

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF GATES RANCH  
(PHASE II – 164.798± ACRES)**

**Effective April 15, 2013**

**THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION**

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AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF GATES RANCH  
(PHASE II - 164.798± ACRES)

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

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (the "Restrictions") IS MADE BY WOLFF WASHINGTON COUNTY PARTNERS, LTD. ("Declarant").

WHEREAS, that certain tract of land totaling 164.798 acres, more or less, out of and part of the Wm. Dever Survey, A-38 and the J. M. Westfall Survey, A-107 in Washington County, Texas, more particularly described in Exhibit A attached hereto and made a part hereof for all purposes (the "Property") is presently subject to that certain Declaration of Covenants, Conditions, and Restrictions of Gates Ranch recorded in Volume 1431, Page 931 of the Official Records of Washington County, Texas (the "Existing Covenants") originally imposed on the Property by Declarant; and

WHEREAS, Declarant has the authority under the Existing Covenants to amend, modify or terminate, in whole or in part, the Existing Covenants; and

WHEREAS, Declarant desires to restate and replace the Existing Covenants in their entirety as herein provided.

NOW, THEREFORE, for and in consideration of the mutual benefits and detriments, Declarant hereby supersedes, restates and replaces the Existing Covenants in their entirety, and declares that the Property shall be held, sold and conveyed subject to the Restrictions for the purpose of protecting the value and desirability of, and which shall constitute covenants running with the land, and which shall be binding on all parties having any right, title or interest in the property or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of the Declarant and the Owners.

Article I.

DEFINITIONS

Section 1.01 "ACC" shall mean and refer to the Architectural Control Committee.

Section 1.02 "Association" shall mean and refer to the Gates Ranch Property Owners Association, Inc., its successors and assigns.

Section 1.03 "Common Area" shall mean and refer to all real property (if any) owned by the Declarant or the Association for the common use and benefit of the Owners of the tracts

including any parklands and easements retained and reserved in any sale of Tracts or conveyed to the Association. Such Common Area may be changed from time to time by Declarant until Declarant has sold all of its Tracts.

**Section 1.04** "Declarant" shall mean and refer to Wolff Washington County Partners, Ltd. and its successors or assigns but shall not include any other Owner of one or more Tracts.

**Section 1.05** "Improvement" shall mean and refer to any structure built on a Tract.

**Section 1.06** "Main Roads" shall mean and refer to Farm to Market Road 1155, Farm to Market Road 2726 or any other public road adjoining a boundary of the Property.

**Section 1.07** "Owner" or "Owners" shall mean and refer to the record owner(s), whether one or more persons or entities, of a fee simple title to any Tract out of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 1.08** "Property" shall mean and refer to: (a) that certain real property first hereinabove described, and (b) such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 1.09** "Resale" shall mean the sale of any Tract by an Owner other than Declarant.

**Section 1.10** "Tract" shall mean and refer to (a) any parcel of land out of the Property as shown upon any properly recorded subdivision map of the Property, if any, or (b) any parcel of land out of the Property conveyed by Declarant and described by metes and bounds. Such Tracts may be subject to easements that are or will be defined as Common Areas.

## Article II.

### USE RESTRICTIONS AND ARCHITECTURAL CONTROLS

**Section 2.01** Uses. Each Tract shall be used only for single-family residence purposes and improvements for agricultural use as defined hereafter.

A. The Primary Residence shall be a single-family residential dwelling and other appurtenant structures (including a private garage, guest houses, and servants' quarters).

B. Barns, stables, sheds, storage buildings, and other structures for agricultural use are permitted only if specifically approved in writing by the ACC in its sole and absolute discretion. An approved barn may include an apartment for employees or guest quarters.

C. Mobile homes and recreational vehicles for use as a residence are prohibited.

D. Modular homes and/or homes with prefabricated components that are permanently affixed to a foundation are permitted, subject to compliance with Section 3.01.

E. For purposes of these Restrictions, carports shall be considered to be an Improvement, whether attached or freestanding.

F. Individual ponds may be constructed on a Tract so long as they are maintained so as not to become stagnant and do not interfere with the existing or planned drainage of the Property. The locations of such ponds shall be subject to the approval of the ACC.

G. No multi-family Improvements may be constructed on any portion of the Property. No building, outbuilding or portion thereof shall be constructed for income property, such that tenants would occupy less than the entire Tract. It is permitted for tenants to lease a Primary Residence, so long as tenants are leasing the entire Tract and Improvements comprising the Tract.

**Section 2.02 Prohibition of Trade and Offensive Activities.** There shall be no improvements on, or use of any portion of, any Tract for retail, industrial, multifamily, office building, or mixed-use commercial construction on any Tract. Noxious or offensive activities of any sort including loud noises or anything done on any Tract that may be or become an annoyance or a nuisance to the neighborhood shall not be permitted. A home office is permitted.

