

ARTICLES OF INCORPORATION

OF

THE FALLS OWNERS ASSOCIATION, INC. E.

FILED  
in the Office of the  
Secretary of State of Texas

OCT 03 1984

Clerk E  
Corporations Section

We, the undersigned, natural persons of the age of twenty-one (21) years or more, at least two of whom are citizens of the State of Texas, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation of such corporations:

ARTICLE I

The name of the Corporation is THE FALLS OWNERS ASSOCIATION, INC., (hereinafter called "the Association").

ARTICLE II

The street address of the initial registered office of the Association is 175 North Falls Drive, New Ulm, Texas 78950, and the name of its initial registered agent at such address is Mr. B. Jay Riviere.

ARTICLE III

The association is a non-profit corporation, without capital stock. The Association is organized solely for the purposes specified in Article V, and no part of its property, whether income or principal, shall ever inure to the benefit of any Director, Officer, or employee of the Association, or of any individual having a personal or private interest in the activities of the Association, nor shall any such Director, Officer, employee or individual receive or be lawfully entitled to receive any profit from the operations of the Association except a reasonable allowance for salaries or other compensation for personal services actually rendered in carrying out one or more of its stated purposes. The Association shall not engage in, and none of its funds or property shall be devoted to, carrying on propaganda or otherwise attempting to influence

legislation.

#### ARTICLE IV

The period of the Association's duration is perpetual.

#### ARTICLE V

The purpose or purposes for which said Association is organized are to act as agent for the civic and social benefit and betterment of the residents and property owners of The Falls, Sections One and Two, as recorded at Slide Nos. 63 and 62, respectively, of the Map Records of Colorado County, Texas, which property is being developed by COLORADO OAKS ENTERPRISES, INC., ("Declarant"), and for any and all other property which is accepted by this Association for similar purposes, those purposes being as follows:

- (a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration of Covenants, Conditions and Restrictions ("Restrictions") recorded under Clerk's File No. 80891 of Colorado County, Texas, as the same may be amended from time to time;
- (b) To affix, levy collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Restrictions referred to hereinabove;
- (c) To acquire by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of this Association subject to the limitations set forth in the Restrictions;
- (d) To borrow money, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the limitations set forth in the Restrictions;
- (e) To promote and provide recreational and other facilities for the residents and owners of said property;
- (f) To provide any activity or service conducted for the mutual benefit of residents and owners as provided in the Restrictions and to have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation law of the State of Texas, by law may now or hereafter exercise.

#### ARTICLE VI

any Lot which is subject, by covenants of record, to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Memberships shall be appurtenant to and may not be separated from ownership of any Lot. Any mortgagee or lienholder who acquires title to any lot which is a part hereof, through foreclosure shall be a member of the Association.

The Association shall have two classes of voting membership:

Class A. Except as provided under "Class B" below, each Owner as defined in the covenants of record, shall be a Class A member. Each Class A member shall be entitled to one (1) vote for each Lot in which he holds the full fee interest. When the full fee interest in any Lot is held by more than one person, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant and its successors and assigns, and shall be entitled to three (3) votes for each Lot owned, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or;

(b) On January 1, 2000.

#### ARTICLE VII

The affairs of this Association shall be managed by a board of five (5) directors, who need not be members of the Association. The number of directors may be changed by amendment of the by-laws of the Association. The names and addresses of the persons who are to act in the capacity of initial directors until the selection of their successors are:

Carl F. Gulley

R.R. 2-34G  
North Falls Drive  
New Ulm, Texas 78950

B. Jay Riviere

R.R. 2-34G  
North Falls Drive  
New Ulm, Texas 78950

Darlene Riviere

R.R. 2-346  
North Falls Drive  
New Ulm, Texas 78950

At the first annual meeting, the members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years and one (1) director for a term of three (3) years and at each annual meeting thereafter the members shall elect directors for terms of three (3) years, as needed.

#### ARTICLE VIII

The Association may be dissolved with the assent given in writing and signed by members entitled to cast not less than ninety percent (90%) of the aggregate of the votes of both classes of membership. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association, if any, shall vest in the Owners, who shall thereafter own equal, undivided interests in and to such assets.

#### ARTICLE IX

Amendment of these Articles shall require the assent of members entitled to cast not less than ninety (90%) percent of the aggregate of the votes of both classes of membership.

#### ARTICLE X

This provision shall be applicable only in the event of Federal Housing Administration and Veterans' Administration approval of the Property and only as long as there is a Class B membership. The following actions will require the prior approval of the Federal Housing Administration or the Veterans' Administration: Annexation of additional properties, mergers and consolidations, mortgaging of Common Areas, dedication of Common Area and dissolution and amendment of these Articles.

ARTICLE XI

The name and street address of each incorporator is:

Carl F. Gulley R.R. 2-346  
North Falls Drive  
New Ulm, Texas 78950

B. Jay Riviere R.R. 2-346  
North Falls Drive  
New Ulm, Texas 78950

Darlene Riviere R.R. 2-346  
North Falls Drive  
New Ulm, Texas 78950

IN WITNESS WHEREOF, we have hereunto set our hands this  
the 26th day of September, 1984.

Carl F. Gulley  
CARL F. GULLEY

B. Jay Riviere  
B. JAY RIVIERE

Darlene Riviere  
DARLENE RIVIERE

THE STATE OF TEXAS

COUNTY OF Harris

I, the undersigned authority, a Notary Public in and for  
said County and State, do hereby certify that on this 26th  
day of September, 1984, personally appeared before  
me CARL F. GULLEY, who being by me first duly sworn, per-  
sonally declared that he is the person who signed the  
foregoing document as an Incorporator, and that the state-  
ments therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal  
the date and year above written.

Irene A. McCollam  
Notary Public, State of Texas

IRENE A. MCCOLLAM  
Printed Name of Notary

My Commission Expires: 02/07/87

THE STATE OF TEXAS

COUNTY OF Harris

I, the undersigned authority, a Notary Public in and for said County and State, do hereby certify that on this 24th day of September, 1984, personally appeared before me B. JAY RIVIERE, who being by me first duly sworn, personally

declared that he is the person who signed the foregoing document as an Incorporator, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

Irene A. McCollam  
Notary Public, State of Texas

IRENE A. MCCOLLAM  
Printed Name of Notary

My Commission Expires: 02/07/87

THE STATE OF TEXAS

COUNTY OF Harris

I, the undersigned authority, a Notary Public in and for said County and State, do hereby certify that on this 24th day of September, 1984, personally appeared before me DARLENE RIVIERE, who being by me first duly sworn, personally declared that she is the person who signed the foregoing document as an Incorporator, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

Irene A. McCollam  
Notary Public, State of Texas

IRENE A. MCCOLLAM  
Printed Name of Notary

My Commission Expires: 02/07/87

Return To:

Paul E. Tapscott  
Morris, Tinsley & Snowden  
2200 West Loop South  
Suite 225  
Houston, Texas 77027-3577  
(713) 627-1520

*Sept 1984*  
*Col. Baker*

## BY-LAWS

OF

## THE FALLS OWNERS ASSOCIATION, INC.

## ARTICLE I

NAME AND LOCATION

The name of the corporation is THE FALLS OWNERS ASSOCIATION, INC., (hereinafter referred to as "the Association"). The principal office of the Association shall be located at 1750 North Falls Drive, New Ulm, Texas, 78950, but meetings of members and directors may be held at such places within the State of Texas, as may be designated by the Board of Directors.

## ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to THE FALLS OWNERS ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the resident record owner, whether one or more persons or entities, of a fee simple title to any Lot or portion of a Lot, on which there is or will be built a detached single family dwelling, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 3. "Property" shall mean and refer to THE FALLS, SECTION ONE and TWO, as recorded at Slide Nos. 63 and 62, respectively, of the Map records of Colorado County, Texas, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Subdivision" shall mean and refer to THE FALLS, according to the above plat thereof, filed for record in the Plat Records of Colorado County, Texas, and the property encompassed by its boundaries.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area, and public areas such as parks, parkways and esplanades.

Section 6. "Declarant" shall mean and refer to COLORADO OAKS ENTERPRISES, INC., a Texas corporation, its successors and assigns.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for THE FALLS OWNERS ASSOCIATION, INC., recorded under Clerk's file No. 80891 of the Official Public Records of Real Property of Colorado County, Texas, and any amendments thereto. Terms used in these By-Laws shall have the same meaning as in the Declaration.



Section 9. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners.

### ARTICLE III

#### MEETING OF MEMBERS

Section 1. Annual Meetings. The annual meeting of the members shall be held on the last Tuesday in March, 1985, at 7:00 P.M., and subsequent annual meetings shall be held on the last Tuesday in each March thereafter at 7:00 P.M.; if a legal holiday, then on the next succeeding business day.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President of the Association or Board of Directors, or upon written request of a majority of all members.

Section 3. Notice of Meetings. No written notice will be required for the annual meetings of the members. Written notice of each special meeting of the members shall be given by the Secretary or person authorized to call the meeting. Notice shall be mailed, postage prepaid, at least thirty (30) days, but not more than sixty (60) days before such meeting to each member entitled to vote and each first lienholder. Notice shall be addressed to the member's and first lienholder's address last appearing on the books of the Association or supplied by such member to the Association for the purpose of notice. Such notice shall specify

the place, date, hour and purpose of the meeting. A waiver of notice, whether before or after the time stated therein, shall be deemed equivalent to notice.

Section 4. Quorum. The presence at the meeting of the members entitled to cast, or of proxies entitled to cast, one-fourth (1/4) of the votes of each class of membership shall constitute a quorum for any action, except as otherwise required in the Articles of Incorporation, Declaration or these By-Laws. If, however, a quorum shall not be present or represented at any meeting, the members entitled to vote there at, shall have power to adjourn the meeting from time to time without notice or other than an announcement at the meeting until a quorum shall be present or represented.

Section 5. Proxies. At all meetings, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. When the full fee interest in any Lot is held by more than one (1) person, and all such persons are members, then the vote for such Lot shall be exercised in person or by proxy as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event that multiple persons are voting by proxy, each owner's signature will be required on the proxy instrument. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

Section 6. Business To Be Transacted. Unless otherwise indicated in the notice of waiver or waivers of notice thereof, any and all business may be transacted at any annual or special meeting of the members; provided, however, no vote to (i) alienate, hypothecate, transfer, or assign the Association's interest in the common areas, (ii) change the assessment provisions of the Declaration of Covenants, Conditions and Restrictions; or (iii) approve, modify, accept or otherwise effect or reject any plan of condemnation of the Property shall be effective until all first lienholders have been notified of said vote and given a period of thirty (30) days in which to contact the Owners or the Association and suggest alternatives or changes in the Association's plans, and further provided that no vote to (i) alienate, hypothecate, transfer, or assign the Association's interest in the common areas, and (ii) change the assessment provisions of the Declaration of Covenants, Conditions and Restrictions, shall be effective until ratified by all first lienholders.

#### ARTICLE IV

##### BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years and one (1) director for a term of three (3) years; and at each annual meeting thereafter, the members shall elect a director for a term of three (3) years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, at a special meeting of the Association by members entitled to vote more than two-thirds (2/3) of the aggregate of the votes of both classes of membership. In the event of death, resignation or removal of a director, his successor shall be selected by the members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval and consent of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE V

### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation and Declaration. The persons receiving the largest number of votes shall be elected.

## ARTICLE VI

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by the Board. One of such regular meetings shall be held immediately after the adjournment of the annual meeting of the Association. Should any of said meetings fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. Subject to and consistent with the rules and regulations established by the Trustee under the Declaration, the Board of Directors shall have power to:

- (a) Suspend the voting rights of a member during any period in which such member shall be in default in the

payment of any assessment levied by the Trustee. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infractions of published rules and regulations;

(b) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws or the Articles of Incorporation, the Declaration of Trust Agreement; and

(c) Declare the office of a member of the Board of Directors to be vacant in the event each such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

Section 2. Duties. It shall be the duty of the Board of Directors to cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting.

#### ARTICLE VIII

##### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a President, Vice President-Treasurer and Secretary, who shall at all times be members of the Board of Directors, and such other officers as the Board, from time to time, by resolution creates.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold

office for one (1) year unless he shall sooner resign, be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Duties. The duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all instruments on behalf of the Association and shall co-sign all checks.

(b) Vice President-Treasurer. The vice president treasurer, shall act in the place and stead of president



in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board; the vice-president-treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks of the Association keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting. Copies of these documents shall be available for purchase at a reasonable cost.

(c) Secretary. The secretary shall record the votes the Board and of the members; keep the corporate seal of the Association and affix it upon the minutes of the meetings of the Board of Directors and members and upon all other papers requiring said seal; serve notice of special meetings of the Board and of special meetings of the members; keep appropriate records showing the members of the Association together with their addresses; and perform such other duties as required by the Board.

#### ARTICLE IX

##### COMMITTEES

The Board of Directors shall appoint committees as deemed appropriate in carrying out its purposes.

#### ARTICLE X

##### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation, the By-Laws of the Association, and the Declaration of the Trust Agreement shall be available for inspection by any member at the principal office of the Association where copies may be purchased at a reasonable cost.

ARTICLE XI

CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, ETC.

Section 1. The Board of Directors, except as in these By-laws otherwise provided, may authorize any officer or officers, agent or agents, in the name of and on behalf of the Association, to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; and, unless so authorized by the Board of Directors or expressly authorized by the By-laws no officer or agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable pecuniarily for any purpose or to any amount.

