owners, that such Creek Owner believes the outside offer to be bona fide in all respects and that he intends to accept it.
- (d) **Election by Town Founder.** Within fifteen (15) days after the receipt of such notice, the Town Founder may elect, by notice to such Creek Owner, to purchase such Creek Parcel or to cause the same to be purchased by its designee.
- (e) **Closing by Town Founder.** In the event Town Founder elects to purchase such Creek Parcel, the closing shall occur no later than either the closing date specified in the bona fide contract or sixty (60) days following Town Founder's written notice to the Creek Owner of Town Founder's election to purchase the Creek Parcel.
- (f) **Failure to Accept Offer.** In the event the Town Founder shall fail to accept such offer within the above-described fifteen (15) day period, as foresaid, the offering Creek Owner shall be free to contract to sell such Creek Parcel to the outside offeror, on the terms and conditions set forth in the notice of such Outside Offer. Town Founder's right of first refusal extends to each and every offer to purchase a Creek Parcel(s) which is bona fide and memorialized in a written contract. Each bona fide written offer to purchase a Creek Parcel(s), whether same arises between parties to an earlier failed or terminated Outside Offer, is a counter offer, or is the result of an amended or supplemental outside offer, shall be subject to Town Founder's right of first refusal.
- (g) **Violation.** Town Founder reserves the right to enforce this Section of the Creek Supplemental Declaration as permitted by law against any Creek Owner in violation of these provisions.

ARTICLE IV - THE FOUNDATION

4.01 Organization and Purpose. In order to implement the general purposes of this Creek Supplemental Declaration, Town Founder shall cause the Foundation to be organized and formed as a non-profit corporation under the laws of the State of Texas. The purpose of the Foundation, in general, shall be to ensure high standards of maintenance and operation of all the Creek Common Property, to insure the provision of services and facilities for the common benefit of all Creek Owners, and in general to maintain and promote the desired character of The Creek as an environmentally sensitive, first class residential community.

4.02 Membership. Every person who is a Creek Owner of any Creek Parcel (whether one or more persons or entities) which is subject to a Creek Assessment shall be a Creek Member. Membership shall be appurtenant to and may not be separated from ownership of any Parcel. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation.

4.03 Voting Rights. In all matters submitted to a vote of the Creek Members, there shall be two classes of voting memberships:

Class A: Each Creek Owner, whether one or more persons or entities, of a Creek Parcel shall, upon and by virtue of becoming such Creek Owner, automatically become a Class A Member of the Foundation and shall remain a Class A Member thereof until his ownership ceases for any reason as stated above, but there shall only be one (1) vote per Creek Parcel. Class A Members shall be all Creek Members other than Class B Members. Creek Initial Owner shall become a Class A Member with regard to Creek Parcels owned by

Creek Initial Owner upon conversion of the Creek Initial Owner's Class B membership to Class A membership as provided herein below.

Class B: The Class B Member shall be the Creek Initial Owner. The Class B Member shall be entitled to five (5) votes per acre owned. The Class B membership shall cease and be converted to Class A membership upon the expiration of the Creek Development Period. The Creek Initial Owner, in its sole and absolute discretion, may convert Class B membership to Class A membership at any time in a document recorded in the Official Public Records of Brazos County, Texas.

If Town Founder determines, at Town Founder's sole discretion, that the Foundation is capable of performing the necessary duties as defined herein, the Town Founder, reserves the right at any time to turn over any of its rights and duties to the Foundation, or to unilaterally convert the Creek Initial Owner's membership status from Class B to Class A.

Reinstatement of Class B Votes. Notwithstanding the prior provisions of Subsection (b) above, if additional property is made subject to the jurisdiction of the Foundation pursuant to a Creek Supplemental Declaration, or if Creek Initial Owner repurchases any Creek Parcel, such that Creek Initial Owners again owns any Creek Parcel, then the provisions regarding Class B votes in this Section 4.03, shall be automatically reinstated ipso facto.

Joint Owner Disputes. The vote for each Creek Parcel shall, if at all, be cast as a unit, and fractional votes shall not be allowed. In the event that joint Creek Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. The submittal of conflicting votes by Creek Members voting on behalf of the same Creek Parcel shall invalidate those votes. If any Creek Owner casts a vote representing a certain Creek Parcel, it will thereafter be conclusively presumed for all purposes that he/she or they were acting with the authority and consent of all other Creek Owners of the same Creek Parcel.

Transfer of Voting Rights. The right to vote may not be severed or separated from the ownership of the Creek Parcel to which it is appurtenant. Any sale, transfer or conveyance of such a Creek Parcel to a new Creek Owner or Creek Owners shall operate automatically to transfer the appurtenant vote to the new Creek Owner(s).

4.04 Board of Directors and Officers. The affairs of the Foundation shall be conducted by a Board and such officers as the Board may elect or appoint, in accordance with the Creek Certificate of Formation and Creek Bylaws, as the same may be amended from time to time. The initial Board shall be appointed by the Town Founder. The Board appointed by the Town Founder shall exist until the expiration of the Creek Development Period, at which time the Creek Members shall elect a Board as provided in the Creek Bylaws. Notwithstanding the foregoing, on or before the 10th anniversary of the date of this Creek Supplemental Declaration is recorded in the Official Public Records of Brazos County Texas, or sooner, as determined by Town Founder, the Board will call a meeting of the Creek Members for the purpose of electing one-third of the Board (the "Initial Creek Member Election Meeting"), which Board member(s) must be elected by the Creek Owners other than the Town Founder. Town Founder shall continue to have the sole right to appoint and remove two-thirds of the Board from and after the Initial Creek Member Election Meeting until the expiration of the Creek Development Period.

4.05 Powers and Authority of the Foundation. The Foundation shall have all the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Creek Certificate of Formation, the Creek Bylaws, or this Creek

Supplemental Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Foundation under and by virtue of this Creek Supplemental Declaration, the Creek Certificate of Formation, and the Bylaws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Foundation set forth in Article IV or elsewhere in this Creek Supplemental Declaration. Without in any way limiting the generality of any of the foregoing provisions, the Foundation shall have the power and authority at any time to do the following:

- (a) **Creek Assessments.** To levy Creek Assessments on the Creek Owners of the Creek Parcels within the Creek Property, and to enforce payment of such Creek Assessments in accordance with the provisions of Articles VII hereof.
- (b) **Contract(s) with the Creek Community Foundation.** To enter into one (1) or more contracts with the Creek Community Foundation in connection with providing certain services for shared amenities benefitting the Creek Property and/or the Creek Owners, including but not limited to the installation, maintenance, repair and replacement of road(s)/street(s), access gate(s), lighting and signage. In connection with such contract(s), the Foundation will include as a portion of the Creek Assessment, an amount sufficient to pay any costs under such contract(s) to the Creek Community Foundation (the "Creek Community Foundation Contract Costs").
- (c) **Right of Entry and Enforcement.** The Town Founder, the Conservancy and/or the Foundation shall enforce the provisions hereof relating to the building plans, specifications, with assistance as needed by the ARC, including those set forth in the Design Guidelines, all as amended from time to time by the ARC. The Town Founder, ARC, and/or Foundation reserve the right to perform onsite visits to ensure compliance. If for any reason whatsoever, a Creek Owner violates this Creek Supplemental Declaration or the Creek Rules, the Town Founder or Foundation has the right to enter upon any portion of the Creek Property or onto any Creek Common Property for the purpose of enforcing this Creek Supplemental Declaration, the Creek Rules or for the purpose of maintaining or repairing any area, Improvement, Facility or Creek Facility to conform to the restrictions herein established, at the expense of the Creek Owner thereof. Notwithstanding the foregoing, the Town Founder or the Foundation will not enter a Dwelling without the permission of the Creek Owner. Any such entry upon a Creek Parcel shall not be deemed a trespass. The Foundation reserves the right to immediately halt and prevent further activity pertaining to any clearing and/or construction deemed in violation of the Design Guidelines until such time the violation has been remedied and in compliance. Any cost related to the stop of the clearing and/or construction including but not limited to any cost associated with the delay in the clearing and/or construction will be the sole responsibility of the Creek Owner. Should the Town Founder and/or the Foundation be required to enforce the provisions hereof by legal action, the recovery of attorney's fees, as more fully set forth in Article VIII, and costs incurred, whether or not judicial proceedings are involved shall be collectible from the Creek Owner and shall constitute an Individual Creek Assessment against the Creek Parcel as provided in Article VIII herein. Town Founder, the Conservancy and the Foundation, or its agents or employees, shall not be liable to the Creek Owner for any damages or injury to the Creek Parcel or any Improvements thereon resulting from any action taken pursuant to this Section.
- (d) **Conveyances.** To grant and convey to any person or entity the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Creek Property owned by the Foundation for

the purpose of constructing, erecting, operating or maintaining thereon, therein, or thereunder:

- Parks, parkways, campgrounds, or other recreational facilities or structures;
- Roads, private roads, walks, driveways, trails and paths;
- Lines, cables, wires, conduits, pipelines, or other devices for utility purposes;
- Storm water drainage systems, sprinkler systems and pipelines; and
- Any similar public, quasi-public, or private Improvements or Creek Facilities.

Nothing above contained, however, shall be construed to permit use or occupancy of any Improvement or other Creek Facility in a way, which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Creek Supplemental Declaration. In addition, the Foundation reserves the right to grant and convey any roads within the Creek Property to the County or local municipality in the event such roads are made public.

- (e) **Create Another Association.** To create a subsidiary or other association to have the rights and powers, and to perform the duties, obligations or functions necessary to the obtaining of a tax exemption, if it shall ever be ruled or held that an exemption under the Internal Revenue Code is unavailable to the Foundation under this Creek Supplemental Declaration; or alternatively, the Foundation may retain the rights, powers, duties, obligations and functions which prevent the obtaining of the tax exemption and transfer some of all of its other rights, powers, duties, obligations, and functions to such subsidiary or other association.

4.06 Creek Rules. The Town Founder and/or the Foundation may adopt, amend and repeal such rules as it deems proper for the use and occupancy of the Creek Property. A copy of said Creek Rules as they may from time to time be adopted, amended or repealed, shall be available to each Creek Owner upon request and recorded with the appropriate public office. Upon such recordation, said Creek Rules shall have the same force and effect as if they were set forth in and were a part of this Creek Supplemental Declaration. As part of the Creek Rules that may be adopted from time to time by the Foundation, a fine may be imposed by the Foundation for violation by any Creek Owner, his/her Family, or any of his/her guests or invitees of this Creek Supplemental Declaration or any Creek Rules. In the event any such fine is imposed, it shall constitute a Creek Individual Assessment as provided in Article VIII hereof. Before imposing any such fine, the Foundation shall give such Creek Owner notice and hearing as may be required by Texas law.

4.07 Liability of Creek Initial Owner, Town Founder, Board, ARC and Foundation. Neither the Creek Initial Owner, Town Founder, Board, ARC, nor the Foundation shall be personally liable to any Creek Owner or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Creek Initial Owner, Town Founder, Board, ARC, or the Foundation, or any other representatives or employees of same, provided that such Person has, upon the basis of such information as may be possessed by him or her, acted in good faith. Further, the Creek Initial Owner, Town Founder, Board, and the ARC shall be indemnified by the Foundation against all expenses and liability, including attorney fees, reasonably incurred by or imposed in connection with any proceeding as a result of the performance of their duties for The Creek except where the Creek Initial Owner, Town Founder, Board, the ARC, or the officer is adjudged guilty of willful misfeasance or malfeasance in the performance of their duties. Neither the Foundation nor the Creek Initial Owner, Town Founder, Board, or the ARC shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Creek Member, occupant or user of any portion of the Creek Property, including without limitation, Creek Owners and their respective families, guests, invitees, agents, servants, contractors or subcontractors or for any

property of any such persons. The Foundation and the Creek Initial Owner, Town Founder, Board, and the ARC are not empowered, and have not been created, to act as an entity which enforces or ensures any other individual or entity's compliance with applicable laws or the prevention of criminal, tortious or other like regulated activities. Every Creek Owner, by taking title to any part of the Creek Property, covenants and agrees to hold harmless and to indemnify the Foundation and the Creek Initial Owner, Town Founder, Board, and the ARC from and against all claims of any kind, whatsoever by any invitee, licensee, Family member, employee, or other representative or agent of that Creek Owner for any loss or damage arising in connection with the use, ownership or occupancy of any portion of the Creek Property. The Foundation, in its sole discretion, shall also have the authority to obtain liability insurance insuring the Board, the ARC or officers of the Foundation against any claims, losses, liabilities, damages or causes of action arising out of or in conjunction with or resulting from an act or omission in their representative capacity. It is each Creek Owner's sole responsibility to ensure the Wildlife Management Use or Agricultural Use is approved by the Brazos County Appraisal District and the Foundation and/or the Town Founder shall not be responsible for denial of a Wildlife Management or Agricultural Use appraisal, pursuant to Texas Property Tax Code Section 23.51(1), by the Brazos County Appraisal District.

4.08 Reimbursement of Creek Initial Owner and/or Town Founder. Recognizing that the Foundation may have to be subsidized by Creek Initial Owner and/or the Town Founder, the Board (whether the Board is the same as the Creek Initial Owner or the Town Founder, its agents, servants, or employees and without being liable for any claim made by any Creek Member that the Board's fiduciary duty to the other Creek Members has been breached due to a conflict of interest) may execute promissory notes and/or other instruments evidencing any debt the Foundation owes the Creek Initial Owner and/or the Town Founder for monies expended by the Creek Initial Owner and/or the Town Founder or loaned to the Foundation by Creek Initial Owner and/or the Town Founder for and on behalf of the Founder; provided, however, such promissory notes shall not be secured by a lien on any of the Creek Common Area.