**Section 2.03 Use of Temporary Structures.** Structures of a temporary character, mobile homes, trailers, tents, shacks, garages, barns or other outbuildings shall only be used during a twenty-four (24) month period following the initial purchase of a Tract from Declarant. These temporary structures may also be used as building offices and for related purposes during the construction period. Such structures shall be aesthetically pleasing, but inconspicuous and shall be removed promptly after completion of construction.

**Section 2.04 Storage of Automobiles, Boats, Trailers and other Vehicles.** No boat trailers, boats, travel trailers, automobiles, campers or vehicles of any kind shall be temporarily, semi-permanently or permanently stored in any public street right-of-way or driveways. Storage of such items and vehicles must be screened from view from any public street and from the Primary Residence of any adjoining Tract, either within a garage or behind a fence. No inoperable boat trailers, boats, travel trailers, automobiles, campers or vehicles of any kind shall be temporarily, semi-permanently or permanently stored on any Tract, unless such storage is within an approved barn, garage or accessory structure.

**Section 2.05 Agricultural Use.** For purposes hereof, the term "agricultural use" shall be limited as follows:

A. The growing and cultivation of grasses for hay production shall be permitted.

B. The application of fertilizers, herbicides and pesticides shall be permitted; provided, however, the same must be applied in compliance with all applicable laws. No human or animal waste, or by products thereof shall be permitted.

C. Cattle, horses, mules, donkeys, goats, domestic fowl, and similar livestock shall be permitted; however, feedlot operations and commercial poultry operations of any type whatsoever are strictly prohibited.

D. Swine, sheep or other such livestock shall be permitted to the extent they are used solely for 4H Club, Future Farmers of America ("FFA"), or similar organization projects, and then not to exceed the number of animals required for two (2) entries per 4H Club or FFA member.

E. Dogs, cats or other common household pets (collectively, "Pets") are excluded from the term "livestock" provided they are kept, bred or maintained for non-commercial purposes (which term shall not include "hobby breeding"). The preceding exception shall not be construed to permit an excessive number of animals on any Tract without the written approval of the ACC. At all times, owners of Pets must be able to exhibit a current rabies vaccination for such animal from a licensed veterinarian.

F. Other animals may be kept or maintained on any Tract only with the prior written approval of the ACC which may be given or approved in their sole discretion. The Association has the right to adopt rules and regulations concerning the keeping of animals, including Pets, on the Property and means to enforce such.

G. All lots, pens, and other areas where livestock are kept or raised shall be kept and maintained in a neat and clean condition reasonably free from odors and shall be periodically sprayed or otherwise treated to restrict and minimize flies and other insects so as not to become a nuisance to Owners of the Tracts. The location of such enclosures shall be subject to the prior written approval of the ACC.

Except for the limited agricultural use as above provided, commercial use that involves, directly or indirectly, the storage, warehousing and/or distribution of goods or services is prohibited.

**Section 2.06 Other Prohibited Uses and Activities.**

A. No pistol, rifle, shotgun or any similar firearm or fireworks or any other device capable of killing or injuring or causing property damage shall be discharged on any part of the Property, except as follows:

- i. for the protection of the Owners of the Tracts and their property or animals from predators or nuisance varmints, including feral hogs; and
- ii. for sport shooting (limited to shotguns) such as skeet or clay pigeons in a manner that is safe for the Owners of other Lots and not within one hundred (100) yards of any common property line, or any property line abutting a public street or roadway; and

iii. upon having received written permission of the Association.

The Owner assumes all responsibility for the use and discharge of shotguns on such Owner's Tract. The Association has the right to adopt from time to time rules and regulations concerning the use of firearms and fireworks on the Property.

B. Wind turbines for electrical power generation are prohibited; *provided, however,* common windmills for water and agricultural purposes shall be permitted, subject to the prior written approval of the ACC as to design of the windmill and its location on the Tract.

C. The use of all-terrain utility vehicles is permitted; *however,* the term "all-terrain utility vehicles" shall not be deemed to include unlicensed motorcycles, go-carts, dune buggies and similar motorized vehicles, the use of which shall be strictly prohibited.

D. Except for such limited clearing as might be required for erection and installation of a fence between Tracts which shall, in any event, be limited to twenty (20) feet on either side of such fence, any and all clearing within Building Setback Requirements shall be prohibited without the prior written approval of the ACC; *provided however,* that nothing contained herein shall constitute permission by any adjacent Owner to encroach on that Owner's property for the purpose of constructing or maintaining any such fence.

**Section 2.07 Visual Screens on Tracts.** All yard equipment, wood piles or storage piles shall be kept screened from public view and maintained in a neat and orderly manner so as to conceal stored items from public view and/or from the Primary Residence of neighboring Tracts, streets or other property.