Section 2. No loan shall be contracted on behalf of the Association, and no negotiable papers shall be issued in its name, unless authorized by the vote of the Board of Directors.

Section 3. All checks, drafts and other orders for the payment of money out of the funds of the Association, and all notes or other evidence of indebtedness of the Association shall be signed on behalf of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks or other depositories as

the Board of Directors may select and for the purpose of such deposit the President, a Vice President, the Treasurer, the Secretary or any other officer or agent or employee of the Association to whom such power may be delegated by the Board of Directors, may endorse, assign and deliver checks, drafts and other orders for the payment of money which are payable to the order of the Association.

#### ARTICLE XII

##### CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: "THE FALLS OWNERS ASSOCIATION, INC."

#### ARTICLE XIII

##### FISCAL YEAR

The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

#### ARTICLE XIV

Each Director and officer of the Association shall be indemnified by the Association against any costs and expenses including attorneys fees actually and necessarily incurred in connection with the defense of any civil, criminal, administrative or other claim, action, suit or proceeding (whether by or in the right of the Association or

otherwise) in which he may become involved or with which he may be threatened, by reason of his being or having been a Director or officer of the Association, and against any payments in settlement of any such claim, action, suit or proceeding or in satisfaction of any related judgment, fine or penalty upon receipt by the Association of any opinion of independent legal counsel that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the interests of the Association, and in respect of any criminal action, that he reasonably believed that his conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the Director or officer did not act in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and in respect of any criminal action or proceeding, did not reasonably believe that his conduct was lawful. The foregoing indemnification shall not be deemed exclusive of any other rights to which any Director or officer may be entitled under any other By-Law, agreement, vote of disinterested Director, as a matter of law or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a Direc-

Director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

Notwithstanding the provisions of the preceding paragraph, no person shall be entitled to indemnification pursuant thereto in relation to any matter as to which indemnification shall not be permitted by law.

The Association may purchase and maintain insurance on behalf of any person who is or was a Director of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the preceding provisions of this Article or applicable provisions of law.

#### ARTICLE XV

##### AMENDMENTS

Section 1. These By-Laws may be amended, at any annual or special meeting of the members, by a two-third (2/3) vote of a quorum of each class of members present in person or by proxy at any annual or special meeting of the members.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 3. Only in the event of Federal Housing Administration or Veterans' Administration approval of the property, and only as long as there is a Class B membership, the Federal Housing Administration or the Veterans' Administration shall have the right to veto amendments to these By-Laws.

IN WITNESS WHEREOF, we, being all of the directors of THE FALLS OWNERS ASSOCIATION, INC., have hereunto set our hands this 21<sup>st</sup> day of September, 1984.

  
CARL F. GULLEY

  
B. JAY RIVIERE

  
DARLENE RIVIERE

FIRST AMENDMENT TO THE BYLAWS OF THE FALLS OWNERS ASSOCIATION, INC.

WHEREAS, a certain Bylaw for THE FALLS OWNERS ASSOCIATION has been recorded in the Official Records Book \_\_\_\_\_, Pages \_\_\_\_\_ through \_\_\_\_\_, inclusive, in the Public Records of Colorado County, Texas; and

WHEREAS, over two-thirds (2/3) vote of a quorum of each class of members represented at the annual meeting of the members voted to amend Article III of the Bylaws.

NOW, THEREFORE, Article III, Meeting of Members, Section 1. Annual Meeting, is hereby amended to read as follows:

"The annual meeting of the members shall be held during the month of February in each year."

IN ALL OTHER RESPECTS, the original Bylaws, as amended, is hereby ratified and confirmed.

IN WITNESS WHEREOF, the President of the Association has executed this First Amendment to the Bylaws of The Falls Owners' Association this 11th day of February, 1992.

Signed, Sealed and Delivered in the presence of:

The Falls Owners' Association, Inc.

*[Signature]*  
Kenn R. Keim, President

STATE OF ~~TEXAS~~ Florida  
COUNTY OF ~~COLORADO~~ Lee

BEFORE ME, the undersigned authority, personally appeared Kenn R. Keim to me well known to be the person described in and who executed the foregoing instrument as President of The Falls Owners' Association, Inc., a Texas corporation not for profit and he acknowledged before me that he executed such instrument as such Officer for said corporation, and that it was affixed to said instrument by due and regular Corporate authority, and that the said instrument is the free act and deed of said Corporation.

WITNESS my hand and official seal at said County and State aforesaid, this 11th day of February, 1992.

My commission expires:



*[Signature]*  
Notary Public Carrie Broulliere

NOTARY PUBLIC, STATE OF FLORIDA  
MY COMMISSION EXPIRES 29, 1994  
BONDED THIRD GENERAL INS. UND.

COULD NOT BE REPRODUCED SATISFACTORILY.

22227

FILED FOR RECORD  
18<sup>th</sup> day of May 1992  
at 12:25 o'clock P M  
DARLENE HAYEK  
CLERK COUNTY COURT, COLORADO CO., TEX  
By Dinah Janak  
Deputy  
**DINAH JANAK**

Return to  
The Justice  
1001 Westfall Dr.  
New Ulm, Tx. 78950  
Att. Joyce Appad

#56904

Recorded the 18<sup>th</sup> day of May  
DARLENE HAYEK, County Clerk

A.D. 1992 at 12:15 o'clock P. M.  
By Dinah Janak Deputy.



SECOND AMENDMENT TO THE BY-LAWS OF  
THE FALLS OWNERS ASSOCIATION, INC.

WHEREAS, at the Annual Meeting of The Falls Owners Association held February 28, 2014, over two-thirds vote of a quorum of the members represented voted to increase the number of Directors from three (3) directors to five (5) directors.

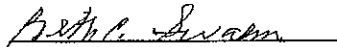
NOW, THEREFORE, Article IV, BOARD OF DIRECTORS, Section 1. Number. is hereby amended to read as follows:

"The affairs of this Association shall be managed by a Board of five (5) Directors, who need not be members of the Association."

IN ALL OTHER RESPECTS, the original By-Laws, as amended, are hereby ratified and confirmed.

IN WITNESS WHEREOF, the President of the Association has executed this Second Amendment to the By-Laws of The Falls Owners Association this 22 day of April, 2014.

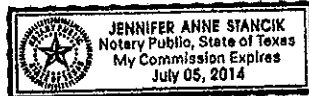
The Falls Owners' Association, Inc.

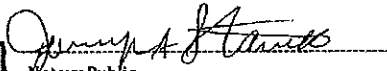
  
Beth C. Swalm, President

STATE OF TEXAS  
COUNTY OF COLORADO

BEFORE ME, the undersigned authority, personally appeared Beth C. Swalm, to me well known to be the person described in and who executed the foregoing instrument as President of The Falls Owners' Association, Inc., a Texas Non-Profit corporation, and she acknowledged before me that she executed such instrument as such Officer for said Corporation, and that it was affixed to such instrument by due and regular authority, and that the said instrument is the free act and deed of said Corporation.