ARTICLE V - ARCHITECTURAL REVIEW COMMITTEE

5.01 Coordination with the Master Declaration. The ARC created by the Master Declaration shall have all powers and authorities granted in the Master Declaration, as applicable to the Creek Property.

ARTICLE VI - CREEK COMMON PROPERTY

6.01 Conveyance. Subject to the provisions of Article IX, the Creek Initial Owner by the recordation of this Creek Supplemental Declaration shall be deemed to have dedicated the Creek Common Property for the mutual use, enjoyment, common safety and welfare of the residents of The Creek, subject to such restrictions, liens, or easements reserved herein or on the Plat of the Creek Property or as may be designated from time to time by the Town Founder or the Foundation and subject to the Town Founder or the Foundation, in their sole discretion, removing property from the Creek Common Property at any time. Notwithstanding any other provision to the contrary, the Town Founder or the Foundation shall have the power and authority to dedicate, convey or grant an easement on the Creek Common Property as may be determined from time to time in the best interest of the protection of the environment, and in the best interest of The Creek. Provided, however, for as long as the Creek Initial Owner owns any Creek Parcel, its assigns, agents, invitees and licensees are granted an easement to the extent necessary for the following: to complete construction of all Improvements to the Creek Property, and the Creek Common Property, or any portion thereof; for ingress and egress and for marketing and sales activities and to grant and record easements over, under, through, across, upon, in and on, the Creek Common Property or portions thereof for the installation, construction and maintenance of any utility service,

Landscaping, buffering, ingress and egress, and such other purposes as Town Founder, in its reasonable discretion, deems necessary, desirable or required for the preservation of the Natural Areas or by the final engineering plans for the Creek Property. The Town Founder hereby covenants for itself, its successors and assigns that said Creek Common Property shall be subject to and bound by the terms of the Master Declaration and this Creek Supplemental Declaration and Exhibits attached thereto and hereto. The use and enjoyment of the Creek Common Property shall be subject to such Creek Rules relating thereto as are set forth in this Creek Supplemental Declaration or as may be adopted or amended by the Foundation from time to time in accordance with this Creek Supplemental Declaration. Town Founder shall have the right from time to time to designate additional real property as Creek Common Property either in a supplement or amendment to this Creek Supplemental Declaration executed for the purposes of submitting any additional real property to the terms of this Creek Supplemental Declaration or in an instrument conveying any real estate to the Town Founder or the Foundation. The maintenance, repair, improvement, use, enjoyment and operation of all of the Creek Common Property shall be in accordance with the terms and provisions of this Creek Supplemental Declaration.

6.02 Improvement of Creek Common Property. It is the duty of the Town Founder to complete certain utilities, roadways and easements at the Creek Property. The right of the Town Founder herein reserved shall entitle Town Founder, but not obligate Town Founder, to make or construct such other Improvements to the Creek Common Property, such as the installation of Landscaping, wetlands, signage, barns, fencing, pavilion, club house, picnic areas, trails, observation tower, fire pits, agricultural areas, greenhouses, tree houses, and lighting as the Town Founder determines in its sole discretion. After initial construction, the future maintenance, repair and replacement of the Creek Common Property, including Improvements thereto, shall be the obligation of the Foundation as hereinafter provided in this Creek Supplemental Declaration and the Town Founder is not obligated to rebuild and/or replace any common area features in the event of damage or destruction.

6.03 Property Rights. Every Creek Owner shall have the non-exclusive right and easement of enjoyment in and to the Creek Common Property. The Creek Initial Owner reserves the right to convey the Creek Common Property to the Foundation at any time. Such right and easement of each Creek Owner in and to the Creek Common Property, or any part thereof, shall be appurtenant to and shall pass with the title to every Creek Parcel. The Town Founder and Foundation reserve the right to use, access, and grant access to third parties to the Creek Common Property and Creek Facilities. The Foundation shall have the right to establish an additional set of Creek Rules as it relates to the use and access to Creek Common Property, and/or trail system. The Foundation shall have the right to remove or cause to be removed anything placed on the Creek Common Property, or any part thereof, in violation of the provisions of this Section, to restore the Creek Common Property, or any part thereof, to its condition prior to the violation and to assess the Creek Owner or Creek Owners responsible for the cost of such removal and restoration. Such assessment shall constitute an Individual Creek Assessment as provided in Section 8.08 against the Parcel of said Creek Owner or Owners that may be enforced in the manner set forth in Article VIII hereof. Nothing contained in this Creek Supplemental Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Creek Common Property to or for any public use or purpose whatsoever, provided however, with prior approval from Town Founder or the Foundation, from time to time, certain members of the public, such as school children, etc. may be invited to tour or study in specified areas of the Creek Common Property.

6.04 Use of Creek Common Property. Each Creek Owner, any invitee, licensee, Family member, employee, or other representative or agent of that Creek Owner and any other persons entitled to use the Creek Common Property shall not use such Creek Common Property or carry on any activity on such Creek Common Property that will detract from, impair or interfere in any way with

the value, Wildlife Management Use, Agricultural Use or enjoyment (including aesthetic enjoyment) of such Creek Common Property by the Town Founder, the Creek Initial Owner or other Creek Owners. No Creek Owner shall plant, place, fix, install or construct any vegetation, hedge, tree, shrub, fence, wall, signage, structure or other Improvement or store any of his/her personal property or prohibit the free flow of pedestrian traffic on the Creek Common Property or any part thereof. Town Founder or the Foundation shall have the right to prohibit any use which, in the opinion of Town Founder or the Foundation, is in violation of the foregoing restriction. The Foundation shall from time to time promulgate Creek Rules in accordance with this Creek Supplemental Declaration, the Creek Certificate of Formation and the Creek Bylaws for the purpose of regulating the use of the Creek Common Property.

6.05 Exculpation from Liability and Responsibility for Maintenance and Design. Town Founder and the Creek Initial Owner reserve the right to participate in or undertake, the continued maintenance of any Creek Common Property at Town Founder's or Creek Initial Owner's sole discretion, however Town Founder or Creek Initial Owner shall not be responsible for the continued maintenance of the Creek Common Property or for any loss or damage to the Creek Owners, their heirs, successors, or assigns, families, guests, invitees, agents or employees for the design of, or any failure to maintain, the Creek Common Property. Accordingly, each Creek Owner, by the acceptance of a deed or other conveyance to his/her Creek Parcel shall be deemed to have agreed that neither the Town Founder nor the Creek Initial Owner shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to the design of the Creek Common Property. Said Creek Common Property is private, not public. The Foundation, on behalf of all of the Creek Owners shall, subject to the terms and provisions of this Creek Supplemental Declaration, have sole and exclusive jurisdiction over responsibility for the administration, management, regulation, care, maintenance, repair, restoration, replacement, improvement, preservation and protection of the Creek Common Property.

6.06 Exculpation from Liability and Responsibility for Damages.

- (a) Each Creek Owner and his/her successors and assigns shall be responsible for their conduct and the conduct of any invitee, lessee, licensee, Family member, employee, or other representative or agent of that Creek Owner, who use the Creek Common Property under terms of this Creek Supplemental Declaration and shall be liable for any loss or damages resulting from the violation by any such person or persons of the terms, conditions and restrictions herein provided.
- (b) The Creek Initial Owner, Town Founder, and the Foundation shall not be responsible for any loss or damage to the Foundation, any Creek Owner, his/her Family, guests, invitees, agents or employees, heirs or assigns, or any other person who uses the Creek Common Property under the terms of this Creek Supplemental Declaration due to any act or omission of any contractor or subcontractor employed by Creek Initial Owner, the Town Founder or the Foundation, for the construction and development, enlargement, or maintenance of the Creek Common Property, or due to any act or omission of any adjoining Creek Owner, or due to any act or omission of any other person or persons using the Creek Common Property, or due to any act of omission of any other person or persons using the Creek Common Property without authorization.
- (c) Use of the Creek Common Property by a Creek Owner, heirs, successors or assigns, or any person who occupies the Creek Parcel owned by the Creek Owner or the guests of such person, shall be at the risk of the Creek Owner and user and the Creek Initial Owner, the Town Founder and the Foundation shall not be responsible for any injury, loss or damages to such user or any other person resulting from such use. **EACH CREEK OWNER, AGREES FOR HIM/HERSELF AND HIS/HER HEIRS AND ASSIGNS**

TO INDEMNIFY AND SAVE CREEK INITIAL OWNER, THE TOWN FOUNDER AND THE FOUNDATION, THEIR SUCCESSORS AND ASSIGNS, HARMLESS FROM ANY CLAIM OF INJURY, LOSS OR DAMAGES RESULTING FROM THE USE OF THE CREEK COMMON PROPERTY BY A CREEK OWNER, HIS/HER HEIRS, SUCCESSORS, OR ASSIGNS, SUCH PERSONS WHO OCCUPY SUCH CREEK OWNER'S PARCEL, OR THE GUESTS OF SUCH PERSONS.

6.07 Conveyance to the Foundation. The Creek Initial Owner and the Town Founder may retain, for as long as it deems necessary or convenient, the legal title to easements or fee simple parcels designated or to be designated as Creek Common Property. The Creek Initial Owner and the Town Founder may, at any time after the date hereof, convey legal title to all or a portion of such Creek Common Property to the Foundation, which conveyance shall be on an "AS IS, WHERE IS" basis. The Foundation shall be obligated to accept title to, operate and maintain the Creek Common Property conveyed to the Foundation as elsewhere provided in this Creek Supplemental Declaration. Even if legal title has not yet been conveyed, the Foundation shall pay all operating expenses for any easement and/or fee simple parcels designated and/or utilized temporarily or permanently as Creek Common Property, including but not limited to maintenance, taxes, insurances and every other cost or expense related to the operation of such Creek Common Property.

ARTICLE VII - STEWARDSHIP COMMITTEE

7.01 Purpose of Stewardship Committee. The Stewardship Committee shall be formed to implement the general purpose as stated in this Declaration, to create a residential, conservation community which will create a model for others; where residents live in harmony with nature, and where the unique and important natural, ecological, open space and scenic resources of the Property are maintained and enhanced. The Stewardship Committee shall implement a Wildlife Management Program, carried out in compliance with Texas Tax Code §23.51(7). The Creek Property will have its primary use designated as a wildlife management area to be managed under a Wildlife Management Use Plan. Management and implementation of such plan shall be by the Stewardship Committee.

7.02 Composition of Stewardship Committee. The Stewardship Committee shall consist of three (3) members. The initial Stewardship Committee members shall include three individuals appointed by Town Founder. Notwithstanding anything stated to the contrary herein, for so long as Creek Initial Owner owns any Creek Tracts, Town Founder shall have the sole and absolute right to appoint and remove members of the Committee at any time without cause. Each member of the Stewardship Committee shall serve until such time as he or she has resigned or has been removed or his or her successor has been appointed, as provided herein. At the time that Creek Initial Owner sells the last Creek Tract, or sooner if Town Founder so determines in its sole discretion, the duties, rights, powers, and authority of the Stewardship Committee shall be assigned by the Town Founder to the Foundation Board, and from and after the date of any assignment, the Foundation Board shall have full right, authority, and power and shall be obligated to perform the functions of the Stewardship Committee, as provided herein, including appointing members of the Stewardship Committee in accordance with the Bylaws of the Foundation. Members of the Stewardship Committee shall be Owners in The Woods, serve without salary or pay and none of the members shall be required to be a wildlife biologist or to meet any other particular qualifications for membership.

7.03 Duties and Responsibilities. The Stewardship Committee has the duty and responsibility to perform any and all acts, which may be necessary or proper for or incidental to the fulfillment of the Foundation's wildlife management purpose, including the preparation, adoption, and maintenance of a Wildlife Management Use Plan to be carried out in compliance with the Texas

Tax Code §23.51(7) on the Creek Tracts and the Nature Preserve. The Stewardship Committee is also responsible for considering and acting upon any and all Habitat Management Plans submitted by an Owner pursuant to the Design Guidelines. The Stewardship Committee shall approve the Habitat Management Plans submitted for its approval only if it deems that the Habitat Management Plan is in compliance with the Design Guidelines and this Declaration and will not be detrimental to the wildlife management in the Spring. The Stewardship Committee will receive from the Foundation a Wildlife Management Assessment that shall be applied to the implementation of Wildlife Management Practices on the Creek Tracts. The Stewardship Committee may employ, retain, and compensate consultants such as wildlife biologists for review of plans and specifications.

7.04 Timely Review. In order to avoid significant inconvenience to Owners, the Stewardship Committee shall conduct reviews of requests in a timely manner. See the Design Guidelines for review timelines.

7.05 Meetings of the Stewardship Committee. The Stewardship Committee shall meet from time to time as necessary to perform its duties hereunder. The Stewardship Committee may, by resolution unanimously adopted in writing, designate one of its Members to take any action or perform any duties for and on behalf of the Stewardship Committee, except the granting of variances as hereinafter provided. In the absence of such designation, the vote of a majority of all the Members of the Stewardship Committee taken with a meeting shall constitute an act of the Stewardship Committee. The Stewardship Committee may take action without formal meeting by unanimously consenting in writing on any matter, which it might consider at a formal meeting. Such unanimous written consent shall constitute the act of the Stewardship Committee. Should a member of the Stewardship Committee submit their own plans to the Stewardship Committee for review, that Member will recuse themselves from the approval process. The Stewardship Committee shall keep and maintain written records of all actions taken by it at such meetings or otherwise.