**Section 2.08 Signs, Advertisements and Billboards.** No sign, advertisement, billboard or advertising structure of any kind shall be placed, maintained or displayed on any Tract; *provided, however,* that at the expiration of a period of two (2) years after Declarant conveys a Tract to the Owner, the Owner may place one (1) sign of not more than four feet by four feet (4' x 4'), advertising the Tract for sale. Declarant or its assigns shall have the right to remove any such sign, advertisement, billboard or structure which is placed on a Tract in violation hereof, and in doing so shall not be subject to any liability for trespass or other damages in connection therewith or arising from such removal. Notwithstanding anything herein contained to the contrary, as long as it owns land in the Property, Declarant or its assigns may maintain in or upon such portions of the Property as Declarant may determine, such facilities to assist in Declarant's efforts to market any portion of the Property as in its sole discretion may be necessary or convenient, including without limitation offices, storage areas, model units and signs. In addition, notwithstanding anything contained herein to the contrary, Declarant may erect permanent signage identifying the Property and providing for way-finding throughout the Property. Such identity and way-finding signage may be landscaped as appropriate, shall be located within Common Areas or easements, and shall be maintained by and at the expense of the Association.



Article III.

**ARCHITECTURAL RESTRICTIONS;  
CONSTRUCTION OF IMPROVEMENTS**

**Section 3.01 Architectural Control Approval Required.** No buildings or improvements of any character shall be erected or placed on any Tract, or the erection thereof begun, or changes made thereto after approval of the original plans and/or construction therefor, until the construction plans and specifications and a site plan showing the location of the structure or improvements (or, if applicable, any revised construction plans, specifications and site plans) have been submitted to and approved in writing by the ACC

**Section 3.02 Submittal Requirements.** The ACC encourages architectural design that is in keeping with the rural character of Washington County in general and Gates Ranch in particular. Required submittals to the ACC shall be made to the Association at its offices located at 20 Briar Hollow Lane, Houston Texas 77027 or such other address as the Association shall designate by an amendment to these Covenants filed for record in the Official Records of Washington County, Texas. Such submittals must contain (a) a survey by a surveyor licensed by the State of Texas showing the location of the improvements on the Tract, (b) a site plan, (c) an architectural elevation, (d) specifications and samples of primary building materials including colors, where applicable, (e) utilities and (f) a finished grading plan. The ACC does not require details as to the interiors of any Improvements.

**Section 3.03 Construction of Improvements.** The Primary Residence shall not exceed thirty feet (30') in height as measured from the ground to the ridge-line of the roof, but not including chimneys, and may include a private garage and/or carport and other appurtenant structures (including guest houses or servants' quarters).

**Section 3.04 Design Guidelines.** The ACC shall have the right from time to time to promulgate more specific criteria for landscaping and building design and materials ("Design Guidelines") and may promulgate modifications of the Design Guidelines, if any; provided that (a) such modifications shall not materially lessen, in the judgment of the ACC, the standards for quality and aesthetics previously established in these Covenants or previously promulgated Design Guidelines, (b) such modifications shall not require any Owner to change any existing improvements or landscaping which were previously approved by the ACC, and (c) where any part of the Design Guidelines conflicts with these Covenants, the provisions of these Covenants shall prevail.

**Section 3.05 Time Periods for Approval.** In the event the ACC fails to indicate its approval or disapproval within thirty (30) days after the receipt of the required documents (including any fee provided for in this Declaration), approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied.

**Section 3.06 Architectural Control Committee.** Declarant hereby retains its right to assign the duties, powers, and responsibilities of the ACC to the Association and the term "Architectural Control Committee" or "ACC" shall include the Association. The initial members of the ACC shall be David S. Wolff, Elizabeth W. Rogers and David L. Lane. If there exists at any time one or more vacancies in the ACC, the remaining member or members of the

ACC may designate successor member(s) to fill such vacancy or vacancies. The approval or lack of disapproval by the ACC shall not be deemed to constitute any warranty or representation by the ACC including, without limitation, any warranty or representation relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations.

**Section 3.07 Exterior Materials.** Unless otherwise approved in writing by the ACC in its sole and exclusive discretion, the exterior materials of the main residential structure and any attached garage, carport, guest houses, and servants' quarters shall be constructed of masonry, stone, stucco, Hardiplank™ or an equivalent material approved by the ACC, cedar, or other wood siding. Use of concrete masonry units, whether smooth or split-face, shall be subject to the approval of the ACC in its sole discretion.

**Section 3.08 Easements.** Declarant reserves for its benefit and for the benefit of the Association an easement twenty feet (20') wide along the frontage of any public roadway for landscaping, fencing and beautification of the Property; provided, however, that nothing contained in this Section 3.08 shall operate so as to preclude any Owner from erecting entry gates to a Tract, which entry gates may encroach on the easement areas provided for above. In any case in which such entry gates are erected, the easements provided for above shall be deemed automatically to be revised without the necessity for any further action related thereto by either Owner, Declarant or the Association, to follow the contours of the entry gates as opposed to the right-of-way boundary of Farm to Market Road 1155 or Farm to Market Road 2726, all as more specifically illustrated in Exhibit B attached hereto and made a part hereof.