WITNESS my hand and official seal at said County and State aforesaid, this 22 day of April, 2014.



  
Notary Public

VOL 151 PAGE 006

**THIRD AMENDMENT TO THE BYLAWS OF  
THE FALLS OWNERS ASSOCIATION, INC.**

WHEREAS, the By-laws of The Falls Owners Association, Inc. were adopted by The Falls Owners Association, Inc. (the "Association") on September 26, 1984; the First Amendment to the Bylaws of the Falls Owners Association, Inc. was adopted by the Association on February 11, 1992, recorded under Volume 16, Page 281 of the Official Records of Colorado County, Texas; and the Second Amendment to the By-laws of The Falls Owners Association, Inc. was adopted by the Association on April 22, 2014, recorded under Volume 751, Page 006 of the Official Records of Colorado County, Texas (the original By-laws, as amended and/or supplemented, are herein referred to as the "Bylaws");

WHEREAS, Article XV, Section 1 of the Bylaws provides that the Bylaws may be amended by a two-third (2/3) vote of a quorum of each class of members present in person or by proxy at any annual or special meeting of the members;

WHEREAS, at a meeting of the members of the Association on February 27, 2016, at which a quorum of each class of members of the Association was present, at least two-thirds (2/3) of the members present in person or by proxy did vote in favor of the following amendments to the Bylaws;

NOW, THEREFORE, the Bylaws are hereby amended as follows:

1. Article IV, Section 2, Term of Office. Article IV, Section 2 of the Bylaws is amended and restated in its entirety as follows:

Section 2. Term of Office. The Directors shall serve three (3) year terms. At each annual meeting the members shall elect two (2) directors with the exception of every third year the members shall elect only one (1) director. The Directors shall hold office until their successors have been elected and hold their first meeting.

2. Article VI, Section 3, Quorum. Article VI, Section 3 of the Bylaws is amended and restated in its entirety as follows:

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by the Directors present at a duly held meeting at which a quorum is present shall require concurrence of a majority of the entire number of Directors of the Board to be regarded as an act or decision of the Board.

SECRETARY'S CERTIFICATE OF FILING


I, David Gruszecki, certify that:

I am the duly qualified and acting secretary of The Falls Owners Association, Inc., a duly organized and existing Texas non-profit corporation.

The foregoing instrument is an unrecorded Dedicatory Instrument, as that term is defined by Section 202.001 of the Texas Property Code, pertaining to The Falls Owners Association, Inc.

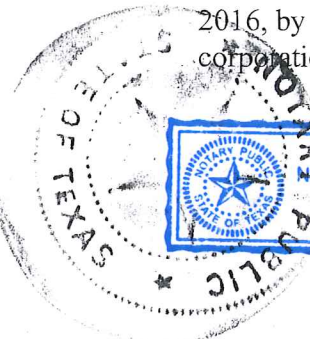
The foregoing instrument is being presented for recording in the Official Public Records of Real Property of Colorado County, Texas, pursuant to Section 202.006 of the Texas Property Code.

Dated: 12/20/2018

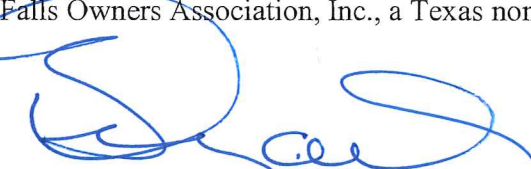
  
\_\_\_\_\_  
David Gruszecki, Secretary  
The Falls Owners Association, Inc.

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF Colorado   §

This instrument was acknowledged before me on the 20<sup>th</sup> day of December, 2016, by David Gruszecki, Secretary of The Falls Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.



**JAMES WILLIAM BRYANT**  
Notary Public, State of Texas  
My Commission Expires  
February 16, 2019


  
\_\_\_\_\_  
Notary Public in and for The State of Texas

# 26784-7

**CERTIFICATION:**

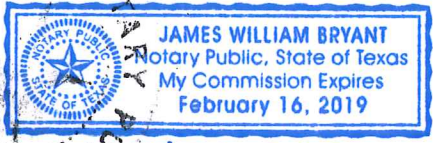
I, David Gruszecki, Secretary of The Falls Owners Association, Inc. (the "Association"), hereby certify that on or about February 27, 2016, at a duly-noticed meeting of the members of the Association at which a quorum of each class of members was present, the foregoing amendments to the Bylaws were adopted by affirmative vote of at least two-thirds (2/3) of the members present in person or by proxy.

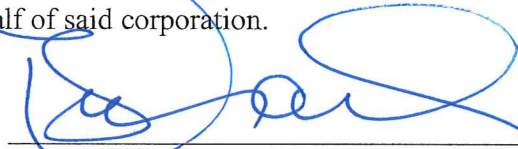
Dated: 12/20/2016

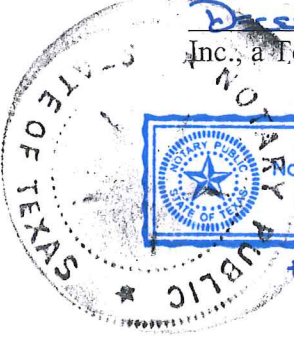
  
\_\_\_\_\_  
David Gruszecki, Secretary  
The Falls Owners Association, Inc.

THE STATE OF TEXAS    §  
  §  
COUNTY OF Colorado   §

This instrument was acknowledged before me on the 20<sup>th</sup> day of December, 2016, by David Gruszecki, Secretary of The Falls Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

  
JAMES WILLIAM BRYANT  
Notary Public, State of Texas  
My Commission Expires  
February 16, 2019

  
\_\_\_\_\_  
Notary Public in and for The State of Texas



STATE OF TEXAS    COUNTY OF COLORADO  
I hereby certify that this instrument was FILED on the  
date and time stamped hereon by me; and was duly  
RECORDED to the Volume and Page of the OFFICIAL  
RECORDS of Colorado County, Texas and stamped  
hereon by me, on

DEC 21 2016

  
*Kimberly Menke*  
KIMBERLY MENKE  
COUNTY CLERK, COLORADO COUNTY, TEXAS

FILED FOR RECORD  
COLORADO COUNTY, TX  
2016 DEC 21 AM 11:09  
KIMBERLY MENKE  
COUNTY CLERK  
4531

VOL 824 PAGE 807

09/1984

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THE FALLS, SECTION ONE (1) AND SECTION TWO (2)

STATE OF TEXAS S

COUNTY OF COLORADO S

This Declaration, made on the date hereinafter set forth by Colorado Oaks Enterprises, Inc., a Texas corporation, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain 105.83 acre tract of land in the Charles Fritsche Survey, Abstract No. A-199, and the Peter Piper Survey, Abstract No. A-447, and the Robert H. Tobin Survey, Abstract No. A-551, all in Colorado County, Texas, which is more particularly described as follows:

Lots One (1) through Thirty (30), inclusive, Block Two (2)

Lots One (1) through Fifty-four (54), inclusive, Block Three (3)

Lots One (1) through Twenty-eight (28), inclusive, Block Four (4)

Lots One (1) through Twenty-six (26), inclusive, Block Five (5)

Lots One (1) through Three (3), inclusive, Block Six (6)

Lots One (1) through Four (4), inclusive, Block Seven (7)

Lots One (1) through Eleven (11), inclusive, Block Eight (8)

Lots One (1) through Four (4), inclusive, Block Nine (9)

Lots One (1) through Eighteen (18), inclusive, Block Ten (10)

Lots One (1) through Thirty-two (32), inclusive, Block Eleven (11).