7.06 No Waiver of Future Approval. The approval of the Stewardship Committee of any proposals, plans and specifications for any work done or proposed or any approval in connection with any other matter requiring the approval and consent of the Stewardship Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or matter whatever subsequently or additionally submitted for approval or consent.

7.07 Decisions Conclusive. All decisions of the Stewardship Committee shall be final and conclusive, and no Owner or any other person, association or entity shall have any recourse against the Stewardship Committee, or any member thereof, for its or such member's approval or refusal to approve all or any portion of the plans or of any materials submitted therewith, or for any other decision rendered under the authority of this Declaration.

7.08 Non-Liability of Stewardship Committee. Neither Creek Initial Owner, Town Founder, the Stewardship Committee, nor any Stewardship Committee member shall be liable to the Foundation or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Stewardship Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Stewardship Committee. The Stewardship Committee shall review and approve or disapprove all plans submitted to it for any wildlife management use on the Property, alteration of habitat and proposed habitat management or alteration or addition, solely on the basis of the overall benefit or detriment which would result to wildlife habitat at The Woods. The Stewardship Committee shall not be responsible for denial of wildlife management use appraisal by the Brazos County Appraisal District.

7.09 Variances. The Stewardship Committee may authorize variances from compliance with any of the wildlife management use provisions of this Declaration and the Design Guidelines. If such variances are granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance.

7.10 Reimbursement. The Stewardship Committee members shall be entitled to reimbursement for expenses incurred by them in the performance of their duties hereunder, including the payment of consultants retained as authorized herein.

7.11 Enforcement of Habitat Management and Wildlife Management Use. The Town Founder and/or the Foundation shall enforce the provisions hereof relating to the habitat management and wildlife management use with assistance as needed by the Stewardship Committee, including those set forth in the Design Guidelines, as amended from time to time by the ARC or the Foundation. Should any Owner fail to comply with the requirements for habitat management and wildlife management use hereof, including those set forth in the Design Guidelines and Wildlife Management Plan, the Foundation shall give such Owner notice and hearing as provided in Article VIII herein. Should the Town Founder or the Foundation Board be required to enforce the provisions hereof by legal action, the recovery of attorney's fees as more fully set forth in Article VIII, and costs incurred, whether or not judicial proceedings are involved shall be collectible from the Owner and shall constitute an Individual Assessment against the Creek Tract as provided in Article VIII herein. Town Founder and the Foundation Board, or its agents or employees, shall not be liable to the Owner for any damages or injury to the Creek Tract or any Improvements thereto.

7.12 Cause and Method for Replacement. After Turnover, members of the Stewardship Committee may be removed by petition and vote of a simple majority of the membership of the Foundation.

7.13 Annual Report. The Stewardship Committee shall be responsible for the preparation of an annual report detailing management activities and operations for submission to members of the Foundation and the Chief Appraisal Officer of the Brazos County Appraisal District, Brazos County, Texas. Any Owner who is implementing additional Wildlife Management Practices on their own must submit information regarding the practices that they have implemented on their Wildlife Management Plan within 30 days of such request by the Stewardship Committee. This information will be included in the annual report that is sent to the Brazos County Appraisal District.

ARTICLE VIII - CREEK ASSESSMENTS

8.01 Purpose of Creek Assessments. In general, the Creek Assessments levied by the Foundation shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Creek Property, for enforcement of this Creek Supplemental Declaration, the Creek Rules, the Design Guidelines and for the improvement, conservation oversight, and maintenance of the Creek Common Property.

8.02 Creation of the Lien and Personal Obligation for Assessments. The Creek Initial Owner hereby covenants, and each Creek Owner of any Creek Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Foundation:

- (a) Creek Annual Assessments;

(b) Creek Special Assessments;

(c) Creek Individual Assessments.

The Creek Annual Assessments, Creek Special Assessments, and Creek Individual Assessments (collectively the "Creek Assessments"), together with late charges established by the Board from time to time, interest, costs, fines and reasonable attorney's fees, shall also be a charge on the Creek Parcel and shall be a continuing lien upon the Creek Parcel against which the Creek Assessments are made. Each such Creek Assessment and other charges, together with late charges, interest, costs, fines and reasonable attorneys' fees, shall also be the personal obligation of the Creek Owner of the Creek Parcel at the time when the Creek Assessments fell due and shall not be affected by any change in the ownership thereof. The Board may waive, in whole or in part, the Creek Assessments due from any Creek Owner, at the sole and absolute discretion of the Board.

Creek Parcels which are owned by the Creek Initial Owner or the Town Founder shall not be subject to any Creek Assessment hereunder whatsoever. Creek Parcels owned by Builders (herein defined) are subject to all Creek Assessments hereunder unless the Town Founder or the Foundation, in their sole discretion and on a case by case basis, determine in a written and signed document that a different rate or manner of determining and imposing the Creek Assessments on Creek Parcels owned by a Builder is appropriate. As used herein, the term "Builder" shall mean a Creek Owner who is in the construction business and has plans to construct a Dwelling upon such Creek Parcel. The rate of assessment for each Creek Parcel shall change as the character of ownership and/or the status of occupancy changes. The applicable Creek Annual Assessment and Creek Special Assessment for each Creek Parcel shall be prorated for each calendar year according to the purchase date and rate applicable for each type of ownership of the Parcel during that calendar year.

8.03 Creek Annual Assessment. Creek Annual Assessment (herein so called), calculated on a uniform per Creek Parcel basis, shall be levied to provide for and assure the availability of the funds necessary to establish a reserve for capital improvements and pay common expenses, which shall include, but not be limited to, the following: (i) expenses incurred for the repair, maintenance, preservation, protection and improvement of the Creek Common Property, including without limitation, storm water drainage, swales, Landscaping, mowing, irrigation, trail maintenance, signage, fencing, walls, lighting and controlling vegetation growth; (ii) expenses incurred for utility services for the common safety and welfare of the residents of The Creek, including without limitation, all subsurface and surface drainage improvements, catch basins, swales and drainage ditches, wells, lighting, electric or gas power for any entry feature; (iii) expenses incurred for any inspection, repair, maintenance or Improvement to the Creek Property as provided herein; (iv) expenses incurred in the administration of the business of the Foundation including without limitation, necessary and appropriate fees for services rendered by engineers, biologists, accountants and attorneys; (v) expenses incurred for the payment of real and personal property taxes and assessments for any Creek Property, including without limitation, the Creek Common Property, owned by the Foundation; (vi) expenses incurred for the maintenance of insurance, including any insurance as set forth in Article IV; (vii) the Creek Community Foundation Contract Costs; and (viii) expenses incurred for doing any other thing necessary or desirable, which in the judgment of the Foundation may be of general benefit to the Creek Owners and the Creek Property, including, without limitation expenses related to Agreements with other associations or organizations to provide additional services and or amenities to the Creek Owners. Subject to the provisions set forth relating to the rate at which the Creek Annual Assessment imposed herein shall be paid on

the Creek Parcel, each and every Creek Parcel is hereby severally subjected to and impressed with a regular Creek Annual Assessment which shall run with the land, subject to increase and decrease and payable as provided herein.

8.04 Distributions. It is understood that the judgment of the Board in the expenditure of the funds of the Foundation shall be final and conclusive so long as said judgment is exercised in good faith.

8.05 Amount. Creek Annual Assessments shall be payable in advance on or before January 1 of each year. The Board may fix the Creek Annual Assessment at an amount not in excess of the maximum, and shall fix the amount of the Creek Annual Assessment against each Creek Parcel by December 1 preceding the Creek Annual Assessment period. The Creek Annual Assessment period shall begin on January 1 of each year. Written notice of the Creek Annual Assessment shall be sent to every Creek Owner subject thereto at the address of each Creek Parcel or at such other address provided to the Foundation in writing from the Creek Owner. Creek Annual Assessments shall be considered delinquent if not received by January 31 of the year for which the Creek Annual Assessment pertains.

8.06 Increases. The maximum Creek Annual Assessment for calendar year 2015 shall be in the amount of Two Thousand and no/100 Dollars (\$2,000.00) per Creek Parcel. Beginning with the calendar year 2016, the maximum Creek Annual Assessment may be increased once a year by the Board, by an amount not to exceed twenty percent (20%) over the prior year's Creek Annual Assessment. For example, if the maximum Creek Annual Assessment for the prior year was \$500 per Creek Parcel but the actual amount of the Creek Annual Assessment assessed was \$300, the maximum Creek Annual Assessment for the following year may be increased by the Foundation to \$600 (\$500 X 20%) even though the maximum Annual Assessment (\$600.00) may not actually be assessed. Unless waived in writing by the Town Founder or Creek Initial Owner, as applicable, in the event the Foundation becomes indebted to the Town Founder or Creek Initial Owner in any manner, the Board will be required to increase and assess the Creek Owners the twenty percent (20%) maximum Creek Annual Assessment provided for in this Section each year to provide for the repayment to the Town Founder or the Creek Initial Owner until the Town Founder or Creek Initial Owner, as applicable, have been paid in full.

The Creek Annual Assessment may be increased above that allowed by this Section, if, and only if, the increase is approved by the affirmative vote of two-thirds (2/3) of the total eligible votes of the Foundation present, in person or by proxy, at a meeting duly called for that purpose. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, and certification by the Secretary of the Foundation, alternate address of the Creek Member, if applicable, and the date and signature of the Creek Member. Ballots may be returned by U.S. mail in envelopes specifically marked as containing ballots for the election, or may be collected by door-to-door canvass.

Upon the increase of the maximum Creek Annual Assessment requiring the vote of the Foundation, pursuant to the provisions of this Section, the Foundation shall cause to be recorded in the Office of the County Clerk of Brazos County, Texas, a sworn affidavit of the President (or any Vice President) and of the Secretary of the Foundation which shall certify, among other items that may be appropriate, the total number of eligible votes as of the date of the voting, the quorum required, the number of votes represented, the number of votes voting "for" and "against" the levy, the amount of the increased Creek Annual Assessment so authorized, and the date by which the increased Creek Annual Assessment must be paid to avoid being delinquent. The increase in the maximum Creek Annual Assessment so approved shall become effective on the date specified in

the document evidencing such approval, and shall be filed for record in the Office of the County Clerk of Brazos County, Texas.

8.07 Creek Special Assessments for Capital Improvements. In addition to the Creek Annual Assessments, the Board may, upon the affirmative vote of two-thirds (2/3) of the total eligible votes of the Foundation present, in person or by proxy, at a meeting duly called for this purpose, levy a Creek Special Assessment (herein so called) for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Creek Common Property, including fixtures and personal property related thereto. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Foundation, alternate address of the Creek Member, if applicable, and the date and signature of the Creek Member. Ballots may be returned by U. S. First Class Mail in envelopes specifically marked as containing ballots for the election, or may be collected by door-to-door canvas. Upon the levying of any Creek Special Assessment pursuant to the provisions of this Section, the Foundation shall cause to be recorded in the Office of the County Clerk of Brazos County, Texas, a sworn affidavit of the President or any Vice President and of the Secretary of the Foundation which shall certify, among other items that may be appropriate, the total number of eligible votes of the Foundation as of the date of the voting, the quorum required, the number of votes voting "For" and "Against" the Creek Special Assessment, the amount of the Creek Special Assessment authorized, and the date by which the Creek Special Assessment must be paid in order to avoid being delinquent.

8.08 Creek Individual Assessments. In addition to any other Creek Assessments for which provisions are made in this Creek Supplemental Declaration, the Board shall have the authority to levy and collect, against a Creek Owner, a Creek Individual Assessment (herein so called) for:

- (a) Costs and expenses incurred by the Foundation in bringing a particular Creek Owner's Parcel into compliance with the provisions of this Creek Supplemental Declaration, including any action taken, cost or expense incurred by the Foundation to cure and eliminate any violation of or noncompliance with the provisions of this Creek Supplemental Declaration, following the failure of such Creek Owner to cure or remedy such violation or noncompliance.
- (b) Costs and expenses, including attorneys' fees as provided in Article VIII hereof, whether or not suit is brought, incurred by the Foundation in the enforcement of the provisions of this Creek Supplemental Declaration against a particular Creek Parcel or the Creek Owner of such Creek Parcel.
- (c) Costs and expenses incurred by the Foundation in furnishing or providing labor, services and materials which benefit a particular Creek Parcel or the Creek Owner of a particular Creek Parcel provided that such labor, services or materials can be accepted or rejected by such particular Creek Owner (provided that the Creek Owner shall bring his/her Creek Parcel into compliance as provided in this Creek Supplemental Declaration) in advance of the Foundation's furnishing or providing the same and that such Creek Owner's acceptance of any such labor, services or materials shall be deemed to have been such Creek Owner's agreement that the costs and expenses associated therewith shall be a lien against said Creek Parcel and shall be levied and collected as a Creek Individual Assessment against such particular Creek Owner and his/her particular Creek Parcel.
- (d) The fine assessed against any Creek Owner for violation by any Creek Owner, Family, guests, lessees or invitees of the provisions of this Creek Supplemental Declaration or any Creek Rules please refer to the Creek Fee Schedule for any applicable penalties).
- (e) Reasonable overhead expenses of the Foundation associated with any Individual Creek Assessment levied and collected pursuant to this Section 8.08.

- (f) Interest as provided for herein and late charges as determined from time to time by the Board.