In the event any Tract is conveyed by metes and bounds description, and not by recorded plat, and such conveyance is permitted by all laws, ordinances, rules and regulations of any governmental authority having jurisdiction with respect to such matters, a twenty-foot (20') wide easement along each property line of such Tract is hereby reserved by Declarant for installation and maintenance of utilities.

Neither Declarant nor any utility company using the easement shall be liable for any damage done by either of them or their assigns, their agents, employees or servants to shrubbery, trees, flowers or improvements of the owner located on the land within or affected by said easements.

**Section 3.09 Permitted Fencing.** The Owner of any Tract may construct fences of any areas within the Tract for use as a "turn-out" pasture, exercise field or similar use. Access to any Common Areas will not be fenced except as otherwise provided herein.

**Section 3.10 Building Setback Requirements.** No building or other improvements shall be located on any Tract nearer than:

- A. one hundred twenty-five feet (125') to any Main Road;
- B. one hundred twenty-five feet (125') to any side or rear boundary of any Tract that forms a common boundary with any other Tract or with any remaining portion of the Property owned by Declarant under these Restrictions; and

C. sixty feet (60') to any other boundary of any Tract.

Any variation in these distances must be approved by the ACC.

**Section 3.11 Walls, Fences and Hedges.** It is not required that a Tract be fenced. However, any perimeter fencing which is planned for any Tract shall be subject to the prior written approval of the ACC.

**Section 3.12 Roofing Materials.** The roof of all buildings (including any garage or servants' quarters) shall be constructed or covered with composition shingles, standing seam metal or slate. Any other type of roofing material shall be permitted only at the sole discretion of the ACC upon written request. A wood or wood shingle roof shall not be permitted unless such material is warranted in writing by the manufacturer thereof as being fire-retardant.

**Section 3.13 Maximum Height of Antennae.** No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Tract, residences, or buildings except as approved in writing by the ACC. Television antennae may be attached to the residence; provided, however, such antenna must be located to the rear of the roof ridge line, gable or center line of the principal dwelling, so as to place such antenna on the side of the dwelling facing away from any Main Road. Freestanding antennae must be attached to and located behind the rear wall or on a sidewall of the main residential structure. No antennae, either freestanding or attached, shall be permitted to extend more than twenty-five feet (25') from ground level. No portion of any Tract shall be sold, leased, conveyed, or in any manner transferred for use as a wireless or cell tower or other communication facility. Ground-mounted satellite dishes will be approved with adequate screening.

The Declarant by promulgating this Section 3.13 does not intend to violate the Telecommunications Act of 1996 (the "Act"), as same may be amended from time to time. This Section 3.14 shall be interpreted to be as restrictive as possible while not violating the Act.

**Section 3.14 Septic Systems.** Prior to occupancy of a Tract, each Tract Owner shall construct, install and maintain a septic tank and soil absorption system in accordance with the specifications for same as established by the laws of the State of Texas and the rules and regulations of Washington County, Texas. If such septic system complies with such specifications, but still emits foul or noxious odors or unsafe liquid onto streets, ditches or adjoining Tracts, such system shall be promptly modified by Owner at Owner's expense so as to eliminate such foul or noxious odors or unsafe liquid.

**Section 3.15 Water System.** Water wells shall be drilled and maintained in accordance with the laws of the State of Texas and the rules and regulations of Washington County, Texas; *provided, however,* no such water well shall be located nearer that one hundred fifty (150) feet to any Main Road or to any common boundary with any other Tract without the express written permission of the ACC which may be given or withheld in the sole discretion of the ACC.

**Section 3.16 Composite Tract.** Any Owner of one or more adjoining Tracts may consolidate such Tracts into one single-family residence Tract with the privilege of placing or constructing improvements on such composite Tract, in which case setback lines shall be

measured from the resulting combined Tract lines rather than from the singular Tract lines. The combined Tract shall henceforth be considered as a single Tract and must comply with these Restrictions.

**Section 3.17 Resubdivision.** Declarant may subdivide any of the Tracts, but only if Declarant is then the owner of such Tract; *provided, however*, no Tract may be subdivided at any time, unless (a) all improvements thereon will, following such sub-division, be situated in compliance with these Restrictions, including the setbacks and other requirements described herein and (b) all new Tracts to be created as a result of such sub-division contain at least twenty (20) acres of land. Any such sub-division shall be subject to the approval of the ACC in its sole and absolute discretion and to all laws and regulations of any governmental authorities having jurisdiction in such matters.

**Section 3.18 Drilling Operations.** No wells (excluding water wells), tanks, tunnels, mineral excavation, or shafts shall be conducted by any Owner upon or in any Tract. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected or maintained by any Owner upon any Tract.