All of said Lots being in The Falls, Section One (1), according to the map or plat thereof recorded on Slide No. 63 of the Map Records of Colorado County, Texas; and,

Lots One (1) through Twenty-nine (29), inclusive, Block One (1)

Lots One (1) through Fourteen (14), inclusive, Block Two (2)

Lots One (1) through Thirty (30),  
inclusive, Block Three (3)

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Lots One (1) through Twenty-nine (29),  
inclusive, Block Four (4)

Lots One (1) through Four (4),  
inclusive, Block Five (5)

All of said Lots being in The Falls, Section Two (2),  
according to the map or plat thereof recorded on Slide  
No. 62 of the Map Records of Colorado County, Texas;  
and,

WHEREAS, it is the desire of Declarant to place certain  
restrictions, covenants, conditions, stipulations and reser-  
vations upon and against such property in order to establish  
a uniform plan for the development, improvement and sale of  
such property, and to insure the preservation of such uni-  
form plan for the benefit of all the present and future  
owners of lots in said subdivision and THE FALLS OWNERS  
ASSOCIATION, INC.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that  
Declarant does hereby adopt, establish and impose upon those  
above described lots in THE FALLS, SECTION ONE (1) and  
SECTION TWO (2), and declare the following reservations,  
easements, restrictions, covenants and conditions, appli-  
cable thereto, all of which are for the purposes of  
enhancing and protecting the value, desirability and attrac-  
tiveness of the land, which reservations shall run with the  
land and shall be binding upon all parties having or  
acquiring any right, title or interest therein, or any part  
thereof, and shall inure to the benefit of each owner  
thereof and THE FALLS OWNERS ASSOCIATION, INC.

#### ARTICLE I

##### Definitions

Section 1. "Association" shall mean and refer to THE  
FALLS OWNERS ASSOCIATION, INC., a non-profit corporation,  
its successors and assigns.

Section 2. "Common Area," if any, shall mean all  
real property owned by the Association for the common use  
and enjoyment of the Owners.

Section 3. "Declarant" or "Developer" shall mean and  
refer to Colorado Oaks Enterprises, Inc., its successors and  
assigns, if such successors or assigns should acquire more  
than one undeveloped Lot from the Declarant for the purpose  
of development.

Section 4. "Golf Course Lot" shall mean any Lot  
which abuts or adjoins any portion of a golf course or golf  
course property.

Section 5. "Lot" shall mean and refer to any plot of  
land shown upon any recorded subdivision map of the Prop-  
erties, except the Common Area, if any, and Commercial  
Reserves, if any. "Developed Lot" shall mean a Lot, with  
the street, on which it faces, opened and improved, and with  
utilities installed and ready to furnish utility service to  
such Lot.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to those certain lots in THE FALLS, SECTION ONE (1) AND SECTION TWO (2), described above, subject to the reservations set forth herein and in the subdivision plats, and any additional properties made subject to the terms hereof pursuant to the provisions set forth herein.

## ARTICLE II

### Reservations, Exceptions And Dedications

Section 1. Recorded subdivision maps of the Properties. The recorded subdivision maps of the Properties establish certain restrictions applicable to the Properties including without limitation certain easements and minimum setback lines. All dedications, limitations, restrictions and reservations shown on the recorded plats or replats of the subdivision of the Properties are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Section 2. Easements. Declarant reserves for the public use the easements and rights-of-way as shown on the recorded subdivision maps of the Properties for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, sewers or any other utility Declarant sees fit to install in, across or under the Properties. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. No fence or other structure of any kind shall be erected so as to enclose or encroach upon any of said easements. Neither Declarant nor any utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees, or flowers or any other property of the Owner on the land covered by said easements.

Section 3. Title subject to easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, storm sewer, electric light, electric power, telephone or telegraph purposes. The Owners of the respective Lots shall not be deemed to separately own pipes, wires, conduits or other service lines running through their property which service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

Use Restrictions

Section 1. Single family residential construction.  
No building shall be erected, altered or permitted to remain on any lot other than one detached single family dwelling used for residential purposes only, and not to exceed two (2) story in height. Each such dwelling shall have a garage for not more than four (4) cars. As used herein, the term "Residential Purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots or the use of Lots for garage apartments, or apartment houses, townhouses, duplexes or any other such attached dwelling units. No Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind shall ever be moved onto any Lot within THE FALLS, SECTION ONE (1) or SECTION TWO (2) without written approval of the Architectural Control Committee.

Section 2. Location of the Improvements upon the Lot. No building shall be located on any lot nearer than seven and one-half (7-1/2) feet to the side property line or as shown on the recorded plat. On lots having a rear garage, no building may be located within five (5) foot of the rear property line. On lots having a garage in the front, no building may be located within fifteen (15) feet of the rear property line. On the seven and one-half (7-1/2) foot side building setback line, eaves, steps and unroofed terraces shall not be considered as part of a building; however, this shall not be construed to permit any portion of the construction on a Lot to extend upon another Lot.

No garage on a golf course Lot shall have a rear opening. No improvement or fill may be placed within twenty (20) feet of a lake or water course without the written consent of the Architectural Control Committee.

Section 3. Composite building site. None of said Lots shall be resubdivided. Any person owning two (2) or more adjoining Lots may consolidate such Lots into a building site, with the privilege of placing or constructing improvements, as permitted herein, on such resulting building site.

Section 4. Minimum square footage within improvements.  
All Lots within THE FALLS, SECTION ONE (1) and SECTION TWO (2), are restricted to a minimum size of five thousand seven hundred seventy-five (5,775) square feet. All dwelling units shall have the specified minimum square feet of liveable area, exclusive of open porches, atriums and garages, as follows:

- a. For Lots not abutting the golf course or lakes -  
Section I Lots - a minimum of 1,400 square feet;  
Section II Lots - a minimum of 1,300 square feet;
- b. For golf course Lots or those abutting a lake -  
Section I Lots - a minimum of 1,600 square feet;  
Section II Lots - a minimum of 1,500 square feet.