8.09 Creek Fund. The Foundation shall establish a Creek Fund into which shall be deposited all moneys paid to the Foundation, including all Creek Assessments, and from which disbursements shall be made in performing the functions of the Foundation under this Creek Supplemental Declaration. Town Founder and the Foundation reserve the right from time to time to establish separate accounts into which deposits of money will be paid to the Foundation for special projects including but not limited to projects related to capital improvements or Creek Special Assessments.

8.10 Effect of Nonpayment of Creek Assessments. Any of the Creek Assessments which are not paid within thirty (30) days after the due date shall be delinquent and shall be subject to the following:

- (a) interest at the rate of eighteen percent (18%) per annum from the due date or the maximum rate of interest allowed by law, if less than eighteen percent (18%), and all costs of collection, including reasonable attorney's fees;
- (b) the rights of the Creek Owner, as a Creek Member of the Foundation (but not such Creek Owner's responsibility as a Creek Member of the Foundation), to use the Creek Common Property, may be suspended after notice as may be required by Texas law until all Creek Assessments and related costs are paid in full;
- (c) an action at law against the Creek Owner personally obligated to pay the same, and/or foreclose on the lien herein retained against the Creek Parcel. Interest, costs of court, and reasonable attorneys' fees (when placed with an attorney for collection, whether with or without suit) incurred in any such action shall be added to the amount of such Creek Assessment or charge; and
- (d) a late charge in an amount as may be determined by the Board from time to time.

8.11 Contractual Lien. Creek Assessments (together with interest, and reasonable attorney's fees if it becomes necessary for the Foundation to enforce collection of any amount in respect of any Parcel), late charges, costs, fines and other charges herein shall be a charge on each Creek Parcel and shall be secured by a continuing lien upon each Creek Parcel against which such assessment is made until paid.

8.12 Notice of Lien. Additional notice of the lien created by this Section may be effected by recording in the Real Property Records of Brazos County, Texas, an affidavit, duly executed, sworn to and acknowledged by an officer of the Foundation, setting forth the amount owed, the name of the Creek Owner or Creek Owners of the affected Creek Parcel, according to the books and records of the Foundation, and the legal description of such Creek Parcel.

8.13 Creation of Lien. Each Creek Owner, by his acceptance of a deed to a Creek Parcel, hereby expressly grants to the Foundation a lien for the purpose of securing payment of Creek Assessments upon such Creek Parcel. The Foundation, acting by and through the Board may, but shall not be obligated to, prepare and record in the Real Property Records of Brazos County, Texas, a notice of such lien which will constitute further evidence of the lien for Assessments against a Creek Parcel. In addition to and in connection therewith, by acceptance of the deed to his Creek Parcel, each Creek Owner expressly GRANTS, BARGAINS, SELLS and CONVEYS to the President and/or Vice President or agent of the Foundation from time to time serving, as Trustee (and to any substitute or successor trustee as hereinafter provided for) such Creek Owner's Creek Parcel, and

all rights appurtenant thereto, in trust, for the purpose of securing the Creek Assessments levied hereunder, and other sums due hereunder remaining unpaid hereunder from time to time. The Trustee herein designated may be changed for any reason and at any time and from time to time by execution of an instrument in writing signed by the President or a Vice-President of the Foundation and filed in the Real Property Records of Brazos County, Texas.

8.14 Enforcement of Lien. The Foundation shall have the right to enforce the aforesaid lien by all methods available for the enforcement of such liens, both judicially and by nonjudicial foreclosure pursuant to Section 51.002 of the Texas Property Code and Chapter 209 of the Texas Property Code (as same may be amended or revised from time to time hereafter). In the event of the election by the Board to foreclose the lien herein provided for non-payment of sums secured by such lien, then it shall be the duty of the Trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such request Creek Parcel, and all rights appurtenant thereto in accordance with Section 51.002 of the Texas Property Code (as said statute shall read at the time of enforcement) and to make due conveyance to purchaser or purchasers by deed binding upon the Creek Owner or Creek Owners of such Creek Parcel and his heirs, executors, administrators and successors. The Trustee shall give notice of such proposed sale as required by Section 51.002 of the Texas Property Code (as said statute shall read at the time notice is given).

8.15 Additional Matters Pertaining to Foreclosure. At any foreclosure, judicial or nonjudicial, the Foundation shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Foundation covered by the lien foreclosed. From and after any such foreclosure the occupants of such Creek Parcel shall be required to pay a reasonable rent for the use of such Creek Parcel and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and further, shall be entitled to sue for recovery of possession of such Creek Parcel by forcible detainer without further notice.

8.16 Non-Use, Etc. No Creek Owner may waive or otherwise escape said lien and liability for the Creek Assessments provided for herein by non-use of the Creek Common Property, or abandonment, non-use or divestiture of ownership of a Creek Parcel for any Creek Assessment which became due and payable during the time when such Creek Owner owned the Creek Parcel.

8.17 Exempt Portions of the Properties. All portions of the Creek Property dedicated to, and accepted by, a local public authority exempt from taxation by the laws of the State of Texas, and all Creek Common Property shall be exempt from the Creek Assessments and other charges created herein. Notwithstanding the foregoing, no Creek Parcel which is used, or is intended for use, as a residence shall be exempt from Creek Assessments and charges and the lien herein securing payment thereof.

8.18 No Offsets. The Creek Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, (a) any claim that the Foundation or the Board is not properly exercising its duties and powers under this Creek Supplemental Declaration, (b) any claim by the Creek Owner of non-use of the Creek Common Property or abandonment of his Creek Parcel, (c) any claim by the Creek Owner of inconvenience or discomfort arising from the making of repairs or improvements to Creek Common Property, or (d) any claim by the Creek Owner of inconvenience or discomfort arising from any action taken to comply with any law or any determination of the Board or for any other reason.

8.19 Subordination of the Lien to Mortgages. The lien of the Creek Assessments provided for herein shall be subordinate to any first lien purchase money mortgages (and refinancing of same) relating to the Creek Parcels or liens relating to construction upon the Creek Parcel; provided, however, that such subordination shall apply only to Creek Assessments which have become due and payable prior to a sale or transfer of such Creek Parcel pursuant to a decree of foreclosure or a foreclosure by trustee's sale under a deed of trust or a foreclosure of the assessment lien retained and reserved herein. Sale or transfer of any Creek Parcel shall not affect the lien of the Creek Assessment; however, the sale or transfer of any Creek Parcel pursuant to the foreclosure of a first lien purchase money mortgage (and any refinancing of same) or any proceeding in lieu thereof, shall extinguish the lien of the Creek Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Creek Parcel from liability for the Creek Assessments thereafter becoming due or from the lien thereof. A selling Creek Owner of a Creek Parcel shall not be relieved of personal liability for any Creek Assessments accruing on such Creek Parcel prior to the date of sale or transfer.

ARTICLE IX - RESERVATIONS AND EASEMENTS

9.01 Reservation of Utility Easements on Survey. The Creek Initial Owner, for the benefit of the Town Founder, and for the benefit of the Foundation, all other Creek Owners and also for the benefit of all the Creek Property, hereby creates, declares and reserves the easements described in this Article IX.

9.02 Grant of Easements. The Creek Initial Owner, by the recordation of this Creek Supplemental Declaration, grants and conveys to the Town Founder, all Creek Owners and the Foundation, the Creek Access Easement and the Creek Utility Easement (collectively the "Creek Easements") subject to the restrictions and reservations contained herein.

9.03 Use of Easements. The Town Founder, all Creek Owners and the Foundation may each permit the benefits of the Creek Access Easement to be used and enjoyed by the tenants, licensees, invitees and other occupants of all or any portion of the Creek Property, as well as customers, employees and agents thereof; provided, however, that in no event shall the consent or joinder of any one or more of such tenants, licensees, occupants, invitees, customers, employees or agents thereof be required to modify, amend, or terminate the Creek Easement. The Creek Initial Owner hereby reserves the easement for the Town Founder and the Foundation over up to ten (10) feet of the surface of the Creek Property that is adjacent to both sides of the Creek Utility Easement Area as necessary to install and maintain the Utilities within the Creek Utility Easement Area.

9.04 Reservations and Restrictions. The Creek Initial Owner grants unto the Town Founder and the Foundation the right to grant further easements within the Creek Access Easement Area, or the Creek Utility Easement Area as the Town Founder or the Board may determine are reasonably required for the benefit of The Creek. The Creek Easements are subject to the following restrictions:

- (a) The Creek Easement does not include vehicular parking rights within the Creek Easement Area; each Creek Owner will use reasonable efforts to prevent its tenants, licensees and invitees from parking within any portion of the Creek Easement Area.
- (b) The Town Founder reserves, for itself and the Foundation, the right to temporarily close all portions of the Creek Access Easement Area for the reasonable period of time legally necessary, in the opinion of the Town Founder's or the Board's, to prevent the dedication of any portion of the Creek Property for public use or the acquisition of prescriptive rights by anyone; provided, however, that before completely closing off all portions of the Creek Access Easement Area, the Town Founder or the Foundation shall give written explanation and notice to all Creek Owners of its intention to do so and provide temporary alternate access to each Creek Owner.

- (c) The Creek Initial Owner reserves, for the Town Founder and the Foundation, the right to barricade, temporarily, any portion of the Creek Easement Area as shall be reasonably necessary for purposes of preparing or maintaining the surface area thereof or for installing, maintaining, repairing or replacing any Utilities or distribution lines located thereon or thereunder, provided that the Town Founder or Foundation places proper notification signage at the entrance of The Creek along with instruction if applicable and provides temporary alternate access so as to minimize interference with the enjoyment and use of the Creek Easements by the Creek Owners.
- (d) The Creek Initial Owner reserves, for the Town Founder and the Foundation, the right to dedicate all or any portion of the Creek Easement Area to Brazos County or any municipality which may hereafter contain any portion of the Creek Property.
- (e) Each Creek Owner shall be responsible, at its sole cost and expense, for obtaining, connecting, installing, repairing and maintaining all utility lines, connections and facilities exclusively serving their respective Creek Parcel and shall pay all impact, connection and tap-in fees, sewer service charges and charges for electricity, telephone and other communication services and all other utilities and similar services rendered or supplied to their respective Creek Parcel, or other similar charges levied or charged against, or in connection with, their Creek Parcel; all such utilities shall be installed underground. Each Creek Owner shall be solely responsible for the costs of constructing the driveways connecting their respective Creek Parcel to the road and for the lines, cable and fiber optic lines and other utilities not addressed herein which are exclusively for the use of their respective Creek Parcel. Town Founder is responsible for providing services to the front of the Creek Parcel on the Creek Common Property within the Creek Utility Easement Area but is not responsible for any connecting, installing, repairing, relocating, clearing, maintenance, and/or construction of any kind on any individual Creek Parcel. Town Founder does reserve the right to assist Creek Owners on a case by case basis however any assistance would not be considered a standard practice to be applied to all Creek Parcels.
- (f) The Creek Easements granted herein are subject and subordinate to any and all matters of record as of the date hereof.

9.05 Construction and Maintenance of Road. The Town Founder has or will construct a road on the Creek Access Easement Area. It shall be the obligation of the Foundation to maintain such road in a level, smooth, neat and clean condition and Town Founder will not be responsible for any maintenance of road, repairs, or further improvements after the initial construction, although Town Founder reserves the right to undertake such maintenance, repairs, or improvements. Any repairs or improvements shall be made with the type of surfacing materials originally installed or a compatible substitute material that is equal or superior in quality, appearance and durability. The Foundation may enter into contract with the Town Founder and/or Town Founder affiliates for the purposes of road maintenance services described in this Creek Supplemental Declaration contingent upon the rates being charged by Town Founder and/or Town Founder affiliates will be comparable to prevailing market rates. Further, the Board, in its sole discretion, may, on behalf of the Foundation, convey such roads and Creek Access Easement Area and improvements thereon to Brazos County or other governmental agency.

9.06 Reservation of Right to Consent to Construction. Town Founder is hereby granted the right to grant consents for the construction and maintenance of the Creek Common Property. Town Founder, for the benefit of itself, the Foundation and all Creek Owners hereby reserves easements in, on and over the Creek Property as may be reasonably required from time to time in order to provide storm water or surface water drainage to all or any portion of the Creek Property; provided, however, that any such drainage easements shall not unreasonably interfere with the use

and enjoyment by any Creek Owner of the particular Creek Parcels or the Creek Common Property affected hereby or any Improvements from time to time placed, located, constructed, erected or installed thereon.

9.07 Future Easements. There is hereby reserved to the Town Founder and its successors and assigns, and to the Foundation, the right to grant and transfer the same, the right, power and privilege to, at any time hereafter, grant to itself, the County or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole discretion of the Town Founder or the Foundation, for the future orderly development of The Creek in accordance with the objectives and purposes set forth in the Master Declaration and this Creek Supplemental Declaration. It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon any Creek Parcel pursuant to the provisions of this Section if any such easement shall unreasonably interfere with the presently contemplated or future use and development of a particular Creek Parcel as a Single Family Residential Use home site. The easements contemplated by this Article IX may include, without limitation, such easements as may be required for utility services, maintenance of the Creek Common Property, drainage, road right of way or other purposes reasonably related to the orderly development of The Creek in accordance with the objectives and purposes specified in this Creek Supplemental Declaration.

9.08 General Easement. There are hereby created, declared and granted to the Foundation, the ARC and the Town Founder such easements over and upon all or any portion of the Creek Property as may be reasonably necessary to permit the Foundation, the ARC and the Town Founder to carry out and discharge their duties, obligations and responsibilities under and pursuant to this Creek Supplemental Declaration and the Creek Certificate of Formation, Creek Bylaws and Creek Rules.