**Section 3.19 Tract Maintenance.** The Owner or occupants of all Tracts shall at all times keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner. The accumulation of garbage, trash or rubbish of any kind or the burning of any such materials, except as such burning is permitted by law, is prohibited. Notwithstanding that certain burning may be permitted by law, absolutely no such burning may take place within two hundred feet (200') of any boundary of any Tract. Each Tract owner shall arrange for garbage, rubbish and trash pickup from the Tract with sufficient frequency to prevent accumulation of such material that is offensive or presents an attraction to pests of any nature. If such service is provided and required by a municipality, the frequency established by the municipality shall control. The Association may, at its option, require each Tract Owner to purchase trash service from a single service source and charge for such service as part of the assessments described in Article IV hereof. In the event of default on the part of the Owner or occupant of any Tract in observing any of the above requirements, such default continuing after ten (10) days' written notice thereof, Declarant or its assigns may without liability to Owner or occupant, but without being under any duty to so do, in trespass or otherwise, enter upon said Tract, cut or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions and to place said Tract in a neat, attractive, healthful, and sanitary condition, and may charge the Owner or occupant of such Tract for the cost of such work, including an administrative fee to cover the costs of arranging for and providing such service. The Owner or occupant as the case may be agrees by the purchase or occupation of the Tract to pay such statement immediately upon receipt thereof. The charge for any such maintenance shall bear interest, shall be a lien upon the property and may be foreclosed and collected as provided in Article IV. All dumpsters or other trash receptacles shall be hidden from view. The location of dumpsters and other trash receptacles shall be subject to the approval of the ACC.

**Section 3.20 Hazardous Materials.** No Owner shall use, or permit the use of Hazardous Materials (as hereinafter defined) on, about, under or in the Property, except in compliance with all Environmental Laws (as hereinafter defined). Each Owner shall and hereby agrees to indemnify, protect, defend and hold harmless the other Owners of property within the

Property from and against all claims, suits, actions, demands, costs, damages and losses of any kind, including but not limited to reasonable attorneys' fees, costs of investigation, litigation and remedial response, arising out of any Hazardous Materials used or permitted to be used by such Owner, whether or not in the ordinary course of business. For the purpose of this Section 3.21, the term (a) "Hazardous Materials" shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Laws, and (b) "Environmental Laws" shall mean: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations applicable to the Property which relate to or deal with human health or the environment, all as may be amended from time to time.

**Article IV.**

**COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 4.01 Creation of Lien and Personal Obligation of Assessments.** Declarant, in the case of each Tract owned by Declarant within the Property, hereby covenants, and each Owner of any Tract by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments for capital improvements and for repayment of funds borrowed and used in payment of capital improvements, and (3) other assessments for mowing Tracts, removing trash, or as otherwise provided in these Restrictions. Such assessments shall be established and collected as hereinafter provided. The annual, monthly, and special assessments, together with interest costs and reasonable attorneys' fees, shall be a charge on the Tract and shall be a continuing lien upon the Tract against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Tract at the time when the assessment fell due.

**Section 4.02 Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, convenience, health, safety and welfare of the Owners of the Tracts within the Property, for the improvements and maintenance of the Common Area, if any, mowing along public streets and roads adjoining the Property, maintenance of any fences installed along public streets and roads, and for any other purpose provided in these Restrictions.

**Section 4.03 Maximum Annual Assessment.** Until January 1, 2014, the maximum annual assessment shall be the sum of Nine and No/100 Dollars (\$9.00) per acre of each Tract. From and after January 1, 2014, the maximum annual assessment may be increased to an amount in excess of five percent (5%) of the maximum assessment for the previous year only by a vote of two-thirds (2/3rds) of the Owners of the Tracts who are voting in person or by proxy, at a meeting duly called for such purpose. The Board of Directors of the Association may fix the annual assessment each year at an amount not in excess of the maximum. Declarant may exclude any Tract that is sold to an adjoining landowner for agricultural use only from maintenance assessments for so long as such Tract is used for agricultural use only but not otherwise.

**Section 4.04 Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, if any, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of the Owners of the Tracts who are eligible to vote and who are voting in person or by proxy at a meeting duly called for this purpose, each Owner or Owners of the Tracts being entitled to one vote per acre of each Tract owned. Notwithstanding anything contained herein to the contrary, the initial cost, if any, for construction of any access roads or perimeter fencing constructed by Declarant shall not be subject to special assessment. Each Owner may, at his option and sole expense, provide perimeter fencing for his Tract in accordance with the Design Guidelines, if any.