Section 5. Prohibition of offensive activities.  
Other than with regard to the normal sales activities required to sell homes in the subdivision and the lighting



effects utilized to display model homes, no activity, whether for profit or not, shall be carried on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the neighborhood.

Section 6. Use of temporary structures. No structure of a temporary character, mobile home, trailer, basement, tent, shed, shack, garage, or other temporary building of any nature shall be placed or constructed on any Lot for residential purposes. A temporary office or work shed may, following approval thereof by Declarant or its assigns, be maintained upon any Lot or Lots by any building contractor or sales agency in connection with the erecting and sale of dwellings in the subdivision, but such temporary structure(s) shall be removed at completion of construction or sale of the dwellings, whichever is applicable, or within ten (10) days following notice from Declarant or its assigns. Outbuildings, including portable structures, used for accessory or storage purposes shall be limited to a maximum of eight feet (8') in height and one hundred and twenty (120) square feet of floor space, shall correspond to the style, color and architecture of the dwelling to which it is appurtenant and shall be subject to approval by the Architectural Control Committee.

Section 7. Use of garages. No garage of any residential structure shall be used for any purpose other than the storage of motor vehicles. Specifically, no garage shall be used for permanent storage of building materials, tools, etc., in such a manner as to preclude its use for the parking of residents' automobiles, nor shall any garage be converted to living space, the use of which would preclude the parking of automobiles. The Declarant reserves the right to allow the temporary use of garages within model homes as sales offices.

Section 8. Storage of automobiles, boats, trailers and other vehicles. No trucks, trailers, boats, automobiles, campers or other vehicles shall be stored, parked or kept on any driveway, in the front yard, or in the street in front of the Lot unless such vehicle is in day to day use off the premises and such parking is only temporary, from day to day, not to exceed forty-eight (48) hours in duration. Permanent and semi-permanent storage of such items and vehicles must be screened from public view, either within the garage or behind the fence which encloses the rear of the Lot.

Section 9. Mineral operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any Lots. No derrick or other structures designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 10. Animal husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets (not to exceed a total of three (3) adult animals) may be kept provided that they are not kept, bred or maintained for commercial purposes. No such animal shall be allowed to become a nuisance or health hazard.

Section 11. Walls and fences. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback lines as shown on the subdivision plat. The Architectural Control Committee may, at its discretion, permit variances on fence location if approved in writing. All fencing for interior lots shall be of wood or ornamental metal. Walls can be brick, stucco, decorative concrete (if approved by the Architectural Control Committee) or native stone.

The only permitted fence on golf course Lots shall be constructed of brick columns and wrought iron, or all wrought iron, so that the view to the golf course is not impaired.

However, fencing if installed adjacent to major thoroughfares or public spaces must be a standard design, material and color as approved by the Architectural Control Committee. No fence shall exceed six (6) feet in height nor shall any item be placed on the top of any fence without written permission from the Architectural Control Committee. All fences and/or walls hereafter placed on the common boundary line of any two (2) Lots in the subdivision shall be jointly owned and maintained by each of the adjoining Lot Owners. All screen fencing and/or walls not located on a common boundary line shall belong to and be maintained by the Owner of the Lot where such screen fencing and/or wall is located. All screen fencing and/or walls located on Reserves adjacent to the Lots listed above will be maintained by THE FALLS OWNERS ASSOCIATION, INC.

Section 12. Visual obstruction at the intersections of public streets. No object or thing which obstructs site lines at elevations between two (2) feet and eight (8) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points ten (10) feet from the intersection of the street property lines or extension thereof shall be placed, planted or permitted to remain on any corner Lots.

Section 13. Lot maintenance. The Owners or occupants of all Lots shall at all times keep all weeds and grass thereof cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage or materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The drying of clothes in full public view is prohibited and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment or storage piles, which are incident to the normal residential requirements of a typical family. No Lot shall be used or maintained as a dumping ground for trash. Trash, garbage or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in a clean and sanitary condition. All playground equipment must be placed at the rear of the property and must be placed behind a fence if the Lot is fenced. No outside clothesline shall be permitted that is visible from any street.

New building materials used may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. The Owners or occupants of all Lots shall not burn anything (except by use of an incinerator and then only as prescribed and during such hours as permitted by law).

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days written notice thereof, Declarant or its assigns may, without liability to the Owner or occupant for trespass or otherwise, enter upon said Lot or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the property to pay for such work immediately upon receipt of a statement therefor. In the event of the failure to pay such statement, the amount therefor may be added to the annual maintenance charge provided for herein.

Section 14. Signs, advertisements, billboards. Except for signs owned by Declarant or builders with the consent of Declarant advertising their model homes during the period of original construction and home sales, no sign, advertisement or billboard or advertising structure of any kind other than one normal "For Sale" sign not to exceed five (5) square feet in total size may be erected or maintained on any Lot in said subdivision. Declarant, or its assigns, will have the right to remove any sign, advertisement or billboard or structure that does not comply with the above, and in so doing shall not be subject to any liability of trespass or other sort in the connection therewith or arising with such removal.

Section 15. Maintenance 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 Lot, houses or buildings. Television antennae may be attached to the house; provided, however, such antenna must be located to the rear of the roof ridge line, gable or center line or the principal dwelling, unless this is not possible due solely to the design of the roof. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. Guy wires may be installed for purposes of securing antennae; provided, however, that such wires do not encroach upon any easement or adjoining Lot(s), are located behind the rear wall of the main residential structure and screened from view by installation of approved fencing as described in Section 11 of this Article. No antennae, either freestanding or attached, shall be permitted to extend above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole. The location of any satellite dish, antennae or receiver, or other similar antennae, must be approved by the Architectural Control Committee ("ACC"). The foregoing restrictions in Article III, Section 15, shall not be enforceable unless and until a cable television system has been brought to the Properties, and is available to each Lot within the Properties.

Section 16. Window air conditioning. No window or wall type air conditioners shall be permitted to be used, erected, placed or maintained on or in any building in any part of the Properties, provided that the Architectural Control Committee may, at its discretion, permit window or wall type air conditioners to be installed if such unit, when installed, shall not be visible from a street, such permission, if granted, must be in writing.

Section 17. Underground telephone service. A buried telephone cable system shall be installed in an area in THE FALLS, SECTION ONE (1) and SECTION TWO (2). The Owner of each Lot shall, at his own cost, install in each home, flexible or rigid conduit with pull wire and a minimum of three (3) outlet boxes, at the locations where he desires telephones, all in accordance with specifications of the telephone company, in order that the telephone company may install its wiring and equipment in each home in the most expeditious and least costly manner. In the event an Owner fails to comply with the requirements of the preceding sentence, the telephone company will install its standard exposed wiring in such Owner's home and the Owner will be required to pay the telephone company's standard installation charges therefor.