9.09 Maintenance of Easements. The Creek Owners, subject to the easements, shall acquire no right, title or interest in or to any fence or facilities placed on, in, over or under the Creek Property which is subject to any of the easements reserved in Article IX of this Creek Supplemental Declaration. The Foundation shall be responsible for maintaining any easements located on the Creek Property. However, the Foundation is not responsible for maintaining any easements located on a Creek Owner's Creek Parcel.

ARTICLE X - GENERAL COVENANTS AND RESTRICTIONS

10.01 Duration. This Creek Supplemental Declaration shall be deemed to run with the land; shall continue in full force and effect a period of ninety-nine (99) years from the date hereof; shall inure to the benefit of and be enforceable by the Town Founder, the Conservancy, the Foundation and the Creek Owners, their respective successors, assigns, heirs, executors, administrators and personal representatives; at the end of which period said restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least sixty-seven percent (67%) of the Creek Owners of the Creek Parcels vote to change said restrictions in whole or in part. Any amendment to this Creek Supplemental Declaration during the Creek Development Period shall also require the prior written consent of the Town Founder.

10.02 Compliance. It shall be the responsibility of each Creek Owner or tenant or occupant of a Creek Parcel to obtain copies of and become familiar with the terms of the Master Declaration, this Creek Supplemental Declaration, Creek Bylaws, and Creek Rules. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Town Founder, the Foundation or, in a proper case, by any aggrieved Creek Owner or Creek Owners. In addition, the Town Founder, the

Foundation may avail itself of any and all remedies provided in this Creek Supplemental Declaration or the Creek Bylaws, including, but not limited to, the right to assess fines for failure to comply.

10.03 Enforcement. The Foundation, Conservancy, Town Founder, and any Creek Owner shall have the right to enforce, by any proceedings at law or in equity, all assessments (including liens or charges), conditions, covenants, easements, reservations, and restrictions now or hereafter imposed by the provisions of this Creek Supplemental Declaration, any additional restrictions imposed by the Creek Initial Owner or the Town Founder on any Creek Parcel, or any Supplemental Declaration filed on the Creek Parcel. Failure by the Foundation, Conservancy, the Town Founder, or any Creek Owner to exercise its enforcement rights does not constitute a waiver of the right to do so thereafter.

10.04 Fines for Violations. The Board may promulgate and impose fines for a violation of the Creek Bylaws, this Creek Supplemental Declaration, the Design Guidelines and any Creek Rules. Any fine unpaid thirty (30) days after demand shall be collectable as a Creek Assessment in this Creek Supplemental Declaration and secured by the Creek Assessment lien herein reserved.

10.05 Notices. Any notice required to be sent to any Creek Owner under the provisions of this Creek Supplemental Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as the Creek Owner on the records of the Foundation at the time of such mailing. If the records of the Foundation do not contain an address for the Creek Owner, the address of the Creek Parcel shall be presumed to be the Creek Owner's address.

10.06 Attorney Fees. In the event any action to enforce this Creek Supplemental Declaration, Creek Bylaws, Design Guidelines or Creek Rules is initiated against a Creek Owner or occupant of a Parcel by the Foundation, Conservancy, Town Founder, the Conservancy or Creek Owners, as the case may be, the Foundation, Conservancy, Town Founder, Conservancy or Creek Owner shall be entitled to recovery reasonable attorney fees from the Creek Owner or occupant of a Creek Parcel who violated this Creek Supplemental Declaration, Bylaws, Design Guidelines or Creek Rules.

10.07 Conflicts. The covenants, conditions and restrictions contained in this Supplemental Declaration may be more restrictive than the covenants, conditions and restrictions contained in the Master Declaration. However, in those instances where the covenants, conditions and restrictions set forth in this Supplemental Declaration directly conflict with the covenants, conditions and restrictions set forth in the Master Declaration, the covenants, conditions and restrictions set forth in the Master Declaration shall prevail.

10.08 Severability. Should any covenant or restriction herein contained, or any Article, Section, subsection, sentence, clause, phrase or term of this Creek Supplemental Declaration be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

10.09 Amendment. The Town Founder can amend or terminate any provision of this Creek Supplemental Declaration, at its sole and absolute discretion, prior to the expiration of the Creek Development Period. After the expiration of the Creek Development Period, in order to amend or terminate any provision of this Creek Supplemental Declaration, approval of at least sixty-seven (67%) percent of the membership is required as set forth in Section 10.01 hereof.

10.10 Security. The Foundation may, but shall not be obligated to, maintain or support certain activities within the Creek Property designed to make the Creek Property safer than they otherwise might be. **THE CREEK INITIAL OWNER, TOWN FOUNDER, THE FOUNDATION, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, AND AGENTS, SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CREEK PROPERTY. THE CREEK INITIAL OWNER, TOWN FOUNDER AND THE FOUNDATION, SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH CREEK OWNER AND OCCUPANT OF ANY CREEK PARCEL, AND EACH TENANT, GUEST AND INVITEE OF A CREEK OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE CREEK INITIAL OWNER, TOWN FOUNDER AND THE FOUNDATION, ARE NOT INSURERS AND THAT EACH CREEK OWNER AND OCCUPANT OF ANY CREEK PARCEL AND EACH TENANT, GUEST, AND INVITEE OF ANY CREEK OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO CREEK PARCELS, AND TO THE CONTENTS OF CREEK PARCELS, AND FURTHER ACKNOWLEDGES THAT THE CREEK INITIAL OWNER, TOWN FOUNDER AND THE FOUNDATION, HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY CREEK OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY SYSTEMS OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE CREEK PROPERTY.**

10.11 De-annexation of the Creek Property. Town Founder may de-annex and remove any property from The Creek, so long as the Creek Owner of such property consents in writing to such de-annexation. Such de-annexation shall be accomplished by the execution and filing for record of an instrument setting forth the land being de-annexed and signed by the Town Founder and Creek Owner of the property being de-annexed. If the property is Creek Common Property, the Foundation shall consent to such withdrawal as evidenced by the majority vote of the Board. Upon the completion of the de-annexation requirements herein described above, the portion of the Creek Property being de-annexed shall no longer be a part of the Creek Property encumbered by this Creek Supplemental Declaration and any amendments and/or supplements thereto.

10.12 Waiver. No provision contained in this Creek Supplemental Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10.13 Ratification, Confirmation and Approval of Agreements. The fact that some or all of the officers, trustees, Creek Members or employees of the Foundation and the Town Founder or Creek Initial Owner may be identical, and the fact that the Town Founder or its nominees, have heretofore or may hereafter enter into agreements with the Foundation, and Creek Members, from time to time, will not relieve any parties of the obligation to abide by and comply with the terms and conditions thereof. The purchase of a Creek Parcel, and the acceptance of the deed therefor by any party, shall constitute the ratification, confirmation and approval by such purchaser, his/her heirs, successors, legal representative and assigns of the Creek Property and legality of said agreements.

10.14 Constructive Notice and Acceptance. Every person, corporation, partnership, limited partnership, limited liability company, trust, association or other legal entity, who now or hereafter owns or acquires any right, title or estate in any portion of the Creek Property is and shall be conclusively deemed, to have consented and agreed to each and every term, provision, covenant, condition, restriction, easement, reservation and right contained or by reference incorporated in the Master Declaration, this Creek Supplemental Declaration and the Exhibits attached hereto and

thereto, whether or not any reference to the Master Declaration or this Creek Supplemental Declaration is contained in the deed, document or other instrument pursuant to which such person, corporation, partnership, limited partnership, limited liability company, trust, association or other legal entity shall have acquired such right, title, interest or estate in the Creek Property or any portion thereof.

10.15 Assignment of Town Founder's Rights and Interests. The rights and interests of the Town Founder under this Creek Supplemental Declaration may be transferred and assigned by the Town Founder to any successor or assigns to all or part of the Town Founder's interest in the Creek Property by an express transfer, conveyance or assignment incorporated into any recorded deed or other instrument, acknowledged as a deed, transferring, conveying or assigning such rights and interest to such successor.

10.16 Word Meanings. The words such as "herein", "hereafter", "hereof", "hereunder" and "hereinabove" refer to this Creek Supplemental Declaration as a whole and not merely to a section or paragraph or article in which such words appear unless the context otherwise requires. Singular shall include the plural, and the masculine gender shall include the feminine and neuter and vice versa unless the context otherwise requires.

10.17 Captions and Section Headings. The captions and headings of various articles, sections, paragraphs or subparagraphs of this Creek Supplemental Declaration are for convenience only, and are not to be considered as defining or limiting in any way the intent of the provisions hereof or thereof.

10.18 Exhibits.

- A - Millican DPC Property
- B - Jaques Property
- C - Certain Creek Common Property Exhibit
- D - Creek Access Easement Area
- E - Creek Utility Easement Area

{Signatures begin on following page}

IN WITNESS WHEREOF, the Creek Initial Owner and Town Founder have caused this Creek Supplemental Declaration to be executed as of the 27th day of October, 2015.

CREEK INITIAL OWNER:

MILICAN DPC PARTNERS, LP, a Texas limited partnership

By: Millican DPC Partners GP, LLC, a Texas limited liability company, its general partner

By: [Signature]
John E. McFarlane, Jr., Manager

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

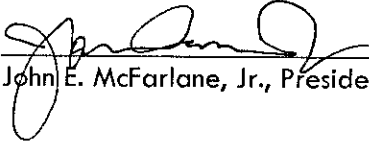
Be it remembered that on this 29 day of October, 2015, before me, the undersigned Notary Public in and of said County and State, personally came John E. McFarlane, Jr. whose name is subscribed to the foregoing instrument as such, and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of Millican DPC Partners GP, LLC, a Texas limited liability company, General Partner of Millican DPC LP, a Texas limited partnership, on behalf of said entities.

WITNESS my hand and official seal; this 29 day of October, 2015.



[Signature]
Notary Public, State of Texas

ROCK BARN CONSERVATION PARTNERS, LLC.,
a Texas limited liability company

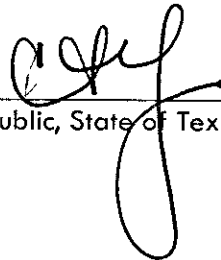
By: 
John E. McFarlane, Jr., President

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Be it remembered that on this 29 day of October, 2015, before me, the undersigned Notary Public in and of said County and State, personally came John E. McFarlane, Jr., whose name is subscribed to the foregoing instrument as such, and acknowledged that he/she signed and delivered the said instrument as President of ROCK BARN CONSERVATION PARTNERS, LLC, a Texas limited liability company, on behalf of said entity.

WITNESS my hand and official seal, this 29 day of October, 2015.




Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

Mark K. Knop
Hoover Slovacek LLP
Galleria Tower II
5051 Westheimer, Suite 1200
Houston, Texas 77056

Exhibit A: Millican DPC Property

TRACT 1:

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130, and the J.M. BARRERA SURVEY, Abstract No. 67 in Brazos County, Texas and being a part of the called 202 acre tract described in a deed dated February 1, 1945 from Roy W. Nunn to P. P. Prescott recorded in Volume 137, Page 285 of the Brazos County Deed Records (B.C.D.R.) and being part of the 1215.830 acre Tract One described in the deed from Carter Interests, Ltd., et al to Peach Creek Partners, Ltd., recorded in Volume 4227, Page 145 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at a found ½-inch rod iron rod in the upper northwest line of the said 1215.830 acre Tract One, said iron rod also being in the lower northeast line of the called 202 acre Prescott tract and being at or near the common most easterly corner of the B. MCGREGOR SURVEY, Abstract No. 171 and the T. HENRY SURVEY, Abstract No. 130;

THENCE: S 02° 22' 45" E approximately along the east line of the said T. HENRY SURVEY, Abstract No. 130, the west line of the A. McLAUGHLIN SURVEY, Abstract No. 158 and into the interior of the J. M. BARRERA SURVEY, Abstract No. 67 for a distance of 944.63 feet for corner;

THENCE: S 67° 29' 27" W through the said J. M. BARRERA SURVEY, Abstract No. 67 and into said T. HENRY SURVEY, Abstract No. 130 for a distance of 1644.73 feet for corner, said corner also being in the northeast line of the called 126.54 acre Helen Runnells Dubois, Trustee tract described in Volume 5822, Page 24 (O.R.B.C.);

THENCE: N 45° 58' 50" W along the said line of the called 126.54 acre tract, at 1492.97 feet pass a found ½-inch iron rod marking the common most easterly corner of the called 126.54 acre tract and the called 21.83 acre Texas A&M Development Foundation tract described in Volume 1062, Page 472 (O.R.B.C.), continue for a total distance of 3215.21 feet to a found ½-inch iron rod marking the north corner of the called 21.83 acre tract, said iron rod also being in the east line of the 100 acre Texas A&M Development Foundation tract described in Volume 937, Page 503 (O.R.B.C.);

THENCE: N 13° 30' 57" E along the said east line for a distance of 162.87 feet to a found ½-inch iron rod for corner, said iron rod also marking an angle point in the northerly line of the beforementioned 1215.830 acre tract;

THENCE: N 87° 37' 05" E for a distance of 280.67 feet for corner in the northerly line of the called 202 acre Prescott tract, said corner being at or near the common line of said B. MCGREGOR SURVEY, Abstract No. 171 and T. HENRY SURVEY, Abstract No. 130;

THENCE: along the said common line of the B. MCGREGOR SURVEY, Abstract No. 171 and T. HENRY SURVEY, Abstract No. 130 for the following four (4) calls:

- 1.) S 02° 22' 55" E for a distance of 141.12 feet for corner,
- 2.) N 87° 37' 05" E for a distance of 1833.33 feet for corner,
- 3.) S 02° 22' 55" E for a distance of 833.33 feet for corner, and
- 4.) N 87° 37' 05" E for a distance of 1602.98 feet to the POINT OF BEGINNING and containing 103.4 acres of land more or less.