**Section 4.05 Notice and Quorum for any Action Authorized Under Section 4.03 and Section 4.04.** Written notice of any meeting called for the purpose of taking any action authorized under Section 4.03 and Section 4.04 shall be sent by first class U.S. mail to all Owners of the Tracts (as such ownership is recorded on the books and records of the Association) not less than thirty (30) days nor more than sixty (60) days prior to such meeting. At the first such meeting called, the presence of Owners of the Tracts or of proxies entitled to cast sixty percent (60%) of all the votes of the Owners of the Tracts eligible to vote shall constitute a quorum. If the required quorum is not present at any such meeting, the meeting shall be adjourned but another meeting may be called subject to the same notice requirement, but the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum applicable in the case of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 4.06 Eligibility to Vote.** Eligibility to vote or serve as a representative, director or officer shall be predicated upon being an Owner who must be in good standing with the Association. To be in good standing, the Owner must have all assessments of every type and category paid up to date and have no outstanding financial obligations to the Association that are delinquent. Additionally, no Owner shall be allowed to vote or hold office if that Owner is noted within the records of the Association to have a current deed restriction violation on one or more Tracts.

**Section 4.07 Rate of Assessment.** All Tracts in the Subdivision shall commence to bear their applicable maintenance fund assessment simultaneously and Tracts in the Subdivision that are owned by Declarant are not exempt from assessment. Tracts that are occupied by residents shall be subject to the annual assessment determined by the Board of Directors in accordance with the provisions of Section 4.03 and Section 4.04 hereof. Tracts in the Subdivision that are not occupied by a resident and which are owned by Declarant, a builder, or a building company, shall be assessed at the rate of one-half (1/2) of the annual assessment above. The rate of assessment for an individual Tract, within a calendar year, can change as the character of ownership and the status of the occupancy by a resident change, and the applicable assessment for such Tract shall be prorated according to the rate required during each type of ownership.

**Section 4.08 Date of Commencement of Assessments; Due Dates.** The annual and monthly assessments provided for herein shall commence as to all Tracts in the Subdivision

when the first Tract therein is deeded by Declarant to an Owner, a builder or building company. The first annual assessment shall be adjusted according to the number of months remaining in the then-current calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Tract at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent by first class U.S. mail to every Owner subject thereto. The Board of Directors shall establish the payment dates. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Tract have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner, but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

**Section 4.09 Effect of Nonpayment of Assessments; Remedies of the Association.**

A. **ANY ASSESSMENT OR OTHER AMOUNT DUE TO BE PAID TO DECLARANT, THE ASSOCIATION OR THE ACC UNDER THESE RESTRICTIONS, WHICH IS NOT PAID WITHIN THIRTY (30) DAYS AFTER THE DUE DATE SHALL BEAR INTEREST FROM THE DUE DATE UNTIL PAID AT THE LESSER OF THE HIGHEST RATE ALLOWED BY LAW OR EIGHTEEN PERCENT (18%) PER ANNUM, SUBJECT TO ANY LIMITATION UNDER THE TEXAS PROPERTY CODE.** The Association or Declarant may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Tract involved. No Owner may waive or otherwise avoid liability for the assessments provided for herein by nonuse of the Common Area, if any, or abandonment of his Tract.

B. Additionally, any unpaid assessment shall give the Association the right to bring an action at law to enforce the lien against the property and the Owner personally obligated to pay the assessment, and to take whatever other legal action is necessary to protect the rights of the Association and/or the remaining Owners. The lien or liens provided herein as security for the assessment shall be in favor of the Association and shall be for the benefit of all other Owners. The Association may bring an action at law against the Owner personally obligated to pay same or foreclose the Association's lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association either judicially or non-judicially by power of sale, and each Owner expressly grants to the Association a power of sale in connection with the non-judicial foreclosure of the Association's lien. Non-judicial foreclosure shall be conducted in accordance with the then applicable laws of the State of Texas, including, but not limited to Chapters 51 and 209 of the Texas Property Code, and notice and posting of sale shall be in compliance with such laws. The Board is expressly empowered hereby to designate a trustee in writing from time to time to post or cause to be posted any required notices and to conduct any such non-judicial foreclosure sale. The Association shall have the power to bid on the Tract at any foreclosure sale, and to acquire, hold, lease, mortgage, or convey the same.

**Section 4.10 Subordination of the Lien to Mortgages.** The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage, subordinate mortgage for home or other improvements, or home equity mortgage, existing at any time upon the

particular Tract involved. Sale or transfer of any Tract shall not affect the assessment lien. However, the sale or transfer of any Tract pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Tract from liability for any assessments thereafter becoming due or from the lien thereof (whether such Tract shall then be owned by the foreclosing lender or any third party), but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Tract.

## Article V.

### GENERAL PROVISIONS

**Section 5.01 Enforcement.** All restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration shall run with the land. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions; conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 5.02 Owner's Easement of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Tract subject to the following provisions:

A. The right of the Association to suspend the voting rights and right to use of the Common Area, if any, by an Owner for any period during which any assessment against his Tract remains unpaid; and for a period not to exceed sixty (60) days from each infraction of its published rules and regulations; and

B. The right of the Association to dedicate or transfer all or any part of the Common Area, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners of the Tracts. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3rds) of the Owners of the Tracts eligible to vote agreeing to such dedication or transfer has been recorded in the Deed Records of Washington County, Texas.