Section 18. Cable television service. Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more cable television companies and Declarant shall have the right and power in such agreement or agreements to grant to such cable television company or companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility easements or rights-of-way reserved and dedicated herein and in the referenced plat. Declarant does hereby reserve unto itself, its successors and assigns the sole and exclusive right to obtain and retain all income, revenue and other things of value paid or to be paid by such cable television companies to Declarant pursuant to any such agreements between Declarant and such cable television companies. Provided, however, that the rights herein reserved to Declarant with regard to any cable television company shall terminate and automatically be transferred to THE FALLS OWNERS ASSOCIATION, INC., at such time as the Class B membership shall cease as provided in Article V, hereafter.

Section 19. Water and Sanitary Sewer. No water wells, septic tanks or other similar utility related improvements shall be permitted on any Lot. Each Lot shall utilize the water and sanitary sewer systems provided by the municipal utility district service the Property. The municipal utility district shall have the right to assess and collect a tap fee for such water and sewer utility service not to exceed TWO HUNDRED AND NO/100 DOLLARS (\$200.00). At such time as utility service from the MUO is available to the boundary of a Lot, the Owner of said Lot shall pay a stand-by fee for such utility service not to exceed FIFTEEN AND NO/100 DOLLARS (\$15.00) per month, commencing on the first day of the month next succeeding installation of the service.

Section 20. Type of construction, materials, and landscape. The exterior materials of the main residential structure and any attached garage shall be not less than fifty-one (51) percent masonry, unless otherwise approved in writing by the Architectural Control Committee. No two residential structures of identical floor plan and elevation detail be constructed closer than every eighth Lot.

Yellow, pink or orange brick should not be used except where permission is given in writing by the Architectural Control Committee.

The roof of any building shall be constructed or covered with asphalt or composition type shingles of 230# or heavier weight with a color that would be dark brown or approximate the color of weathered cedar shingles. The decision of such comparison shall rest exclusively with the Architectural Control Committee. Decisions regarding the use of any other type roofing material shall rest exclusively with the Architectural Control Committee or its assigns.

Section 21. Owner's easements 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 Lot, subject to the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, if any;
- B. The right of the Association to suspend the voting rights and right to use the Common Areas, if any, by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- C. 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 members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- D. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area, if any, and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

#### ARTICLE IV

##### Architectural Control Committee

Section 1. Approval of building plans. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure, have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to commencement of construction. The Architectural Control Committee may require the submission of such plans, specifications and plot plans, together with

such other documents as it may elect at its entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the receipt of the required documents, such approval shall be deemed to have been given, provided however, that failure to timely approve or disapprove such plans and specifications shall not be deemed to permit the erection, construction, placing or altering of any structure on any Lot in a manner prohibited under the terms of this Declaration. The Architectural Control Committee shall have full and complete authority to approve construction of any improvement on any Lot, and its judgment shall be final and conclusive.

The approval or lack of disapproval, by the Committee of any plans and specifications or of the location plot plan, shall in no event be deemed to create any liability whatsoever in the Declarant, the members of the Committee, the duly authorized representative of the Committee, or in any other party for any warranty or representation by such Committee including, without limitation, any warranty or representation relating to fitness, design, adequacy or location of the proposed construction or compliance with applicable statutes, codes and regulations, in any building or structure erected and located in accordance with such plans and specifications and location plot plan.

Anything contained in this Section 1 or elsewhere in this Declaration to the contrary notwithstanding, the Architectural Control Committee, and its duly authorized representative, is hereby authorized and empowered, at its sole and absolute discretion, to make and permit reasonable modifications of and deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Subdivision Lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of the Committee or its duly authorized representative, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Subdivision and its improvements as a whole.

The Architectural Control Committee may require the submission to it of such documents and items (including, as examples, but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved carport), and signed by a majority of the then members of the Architectural Control Committee (or by the

Committee's duly authorized representative). Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Architectural Control Committee, or (b) failure by the Architectural Control Committee to respond to the request for variance. In the event the Architectural Control Committee or any successor to the authority thereof shall not then be functioning and/or the term of the Architectural Control Committee shall have expired and the Board of Directors of the Association shall not have succeeded to the authority thereof as herein provided, no variances from the covenants of this Declaration shall be permitted, it being the intention of Declarant that no variances be available except at the discretion of the Architectural Control Committee, or if it shall have succeeded to the authority of the Architectural Control Committee in the manner provided herein, the Board of Directors of the Association. The Architectural Control Committee shall have no authority to approve any variance except as expressly provided in this Declaration.

Section 2. Committee membership. The Architectural Control Committee members shall be composed of the Directors of the Association and shall be three (3) in number, and shall be composed of: ~~B. Jay Riviere, Carl Gullett and Darlene Riviere~~, who by majority vote may designate a representative to act for them. The address of the Architectural Control Committee is: R.R. 2-346, North Falls Drive, New Ulm, Texas 78950.

Section 3. Replacement. In the event of death or resignation of any member or members of said committee, the remaining number of members shall appoint by recorded instrument a successor member or members, and until such successor member or members, shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4. Minimum construction standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards, provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 5. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on or after twenty (20) years from the date of this instrument. Thereafter, the approval described in this covenant shall not be required, and all power vested in said committee by this covenant shall cease and terminate; provided, that any time after January 1, 2004, by two-thirds (2/3) vote of the members present and voting, THE FALLS OWNERS ASSOCIATION, INC., or a generally elected committee may assume the duties and powers of the Architectural Control Committee.

## ARTICLE V

### The Falls Owners Association, Inc.

Section 1. Membership and voting rights. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to

include persons or entities who hold an interest merely as security for the performance of an obligation.

Section 2. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. A Lot owned by a Class A member shall be a Class A Lot.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. A Lot owned by a Class B member shall be a Class B Lot. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier.

- A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B Membership, or
- B. January 1, 1994.

The Class A and Class B members shall have no rights as such to vote as a class, except as required by the Texas Non-Profit Corporation Act, and both classes shall vote upon all matters as one group.

Section 3. Non-profit corporation. THE FALLS OWNERS ASSOCIATION, INC., a non-profit corporation, has been or will be organized, and it shall be governed by the Articles of Incorporation of said Association, and all duties, obligations, benefits, lines and rights hereunder in favor of the Association shall vest in said corporation.

Section 4. By-laws. The Association may make whatever rules or by-laws it may choose to govern the organization, provided, however, that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours.