SAVE AND EXCEPT #1 from Tract 1:

All that certain lot, tract or parcel of land being 5.007 acres situated in the THOMAS HENRY SURVEY, Abstract No. 130, Brazos County, Texas and being a part of that certain Called 103.4 acre tract as described in deed from Peach Creek Partners, Ltd. to Millican DPC Partners, LP of record in Volume 9981, Page 276, Official Records of Brazos County, Texas, said 5.007 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a ½" Iron Rod with Cap set in the northeast easement line of the City of Bryan Electrical Easement as described in Volume 215, page 576 for the most westerly corner, a ½" Iron Rod found for an interior Corner along the west line of a Called 1215.83 acre tract as described in Volume 4227, Page 145 bears S 38° 34' 55" W a distance of 1778.14 feet;

THENCE N 44° 01' 10" E, a distance of 467.00 feet to a ½" Iron Rod with Cap set for the most northerly corner, an Old 3/8" Iron Rod found for the northwest corner of said Called 103.4 acre tract bears N 68° 51' 50" W a distance of 1002.08 feet;

THENCE S 45° 58' 50" E, a distance of 467.00 feet to a ½" Iron Rod with Cap set for the most easterly corner, an Old disturbed 3/8" Iron Rod found for an exterior corner along the north line of said Called 1215.83 acre tract bears N 39° 57' 12" E a distance of 478.28 feet;

THENCE S 44° 01' 10" W, a distance of 467.00 feet to an ½" Iron Rod with Cap set in said northeast line of said City of Bryan Electrical Easement for the most southerly corner, a ½" Iron Rod found for the East Corner of the James Hacker, Trustee of the 314 Pinot Revocable Trust Called 98.32 acre tract bears S 37° 27' 51" E a distance of 422.40 feet;

THENCE N 45° 58' 50" W, along the northeast line of said City of Bryan Electrical Easement a distance of 467.00 feet to the PLACE OF BEGINNING PLACE AND CONTAINING AN AREA OF 5.007 ACRES OF LAND MORE OR LESS, according to a survey performed during the month of December 2010, under the supervision of H. Curtis Strong, Registered Land Surveyor No. 4961. North Orientation is based on rotating the WEST line of said Called 1215.83 acre tract to grid north (NAD83 CORS 96 CENTRAL ZONE) by utilizing GPS methods.

FURTHER SAVE AND EXCEPT #2 from Tract One:

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being a part of the called 202 acre tract described in a deed dated February 1, 1945 from Roy W. Nunn to P. P. Prescott recorded in Volume 137, Page 285 of the Brazos County Deed Records (B.C.D.R.) and being more particularly described by metes and bounds as follows:

COMMENCING: at an iron rod marking an angle point in the upper northwest line of the called 1215.830 acre Peach Creek Partners, Ltd. Tract One recorded in Volume 4227, Page 145 of the Official Records of Brazos County, Texas (O.R.B.C.), said angle point also being in the lower northeast line of the called 202 acre Prescott tract and being at or near the common most easterly corner of the said T. HENRY SURVEY, A-130 and the B. MCGREGOR SURVEY, A-171;

THENCE: S 87° 37' 05" W along the northerly line of the called 202 acre Prescott tract, said line also being the upper northwesterly line of the called 1215.830 acre tract and approximately along the said common line of the T. HENRY SURVEY, A-130 and B. MCGREGOR SURVEY, A-171 for a distance of 9.91 feet to the POINT OF BEGINNING;

THENCE: into the interior of the called 202 acre tract along an old fence, said line being the northwest line of the called 1215.830 acre tract for the following twenty-one (21) calls:

- 1) S 08° 59' 09" W for a distance of 146.76 feet for corner,
- 2) S 16° 01' 18" W for a distance of 123.96 feet for corner,
- 3) S 12° 22' 51" W for a distance of 285.39 feet for corner,

- 4) S 17° 36' 52" W for a distance of 224.16 feet for corner,
- 5) N 73° 29' 50" W for a distance of 521.36 feet for corner,
- 6) N 72° 43' 03" W for a distance of 517.72 feet for corner,
- 7) N 69° 41' 11" W for a distance of 578.98 feet for corner,
- 8) N 30° 06' 16" W for a distance of 660.19 feet for corner,
- 9) N 31° 47' 09" W for a distance of 109.64 feet for corner,
- 10) N 39° 59' 38" W for a distance of 91.30 feet for corner,
- 11) N 51° 11' 20" W for a distance of 17.90 feet for corner,
- 12) N 69° 33' 27" W for a distance of 23.06 feet for corner,
- 13) N 87° 29' 57" W for a distance of 84.44 feet for corner,
- 14) S 88° 23' 53" W for a distance of 485.82 feet for corner,
- 15) S 89° 04' 04" W for a distance of 354.27 feet for corner,
- 16) N 83° 59' 57" W for a distance of 36.19 feet for corner,
- 17) N 78° 13' 26" W for a distance of 102.70 feet for corner,
- 18) N 71° 54' 17" W for a distance of 94.20 feet for corner,
- 19) N 56° 59' 53" W for a distance of 181.05 feet for corner,
- 20) N 45° 23' 16" W for a distance of 84.88 feet for corner and
- 21) N 54° 56' 17" W for a distance of 214.18 feet to an iron rod marking an angle point in the northerly line of the before-mentioned 1215.830 acre tract;

THENCE: N 87° 37' 05" E continuing through the interior of the called 202 acre tract for a distance of 287.58 feet for corner in the northerly line of the called 202 acre Prescott tract, said corner being at or near the common line of said T. HENRY SURVEY, A-130 and B. MCGREGOR SURVEY, A-171;

THENCE: along the northerly lines of the called 202 acre tract, said line being the common line of the T. HENRY SURVEY, A-130 and B. MCGREGOR SURVEY, A-171 for the following four (4) calls:

- 1) S 02° 22' 55" E for a distance of 141.12 feet for corner,
- 2) N 87° 37' 05" E for a distance of 1833.33 feet for corner,
- 3) S 02° 22' 55" E for a distance of 833.33 feet for corner, and
- 4) N 87° 37' 05" E for a distance of 1503.97 feet to the POINT OF BEGINNING and containing 34.3 acre of land more or less.

FURTHER SAVE AND EXCEPT #3 from Tract One:

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being part of the 1215.830 acre Tract One described in the Deed from Carter Interests, Ltd., et al to Peach Creek Partners, Ltd., recorded in Volume 4227, Page 145 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

COMMENCING: at a found 1/2-inch iron rod marking the East corner of a called 21.83 acre Texas A&M Development Foundation tract recorded in Volume 1062, Page 472 (O.R.B.C.) and the Northeast corner of a called 126.54 acre Helen Runnells Dubois Trustee tract recorded in Volume 5822, Page 24 of the (O.R.B.C.), each tract being out of the said 1215.830 acre Peach Creek Partners, Ltd. tract, from whence a found 1/2-inch iron rod marking the Northwest corner of the said 126.54 acre Dubois tract and the Southwest corner of the said 21.83 acre Texas A&M Development Foundation tract bears S 88° 09' 12" W at a distance of 1538.86 feet for reference;

THENCE: S 45° 58' 50" E along the Northeast line of the called 126.54 acre Dubois tract and approximately along a wire fence for a distance of 1357.86 feet to a 1/2-inch iron rod set for the POINT OF BEGINNING;

THENCE: N 05° 04' 44" E for a distance of 963.71 feet to a 1/2-inch iron rod set for the Northwest corner of this tract;

THENCE: 376.16 feet in a counter-clockwise direction along the arc of a curve having a central angle of $14^{\circ} 41' 08''$, a radius of 1467.58 feet, a tangent of 189.11 feet and a long chord bearing $S 89^{\circ} 29' 46''$ E at a distance of 375.13 feet to a 1/2-inch iron rod set for corner;

THENCE: $S 06^{\circ} 50' 20''$ E for a distance of 50.00 feet to a 1/2-inch iron rod set for corner;

THENCE: $S 18^{\circ} 51' 46''$ E for a distance of 784.87 feet to a 1/2-inch iron rod set for corner;

THENCE: $S 67^{\circ} 29' 28''$ W for a distance of 674.34 feet to a 1/2-inch iron rod set for corner in the before-said Northeast line of the called 126.54 acre Dubois tract, from whence the Southeast corner of the called 126.54 acre Dubois tract bears $S 45^{\circ} 58' 50''$ E for a distance of 1744.74 feet and from whence a found a 1/2-inch iron rod bears $N 39^{\circ} 11' 37''$ E at a distance of 2.10 feet for reference;

THENCE: $N 45^{\circ} 58' 50''$ W for a distance of 135.11 feet to the POINT OF BEGINNING and containing 11.972 acres of land, more or less.

TRACT 2:

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 and the J.P. MITCHELL SURVEY, Abstract No. 179 in Brazos County, Texas and being part of the 126.54 acre tract described in the deed from Helen Runnells Dubois, Clive Runnells III and the Houston Trust Company as Co-Trustees of the Winifred T. Carter Revocable Trust to Helen Runnells Dubois, Trustee recorded in Volume 5822, Page 24 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at a found 1/2-inch iron rod marking the northeast corner of the said 126.54 acre Dubois tract and the east corner of a called 21.83 acre Texas A&M Development Foundation tract recorded in Volume 1062, Page 472 (O.R.B.C.), each tract being out of the said 1215.830 acre Peach Creek Partners, Ltd. Tract One recorded in Volume 4227, Page 145 [O.R.B.C.];

THENCE: $S 45^{\circ} 58' 50''$ E along the northeast line of the said 126.54 acre Dubois tract and adjacent to a wire fence for a distance of 1492.98 feet to a 1/2-inch iron rod set for the east corner of this tract;

THENCE: $S 67^{\circ} 29' 26''$ W through the said 126.54 acre Dubois tract for a distance of 2953.94 feet to a 1/2-inch iron rod set in the west line of the said 126.54 acre tract, said line also being the west line of the said 1215.830 acre tract, from whence a found 1/2-inch iron rod marking the southwest corner of the said Dubois tract bears $S 01^{\circ} 50' 48''$ E at distance of 402.50 feet for reference;

THENCE: $N 01^{\circ} 50' 48''$ W along the west line of said 126.54 acre tract and the east line of a called 150 acre Lurleen Cooner tract recorded in Volume 4771, Page 108 (O.R.B.C.), said line also being at or near the west line of the before said THOMAS HENRY SURVEY, A-130, for a distance of 1438.89 feet to a found 1/2-inch iron rod for corner;

THENCE: $N 13^{\circ} 30' 57''$ E continuing along the west line of the said Dubois tract for a distance of 700.00 feet to a found 1/2-inch iron rod marking the northwest corner of the said 126.54 acre Dubois tract and the southwest corner of the said 21.83 acre Texas A&M Development Foundation tract;

THENCE: $N 88^{\circ} 09' 12''$ E along the common line of said 126.54 acre and 21.83 acre tracts for a distance of 1538.86 feet to the POINT OF BEGINNING and containing 86.835 acres of land, more or less.

SAVE AND EXCEPT from Tract 2:

All that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being part of the called 126.54 acre tract described in the deed from the Helen Runnells Dubois, Clive Runnells III and the Houston Trust Company as Co-Trustees of the Winifred T. Carter Revocable Trust to Helen Runnells Dubois, Trustee recorded in Volume 5822, Page 24 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at a found 1/2-inch iron rod marking the northwest corner of the said 126.54 acre tract and an angle point in the southerly boundary of a called 98.32 acre James Hacker, Trustee of the 314 Pinot Revocable Trust tract recorded in Volume 8538, Page 92 (O.R.B.C.), (each tract being out of the called 1215.830 acre Peach Creek Partners, Ltd. Tract One recorded in Volume 4227, Page 145 [O.R.B.C.]);

THENCE: N 88° 09' 12" E along the common line of the called 126.54 and 98.32 acre tracts for a distance of 780.53 feet to a 1/2-inch iron rod set for corner, from whence a found 1/2-inch iron rod marking the common most easterly corner of said tracts bears S 88° 09' 12" W at a distance of 758.32 feet for reference;

THENCE: S 53° 12' 33" W through the interior of the said 126.54 acre tract for a distance of 1178.44 feet to a found 1/2-inch iron rod marking an angle point in the west line of the said 126.54 acre tract, the northeast corner of the called 150 acre Lurleen Cooner tract recorded in Volume 4771, Page 108 (O.R.B.C.) and an angle point in the southerly boundary of the called 98.32 acre tract for corner;

THENCE: N 13° 30' 57" E along the common line of the called 126.54 and 98.32 acre tracts for a distance of 700.00 feet to the POINT OF BEGINNING and containing 6.047 acres of land, more or less, according to a survey made on the ground under the supervision of Kevin R. McClure, Registered Professional Land Surveyor, State of Texas, No. 5650, on December 8, 2010.