**Section 5.03 Delegation of Use.** In accordance with the Bylaws of the Association, any Owner may delegate his right of enjoyment to the Common Area and facilities, if any, to the members of his family, his tenants or contract purchasers who reside on the property.

**Section 5.04 Voting.** Wherever in these Restrictions any matter requires a vote, such voting shall be computed on the basis of one vote for each acre owned by the Owner of a Tract who is eligible to vote, or by the Declarant in its capacity as the owner of any portion of the Property. Fractional acreage owned by any voting entity shall be entitled to the same fractional portion of a vote. Thus, by way of illustration, the Owner of a Tract which consists of one hundred two and one-half (102.5) acres of the Property who is eligible to vote shall be entitled to 102.5 votes.



**Section 5.05 Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended during the first fifty (50) year period by an instrument signed by Declarant and those Owners of the Tracts owning not less than ninety percent (90%) of the Tracts (including Declarant in its capacity as the owner of any portion of the Property), and thereafter by an instrument signed by Declarant and those Owners of the Tracts owning not less than seventy-five percent (75%) of the Tracts (including Declarant in its capacity as the owner of any portion of the Property). Declarant may amend this Declaration without approval or consent of Owners of the Tracts by an instrument signed by it any time during a period ending on the earlier of (i) June 30, 2021 or (ii) when the Declarant has sold ninety percent (90%) of the Tracts (including Declarant in its capacity as the owner of any portion of the Property). No person shall be charged with notice of or inquiry with respect to any amendment unless and until it has been filed for record in the Deed Records of Washington County, Texas. Voting in all cases shall be computed as described in Section 5.05 above.

**Section 5.06 Assignment to Association.** Declarant may assign to the Association any rights or duties provided in these Restrictions to be the right or duty of the Declarant, without the approval or joinder of any other person. Such assignment shall be evidenced by an appropriate instrument filed for record in the Deed Records of Washington County, Texas. The Association will thereafter be responsible for all duties and obligations of the Declarant in these Restrictions by the terms of such assignment.

**Section 5.07 Annexation.** Declarant may annex additional property and/or Common Area to the Property without approval or consent of Owners of the Tracts.

**Section 5.08 Gender and Number.** Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**Section 5.09 Headings.** The paragraph entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such paragraphs.

**Section 5.10 Execution by the Association.** The Association, by joining in the execution hereof, agrees to be bound by all the terms and provisions of this Declaration.

## Article VI.

### ARBITRATION AGREEMENT

**Section 6.01 Arbitration Agreement.** All disputes, claims, and controversies between Declarant and Owner, whether individual, joint or class in nature, arising from the Restrictions, any document executed in connection therewith or otherwise, including without limitation contract and tort disputes, injunctive relief, or declaratory judgments, shall be arbitrated pursuant to the Federal Arbitration Act and the Rules of the American Arbitration Association upon request by either Declarant or Owner. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this Arbitration Agreement and in accordance

with this Arbitration Agreement and Commercial Arbitration Rules of the American Arbitration Association.

**Article VII.**

**COMPLIANCE WITH LAWS**


**Section 7.01 Compliance with Laws.** At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Tract and any Improvement thereon. If any provision contained in these Restrictions or any Amended or Supplemental Restrictions or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

**EXECUTED** to be effective as of April 15, 2013.

**DECLARANT:**


**WOLFF WASHINGTON COUNTY PARTNERS, LTD.**

By: **WOLFF HOLDINGS GP, LLC,**  
its General Partner

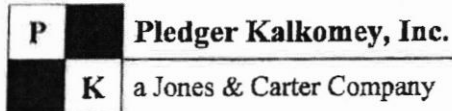
By:   
Name: David L. Lane  
Title: Executive Vice President  
Date: APRIL 12, 2013

**THE ASSOCIATION:**

**GATES RANCH PROPERTY OWNERS' ASSOCIATION**

By:   
Name: David L. Lane  
Title: Vice President  
Date: APRIL 12, 2013





JIM R. SMITH  
164.798 ACRE TRACT

ALL THAT TRACT OR PARCEL OF LAND situated in Washington County, Texas out of the Wm. Dever Survey A-38 and the J. M. Westfall Survey A-107 and being the tract of land called 164.901 acres in a deed dated October 7, 1981 from Albert E. Butler, Trustee to Jim R. Smith as recorded in Volume 425, Page 49 of the Deed Records of Washington County, said 164.798 acre tract being more particularly described as follows:

BEGINNING at a found concrete monument lying in the intersection of the East line of F.M. Highway 1155 with the South line of F.M. Highway 2726 for the Northwest corner of this tract;

THENCE with the South line of F.M. Highway 2726 and the North line of this tract, N 55° 20' 26" E, 112.36 ft. to a found concrete monument and N 82° 00' 00" E, 1,459.60 ft. to a set 1/2" iron pin marking the beginning of a curve to the left having a radius of 1,959.86 ft., a distance of 354.33 ft. (chord N 76° 49' 14" E, 353.85 ft.) to a set 1/2" iron pin for Southwest corner of the Farouk Alattar, Trustee tract called 6.33 acres (1164/386 O.R.W.C.);

THENCE departing said highway with the South line of the Alattar tract and continuing with the North line of this tract, N 81° 49' 02" E, 1,550.10 ft. to a found 3/8" iron pin and fence corner lying in the division line between the Wm. Dever Survey A-38 and the Wm. Gates Survey A-46, also the West line of the S. J. Gaido, et ux TRACT ONE called 40.012 acres (1158/365 O.R.W.C.) for Southeast corner of the Alattar tract and Northeast corner of this tract;

THENCE with said division line, also the West line of the Gaido TRACT ONE and the East line of this tract, S 08° 07' 29" E, 387.26 ft. to a set 1/2" iron pin and fence line angle and S 09° 11' 20" E, 660.57 ft. to a set 1/2" iron pin and fence corner for Southwest corner of the Gaido TRACT ONE and Northwest corner of the John David Gresham and Diane E. Meredith tract called 33.018 acres (960/797 O.R.W.C.);

THENCE departing said division line with the West line of the Gresham and Meredith tract and continuing with the East line of this tract, S 02° 07' 08" W, 837.55 ft. to a set 1/2" iron pin and fence corner in the division line between the Wm. Dever Survey A-38 and the J. M. Westfall Survey A-107 for Northeast corner of the Joseph S. Hinton and Doris R. Hinton tract called 32.872 acres (1173/690 O.R.W.C.) and upper Southeast corner of this tract;

THENCE with said division line also the North line of the Hinton tract and the South line of this tract, S 81° 39' 54" W, 804.54 ft. to a found 3/8" iron pin and fence corner for Northwest corner of the Hinton tract and an interior corner of this tract;

THENCE departing said division line with the West line of the Hinton tract and the East line of this tract, S 00° 18' 05" W, 684.98 ft. to a set 1/2" iron pin and fence line angle and S 07° 20' 40" W, 344.26 ft. to a found 3/8" iron pin and fence corner for Northeast corner of the C. L. Gildroy, Trustee for EACC Trust tract called 12.36 acres (1156/750 O.R.W.C.) and lower Southeast corner of this tract;

THENCE with the North line of the Gildroy tract and the South line of this tract, S 79° 04' 47" W, 704.20 ft. to a found 1/2" iron pin and fence corner for interior corner of the Gildroy tract and lower Southwest corner of this tract;

THENCE with the East line of the Gildroy tract and The EACC Trust tract called 20.385 acres (985/108 O.R.W.C.), also the West line of this tract, N 07° 13' 28" W, 1,088.87 ft. to a set 1/2" iron pin and fence corner brace post for Northeast corner of The EACC Trust tract and an interior corner of this tract;

THENCE with the North line of The EACC Trust tract and the Dante Anthony Pastorini tract called 13.272 acres (1243/859 O.R.W.C.), also the South line of this tract, S 81° 17' 02" W, 1,688.47 ft. to a found 1/2" iron pin for interior corner of the Pastorini tract and upper Southwest corner of this tract;

THENCE with the East line of the Pastorini tract and the West line of this tract, N 07° 01' 48" W, 691.78 ft. to a set 1/2" iron pin in the East line of F.M. Highway 1155 for Northeast corner of the Pastorini tract;

THENCE with the East line of F.M. Highway 1155 and continuing with the West line of this tract in a curve to the left having a radius of 1,004.93 ft., a distance of 242.58 ft. (chord N 01° 00' 20" W, 241.99 ft.) to a set 1/2" iron pin marking the end of curve;

THENCE continuing with the East line of F.M. Highway 1155 and the West line of this tract, N 07° 55' 15" W, 212.88 ft. to a found concrete monument and N 07° 59' 51" W, 622.87 ft. to the PLACE OF BEGINNING and containing 164.798 acres of land.

Surveyor Certification:

TO THE LIENHOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO THE STEWART TITLE GUARANTY COMPANY.

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, overlapping of improvements, easements or rights of way, except as shown hereon.

This survey was performed in connection with the transaction described in G.F. No. S070852 of Washington County Abstract Company.

Use of this survey for any other purpose or by other parties shall be at their risk and undersigned is not responsible to others for any loss resulting therefrom.

*John E. Pledger III*  
John E. Pledger, III  
Registered Professional Land Surveyor No. 2183  
October 4, 2007



EXHIBIT "B"