TRACT 3:

All that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being part of the called 98.32 acre tract described in the deed from M.L. Schehin and MLS Development Corporation to James Hacker, Trustee of the 314 Pinot Revocable Trust recorded in Volume 8538, Page 92 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at a found 1/2-inch iron rod marking the southeast corner of the called 98.32 acre tract and the northeast corner of a called 126.54 acre Helen Runnells Dubois Trustee tract recorded in Volume 5822, Page 24 (O.R.B.C.), (each tract being out of the called 1215.830 acre Peach Creek Partners, Ltd. Tract One recorded in volume 4227, Page 145 [O.R.B.C.]);

THENCE: S 88° 09' 12" W along the common line of the called 98.32 and 126.54 acre tracts for a distance of 758.32 feet to a 1/2-inch iron rod set for corner, from whence a found 1/2-inch iron rod marking a common corner of the said tracts bears S 88° 09' 12" W at a distance of 780.53 feet for reference;

THENCE: N 53° 12' 33" E through the called 98.32 acre tract for a distance of 551.34 feet to a 1/2-inch iron rod set for corner in the northeast line of the called 98.32 acre tract, said iron rod also being the upper westerly remainder of the called 1215.83 acre Peach Creek Partners, Ltd. Tract;

THENCE: S 45° 58' 50" E along the said northeast line of the called 98.32 acre tract for a distance of 440.00 feet to the POINT OF BEGINNING and containing 2.749 acres of land, more or less, according to a survey made on the ground under the supervision of Kevin R. McClure, Registered Professional Land Surveyor, State of Texas, No. 5650, on December 8, 2010.

FIELD NOTES
11.972 ACRE TRACT

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being part of the 1215.830 acre Tract One described in the deed from Carter Interests, Ltd., et al to Peach Creek Partners, Ltd., recorded in Volume 4227, Page 145 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

COMMENCING: at a found 1/2-inch iron rod marking the east corner of a called 21.83 acre Texas A&M Development Foundation tract recorded in Volume 1062, Page 472 (O.R.B.C.) and the northeast corner of a called 126.54 acre Helen Rannells Dubois Trustee tract recorded in Volume 5822, Page 24 of the (O.R.B.C.), each tract being out of the said 1215.830 acre Peach Creek Partners, Ltd. tract, from whence a found 1/2-inch iron rod marking the northwest corner of the said 126.54 acre Dubois tract and the southwest corner of the said 21.83 acre Texas A&M Development Foundation tract bears S 88° 09' 12" W at a distance of 1538.86 feet for reference;

THENCE: S 45° 58' 50" E along the northeast line of the called 126.54 acre Dubois tract and approximately along a wire fence for a distance of 1357.86 feet to a 1/2-inch iron rod set for the POINT OF BEGINNING;

THENCE: N 05° 04' 44" E for a distance of 963.71 feet to a 1/2-inch iron rod set for the northwest corner of this tract;

THENCE: 376.16 feet in a counter-clockwise direction along the arc of a curve having a central angle of 14° 41' 08", a radius of 1467.58 feet, a tangent of 189.11 feet and a long chord bearing S 89° 29' 46" E at a distance of 375.13 feet to a 1/2-inch iron rod set for corner;

THENCE: S 06° 50' 20" E for a distance of 50.00 feet to a 1/2-inch iron rod set for corner;

THENCE: S 18° 51' 46" E for a distance of 784.87 feet to a 1/2-inch iron rod set for corner;

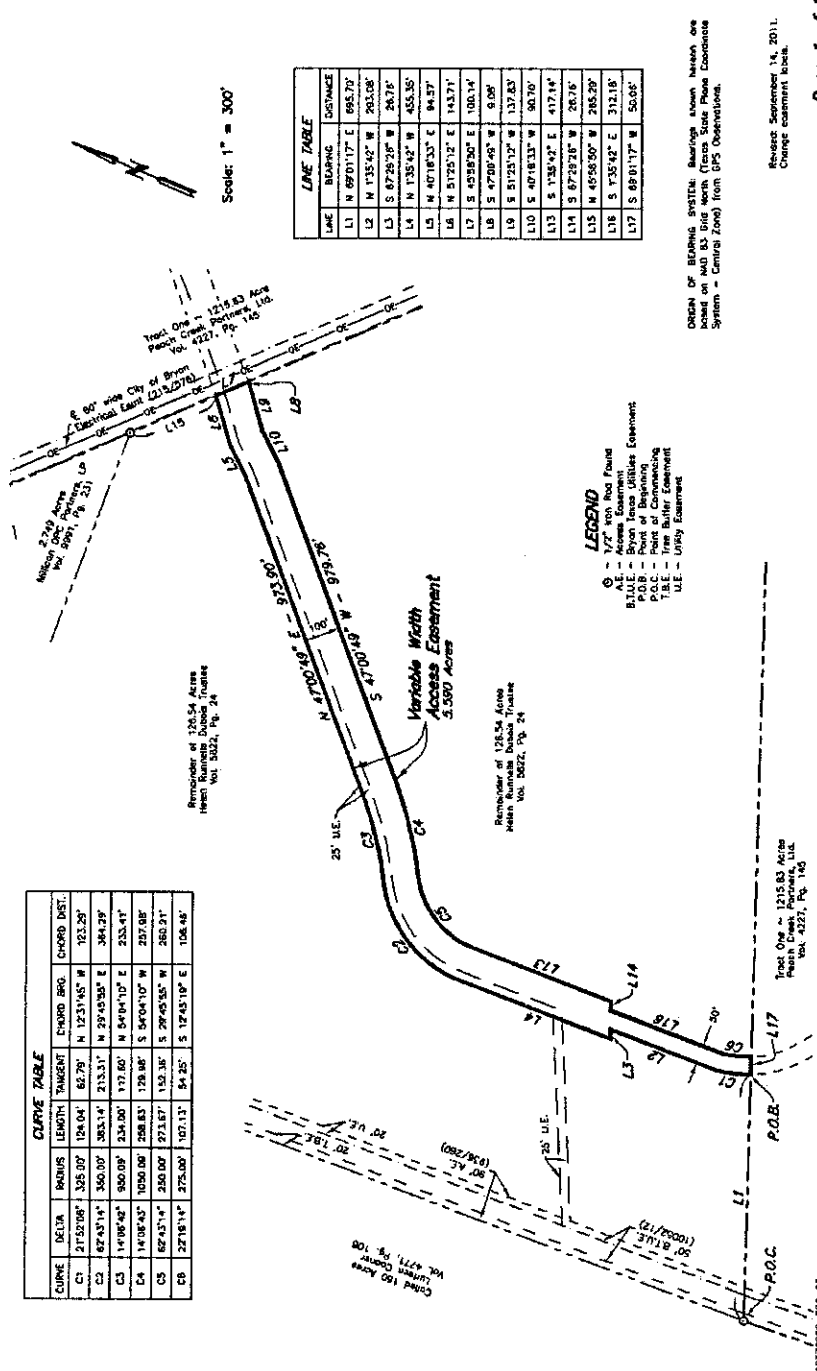
THENCE: S 67° 29' 28" W for a distance of 674.34 feet to a 1/2-inch iron rod set for corner in the beforesaid northeast line of the called 126.54 acre Dubois tract, from whence the southeast corner of the called 126.54 acre Dubois tract bears S 45° 58' 50" E for a distance of 1744.74 feet and from whence a found a 1/2-inch iron rod bears N 39° 11' 37" E at a distance of 2.10 feet for reference;

THENCE: N 45° 58' 50" W for a distance of 135.11 feet to the POINT OF BEGINNING and containing 11.972 acres of land, more or less.

Exhibit C: The Creek Common Property

To be determined.

Exhibit D: The Creek Access Easement Area



LINE	BEARING	DISTANCE
L1	N 69°01'17" E	695.70'
L2	N 1°35'42" W	263.08'
L3	S 67°58'20" W	267.8'
L4	N 1°35'42" W	455.85'
L5	N 40°18'33" E	84.37'
L6	N 51°25'12" E	143.71'
L7	S 49°58'00" E	100.34'
L8	S 47°08'49" W	97.08'
L9	S 51°25'12" W	137.83'
L10	S 40°18'33" W	90.70'
L11	S 1°35'42" E	417.14'
L12	S 67°58'20" W	267.8'
L13	N 1°35'42" E	312.18'
L14	S 49°58'00" W	265.29'
L15	S 49°58'00" W	265.29'
L16	S 49°58'00" W	265.29'
L17	S 49°58'00" W	265.29'

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEG.	CHORD END.
C1	21°52'06"	326.07'	124.04'	62.79'	N 12°31'45" W	123.29'
C2	67°43'14"	350.00'	385.14'	213.31'	N 29°45'35" E	364.29'
C3	14°08'45"	350.00'	135.00'	171.60'	N 84°04'10" E	233.41'
C4	14°08'45"	1050.00'	298.83'	179.86'	S 84°04'10" W	297.08'
C5	67°43'14"	350.00'	273.87'	152.36'	S 29°45'35" W	260.21'
C6	22°18'14"	275.00'	107.13'	84.25'	S 12°45'10" E	104.46'

ORIGIN OF BEARING SYSTEM: Bearings shown herein are based on M.D. 83 Grid north (Texas State Plane Coordinate System - Central Zone) from GPS Observations.

Revised September 14, 2011.
Change easement labels.

10070000-004-03-000
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 Page 1 of 2

FIELD NOTES
VARIABLE WIDTH ACCESS EASEMENT
5.590 ACRES

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being part of the called 126.54 acre tract described in the deed from Helen Runnels Dubois, Clive Runnels III and the Houston Trust Company as Co-Trustees of the Winifred I. Carter Revocable Trust to Helen Runnels Dubois, Trustee recorded in Volume 5822, Page 24 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

COMMENCING: at a found 1/2-inch iron rod marking the southwest corner of the called 126.54 acre Dubois tract, said iron rod also being in the west line of the 1215.830 acre Peach Creek Partners, Ltd. Tract One recorded in Volume 4227, Page 145 (O.R.B.C.);

THENCE: N 69° 01' 17" E along the south line of the called 126.54 acre tract for a distance of 695.70 feet to the POINT OF BEGINNING;

THENCE: through the interior of the called 126.54 acre tract for the following nine (9) calls:

- 1) 124.04 feet in a clockwise direction along the arc of a curve having a central angle of 21° 52' 06", a radius of 325.00 feet, a tangent of 62.79 feet and a long chord bearing N 12° 31' 45" W at a distance of 123.29 feet to the Point of Tangency;
- 2) N 01° 35' 42" W for a distance of 293.08 feet for corner;
- 3) S 67° 29' 26" W for a distance of 26.76 feet for corner;
- 4) N 01° 35' 42" W for a distance of 455.35 feet to the Point of Curvature of a curve to the right;
- 5) 383.14 feet along the arc of said curve having a central angle of 62° 43' 14", a radius of 350.00 feet, a tangent of 213.31 feet and a long chord bearing N 29° 45' 55" E at a distance of 364.29 feet to a Point of Reverse Curvature;
- 6) 234.00 feet along the arc of said reverse curve having a central angle of 14° 06' 42", a radius of 950.09 feet, a tangent of 117.60 feet and a long chord bearing N 54° 04' 10" E at a distance of 233.41 feet to the Point of Tangency;
- 7) N 47° 00' 49" E for a distance of 973.90 feet for corner;
- 8) N 40° 18' 33" E for a distance of 94.57 feet for corner;
- 9) N 51° 25' 12" E for a distance of 143.71 feet for corner in the northeast line of the called 126.54 acre Dubois tract, from whence a found 1/2-inch iron rod marking the northeast corner of the called 126.54 acre Dubois tract and the east corner of a called 2.749 acre Millican DPC Partners, LP tract described in Volume 9991, Page 231 (O.R.B.C.) bears N 45° 58' 50" W at a distance of 265.29 feet for reference;

THENCE: S 45° 58' 50" E along the beforesaid northeast line for a distance of 100.14 feet for corner;

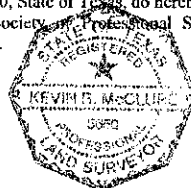
THENCE: through the interior of the called 126.54 acre tract for the following ten (10) calls:

- 1) S 47° 00' 49" W for a distance of 9.08 feet for corner;
- 2) S 51° 25' 12" W for a distance of 137.83 feet for corner;
- 3) S 40° 18' 33" W for a distance of 90.70 feet for corner;
- 4) S 47° 00' 49" W for a distance of 979.76 feet for the Point of Curvature of a curve to the right;
- 5) 258.63 feet along the arc of said curve having a central angle of 14° 06' 43", a radius of 1050.09 feet, a tangent of 129.98 feet and a long chord bearing S 54° 04' 10" W at a distance of 257.98 feet to a Point of Reverse Curvature;
- 6) 273.67 feet along the arc of said reverse curve having a central angle of 62° 43' 14", a radius of 250.00 feet, a tangent of 152.36 feet and a long chord bearing S 29° 45' 55" W at a distance of 260.21 feet to the Point of Tangency;
- 7) S 01° 35' 42" E for a distance of 417.14 feet for corner;
- 8) S 67° 29' 26" W for a distance of 26.76 feet for corner;
- 9) S 01° 35' 42" E for a distance of 312.18 feet to the Point of Curvature of a curve to the left;
- 10) 107.13 feet along the arc of said curve having a central angle of 22° 19' 14", a radius of 275.00 feet, a tangent of 54.25 feet and a long chord bearing S 12° 45' 19" E at a distance of 106.46 feet for corner in the beforementioned southwest line of the called 126.54 acre Dubois tract;

THENCE: S 69° 01' 17" W for a distance of 50.06 feet to the POINT OF BEGINNING and containing 5.590 acres of land, more or less.

I, Kevin R. McClure, Registered Professional Land Surveyor No. 5650, State of Texas, do hereby certify that this survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B, Condition IV Survey.

 7/12/11
Kevin R. McClure, R.P.L.S. #5650



FIELD NOTES
100-FOOT WIDE PRIVATE ACCESS EASEMENT
5.745 ACRES

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 and the J.M. BARRERA SURVEY, Abstract No. 67 in Brazos County, Texas and being part of the called 103.4 acre tract described in the deed from Peach Creek Partners, Ltd. to Millican DPC Partners, LP, recorded in Volume 9981, Page 276 of the Official Records of Brazos County, Texas (O.R.B.C.), and being a portion of the 11.972 acre tract described in the correction deed from Peach Creek Partners, Ltd. to John T. Jaques and Kamela A. Jaques recorded in Volume 9960, Page 271 (O.R.B.C.) and being more particularly described by metes and bounds as follows:

COMMENCING: at a found 1/2-inch iron rod marking the east corner of the 2.749 acre Millican DPC Partners, LP tract recorded in Volume 9991, Page 231 (O.R.B.C.), the northeast corner of the 86.835 acre Millican DPC Partners, LP tract recorded in Volume 9981, Page 290 of the (O.R.B.C.) and being in the southwest line of the called 103.4 acre Millican DPC Partners, LP tract (9981/276);

THENCE: S 45° 58' 50" E along the common southwest line of the called 103.4 acre Millican DPC Partners, LP tract (9981/276) and the northeast line of the said 86.835 acre Millican DPC Partners, LP tract (9981/290), approximately along a wire fence for a distance of 265.29 feet to a 1/2-inch iron rod set for the POINT OF BEGINNING;

THENCE: through the interior of the called 103.4 acre Millican DPC tract (9981/276) for the following eight (8) calls:

- 1) N 47° 00' 49" E for a distance of 351.12 feet to a 1/2-inch iron rod set for the Point of Curvature of a curve to the right,
- 2) 378.76 feet along the arc of said curve having a central angle of 61° 59' 55", a radius of 350.03 feet, a tangent of 210.31 feet and a long chord bearing N 78° 00' 47" E at a distance of 360.55 feet to a 1/2-inch iron rod set for the Point of Reverse Curvature,
- 3) 295.02 feet along the arc of said reverse curve having a central angle of 11° 55' 27", a radius of 1417.58 feet, a tangent of 148.04 feet and a long chord bearing S 76° 56' 59" E at a distance of 294.49 feet to a 1/2-inch iron rod set for the Point of Tangency,
- 4) S 82° 54' 42" E for a distance of 412.09 feet to a 1/2-inch iron rod set for the Point of Curvature of a curve to the right,
- 5) 254.69 feet along the arc of said curve having a central angle of 09° 24' 52", a radius of 1550.00 feet, a tangent of 127.63 feet and a long chord bearing S 78° 12' 16" E at a distance of 254.40 feet to a 1/2-inch iron rod set for the Point of Tangency,
- 6) S 73° 29' 50" E for a distance of 267.58 feet to a 1/2-inch iron rod set for the Point of Curvature of a curve to the right,
- 7) 580.11 feet along the arc of said curve having a central angle of 21° 26' 37", a radius of 1550.00 feet, a tangent of 293.49 feet and a long chord bearing S 62° 46' 31" E at a distance of 576.73 feet to a 1/2-inch iron rod set for the Point of Tangency, and
- 8) S 52° 03' 13" E for a distance of 64.86 feet to a 1/2-inch iron rod set for corner in the southeast line of the called 103.4 acre Millican DPC Partners, LP tract (9981/276);

THENCE: S 67° 29' 26" W along the beforesaid southeast line for a distance of 114.95 feet to a 1/2-inch iron rod set for corner;

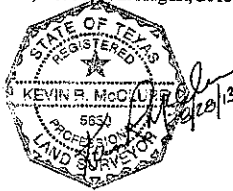
THENCE: through the interior of the called 103.4 acre Millican DPC tract (9981/276) for the following eight (8) calls:

- 1) N 52° 03' 13" W for a distance of 8.18 feet to a 1/2-inch iron rod set for the Point of Curvature of a curve to the left,
- 2) 542.68 feet along the arc of said curve having a central angle of 21° 26' 37", a radius of 1450.00 feet, a tangent of 274.55 feet and a long chord bearing N 62° 46' 31" W at a distance of 539.52 feet to a 1/2-inch iron rod set for the Point of Tangency,
- 3) N 73° 29' 50" W for a distance of 267.58 feet to a 1/2-inch iron rod set for the Point of Curvature of a curve to the left,
- 4) 238.25 feet along the arc of said curve having a central angle of 09° 24' 52", a radius of 1450.00 feet, a tangent of 119.40 feet and a long chord bearing N 78° 12' 16" W at a distance of 237.99 feet to a 1/2-inch iron rod set for the Point of Tangency,

- 5) N 82° 54' 42" W for a distance of 412.09 feet to a 1/2-inch iron rod set for the Point of Curvature of a curve to the right,
- 6) 315.83 feet along the arc of said curve having a central angle of 11° 55' 27", a radius of 1517.58 feet, a tangent of 158.49 feet and a long chord bearing N 76° 56' 59" W at a distance of 315.26 feet to a 1/2-inch iron rod set for the Point of Reverse Curvature,
- 7) 270.55 feet along the arc of said reverse curve having a central angle of 61° 59' 55", a radius of 250.03 feet, a tangent of 150.23 feet and a long chord bearing S 78° 00' 47" W at a distance of 257.54 feet to a 1/2-inch iron rod set for the Point of Tangency,
- 8) S 47° 00' 49" W for a distance of 345.89 feet to a 1/2-inch iron rod set for corner in the said common line of the called 103.4 acre tract (9981/276) and the said 86.835 acre tract (9981/290), from whence a found 1/2-inch iron rod marking the south corner of the called 103.4 acre tract (9981/276), the southeast corner of the said 86.835 acre tract (9981/290) and the south corner of the 11.972 acre Jaqucs tract (9960/271) bears S 45° 58' 50" E at a distance of 1127.55 feet for reference;

THENCE: N 45° 58' 50" W along the beforesaid common line for a distance of 100.14 feet for corner to the POINT OF BEGINNING and containing 5.745 acres (250,263.5 sq. ft.) of land, more or less, according to a survey made on the ground under the supervision of Kevin R. McClure, Registered Professional Land Surveyor, State of Texas, No. 5650, in August, 2013.

For further information see survey plat prepared with this description.



FIELD NOTES
20' WIDE UTILITY EASEMENT
1.4864 ACRES

Being all that certain tract or parcel of land lying and being situated in the THOMAS HENRY SURVEY, Abstract No. 130 in Brazos County, Texas and being part of the called 126.54 acre tract described in the deed from Helen Runnells Dubois, Clive Runnells III and the Houston Trust Company as Co-Trustees of the Winifred T. Carter Revocable Trust to Helen Runnells Dubois, Trustee recorded in Volume 5822, Page 24 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

COMMENCING: at a found 1/2-inch iron rod marking the southwest corner of the called 126.54 acre Dubois tract and being in the east line of a called 150 acre Lurleen Cooner tract recorded in Volume 4771, Page 108 (O.R.B.C.), the west line of the 1215.830 acre Peach Creek Partners, Ltd. Tract One recorded in Volume 4227, Page 145 (O.R.B.C.), and said iron rod also being at or near the west line of the beforesaid THOMAS HENRY SURVEY, A-130;

THENCE: N 69° 01' 17" W along the south line of the called 126.54 acre tract for a distance of 74.09 feet to the POINT OF BEGINNING;

THENCE: through the interior of the called 126.54 acre tract for the following six (6) calls:

- 1) N 01° 50' 48" W for a distance of 552.70 feet for corner,
- 2) N 64° 54' 15" E for a distance of 589.30 feet for corner,
- 3) N 01° 35' 42" W for a distance of 278.55 feet to the Point of Curvature of a curve to the right,
- 4) 383.14 feet along the arc of said curve having a central angle of 62° 43' 14", a radius of 350.00 feet, a tangent of 213.31 feet and a long chord bearing N 29° 45' 55" E at a distance of 364.29 feet to a Point of Reverse Curvature,
- 5) 234.00 feet along the arc of said reverse curve having a central angle of 14° 06' 43", a radius of 950.09 feet, a tangent of 117.60 feet and a long chord bearing N 54° 04' 10" E at a distance of 233.41 feet to the Point of Tangency and
- 6) N 47° 00' 49" E for a distance of 1211.11 feet for corner in the northeast line of the called 126.54 acre Dubois tract, from whence a found 1/2-inch iron rod marking the north corner of the called 126.54 acre tract and the east corner of the called 98.32 acre James Hacker, Trustee of the 314 Pinot Revocable Trust tract recorded in Volume 8538, Page 92 (O.R.B.C.) bears N 45° 58' 50" W at a distance of 265.29 feet for reference;

THENCE: S 45° 58' 50" E along the beforesaid northeast line of the called 126.54 acre tract for a distance of 20.03 feet for corner;

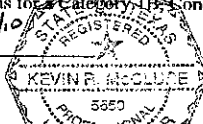
THENCE: through the interior of the called 126.54 acre tract for the following six (6) calls:

- 1) S 47° 00' 49" W for a distance of 1212.16 feet to the Point of Curvature of a curve to the right,
- 2) 238.93 feet along the arc of said curve having a central angle of 14° 06' 43", a radius of 970.09 feet, a tangent of 120.07 feet and a long chord bearing S 54° 04' 10" W at a distance of 238.33 feet to a Point of Reverse Curvature,
- 3) 361.24 feet along the arc of said reverse curve having a central angle of 62° 43' 14", a radius of 330.00 feet, a tangent of 201.12 feet and a long chord bearing S 29° 45' 55" W at a distance of 343.48 feet to the Point of Tangency,
- 4) S 01° 35' 42" E for a distance of 291.66 feet for corner,
- 5) S 64° 54' 15" W for a distance of 589.24 feet for corner and
- 6) S 01° 50' 48" E for a distance of 532.59 feet for corner in the beforementioned southwest line of the called 126.54 acre Dubois tract;

THENCE: S 69° 01' 17" W for a distance of 21.17 feet to the POINT OF BEGINNING and containing 1.4864 acres (64,747.3 sq. ft.) of land, more or less.

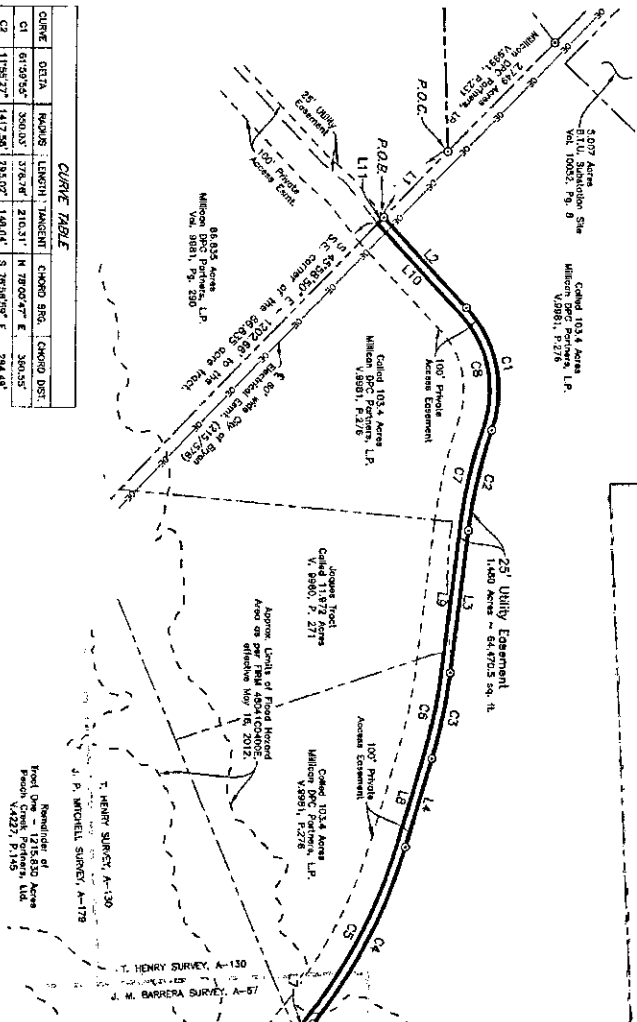
I, Kevin R. McClure, Registered Professional Land Surveyor No. 5650, State of Texas, do hereby certify that this survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for Category I, Condition IV Survey.

Kevin R. McClure 12/20/10
Kevin R. McClure, R.P.L.S. #5650



CURVE TABLE

CURVE	BEING	LENGTH	TANGENT	CHORD BEG.	CHORD END
C1	61°59'54"	350.03'	376.79'	210.31'	N 78°00'47" E 380.25'
C2	11°55'27"	1417.90'	233.02'	148.04'	S 78°00'09" E 284.48'
C3	92°43'52"	1050.00'	214.90'	127.03'	S 78°12'10" E 254.40'
C4	21°26'37"	1050.00'	580.11'	203.49'	S 82°46'31" E 578.73'
C5	21°26'37"	1050.00'	570.79'	288.73'	N 82°46'31" W 587.43'
C6	87°24'56"	1525.00'	250.36'	120.57'	N 78°12'18" W 250.30'
C7	11°55'27"	1442.98'	300.22'	130.08'	N 78°58'30" W 280.84'
C8	81°59'35"	326.03'	351.70'	190.29'	S 78°00'47" W 334.80'



10370026-021-03 August 14, 2013
McCLURE & BROWNE ENGINEERING/SURVEYING, INC. - 1008 Woodcreek Drive, Suite 103 - College Sta