## ARTICLE VI

### Maintenance Assessments

Section 1. Creation of the lien and personal obligation of assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The Association shall have the power and authority to collect and disburse all assessments. The annual and special assessments, together with interests, costs and reasonable attorney's fees, shall be a charge on



the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of any Common Areas. The responsibilities of the Association shall include, but not be limited to the maintenance and repair of the walkways, steps, entry gates or fountain areas, if any, constructing and maintaining parkways, rights-of-way, easements, esplanades and other public areas, construction and operation of all street lights, purchase and/or operating expenses of recreation areas, if any; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions and conditions affecting the Properties to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing policemen and watchmen, if desired, caring for vacant lots and doing other things or things necessary or desirable in the opinion of the Association to keep the properties in the subdivision neat and in good order, or which is considered in general benefit to the owners or occupants of the Properties. It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 3. Rate of assessment. The maintenance charge on Class B Lots shall be a maximum of Fifty percent (50%) of the assessment for Class A Lots per month and shall begin to accrue on a monthly basis on each such Lot on the date when each such Lot has been certified "complete" by a professional engineer or on the date fixed by the Board of Directors, whichever occurs first. "Complete" is defined as when the streets and utilities have been provided as to a Lot. The entire accrued charge (of said rate stated above per month) on each Lot shall become due and payable by Declarant on the date such Lot converts from Class B Lot to a Class A Lot by reason of the Owner's purchase of the Lot.

The initial charge shall accrue and become due and payable on each Lot on the date such Lot converts from a Class B Lot to a Class A Lot. The determination of the amount of such initial charge, which shall be for the remainder of the year in which such class conversion of said Lot occurs, shall be made by the Association, on, or as of, said accrual date and shall be immediately due and payable. The maintenance charge on each Class A Lot shall thereafter accrue and become due and payable on the first day of January of each succeeding year and shall be in an amount determined by the Association during the thirty (30) day period next preceding the due date of said charge. The Association can collect special assessments as well as annual charges above described whenever a majority of the members, either in person or by proxy at a meeting duly called for such purpose, vote in approval of such special assessment.

Section 4. Maximum annual assessment. Until January 1, 1985, the maximum annual assessment shall be \$120.00. From January 1, 1985 until January 1, 1986, the maximum annual assessment shall be \$240.00.

From and after January 1, 1986, the maximum annual assessment may be increased, effective January 1 of each year, without a vote of the membership in conformance with the increase, if any, of the Consumer Price Index, Houston, Texas, Standard Metropolitan Statistical Area, All Urban Consumers, published by the U. S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212, for the month of July in the year prior to the year for which the increase is being imposed, over the Consumer Price Index for July of 1983.

From and after January, 1986, the maximum annual assessment may be increased above the assessment established above, provided that any such change shall have the assent of two-thirds (2/3) of each class of all votes of the Association entitled to be cast, at a meeting duly called for this purpose.

Section 5. Notice of assessment. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, and shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the annual assessment period, which shall begin on the first day of January of each year. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors.

Section 6. Notice and Quorum for any action authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Effect of nonpayment of assessments. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum non-usurious rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the covered assessments provided herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the lien to mortgages. To secure the payment of the maintenance fund and all annual and special assessments established hereby and to be levied on individual residential Lots, there is hereby reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey such Lots, a Vendor's Lien for the benefit of the Association, said lien to be enforce-

able through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be secondary, subordinate and inferior to all liens, present and future given, granted and created by or at the instance and request of the Declarant and the Owner of say such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the construction of improvements on any such Lot to the extent of any such maintenance fund charge or annual or special assessments accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding by the Association to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes, the Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U.S. Registered Mail, and shall contain a statement of the delinquent maintenance charges or annual or special assessments upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Lot covered by such first mortgage lien to the holder thereof. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. Future sections. The Association shall use the proceeds of the maintenance fund for the use and benefit of all residents of THE FALLS, SECTION ONE (1) and SECTION TWO (2), well as all subsequent sections of THE FALLS; provided however, that for each future section of THE FALLS to be entitled to the benefit of this maintenance fund, it must be impressed with and subjected to the annual maintenance charge and assessment on a uniform, per Lot basis, equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association.

#### ARTICLE VII.

##### General Provisions

Section 1. Term and Amendment. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under the for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then Owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. The terms and provisions of these restrictions during the first twenty (20) year period may be amended at any time when an instrument setting forth said changes and signed by ninety percent (90%) of the Lot Owners is placed on record in the Real Property Records of Colorado County, Texas.

Section 2. Enforcement. Upon any violation or attempt to violate any of the covenants herein, it shall be

lawful for the Association or any Lot Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such violations. Failure by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. Invalidation of any one of these covenants by judgement or other court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 4. Annexation. Future sections of THE FALLS subdivision, developed by the Declarant, its successors or assigns, pursuant to a general scheme of development, may be annexed to the Properties and Association by the Board of Directors of the Association, or by the Declarant, without approval of the membership or any mortgagee. Additional residential property and common area may be annexed to the Properties with the consent of two-thirds (2/3) of the membership.

Section 5. Effect of violations on liens. It is specifically provided that a violation of any one or more of these covenants, conditions or restrictions shall not affect the lien of any mortgage or deed of trust now of record, or which may hereafter be placed of record, or other lien acquired and now held in good faith upon said Lots or any part thereof, but such liens may be enforced as against any and all property covered thereby, subject nevertheless to the restrictions herein contained.

Section 6. Lienholders. The Lienholders join herein solely for the purpose of subordinating the liens held by it of record upon the Properties to the covenants, conditions and restrictions hereby imposed by Declarant with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in this Declaration.

EXECUTED this 10th day of September, 1984.

COLORADO OAKS ENTERPRISES, INC.

ATTEST:

By: Carl F. Guller  
President

By: B. J. Kincaid  
Secretary

THE STATE OF TEXAS

COUNTY OF Harris

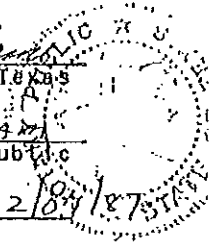
Before me, the undersigned authority, on this day personally appeared Carl F. Muller of COLORADO OAKS ENTERPRISES, INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

Given under my hand and seal of office on this 10th day of September, 1984.

Irene A. McCollum  
Notary Public, State of Texas

IRENE A. MCCOLLUM  
Printed Name of Notary Public

My Commission Expires: 02/03/87



JOINDER OF LIENHOLDER

The undersigned, Community Savings & Loan Association, being the owner and holder of an existing mortgage and lien upon and against the real property described in the foregoing restrictions and defined as the "Property" in said restrictions, as such mortgagee and lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions.

This consent and joinder shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the Lots and all appurtenances thereto, and all of the undivided, equitable shares and interests in the Common Area, subject to the restrictions hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers of Community Savings & Loan Association hereto authorized, this the 7th day of September, 1984.

COMMUNITY SAVINGS & LOAN ASSOCIATION

ATTEST: Lois M. Weber  
Lois M. Weber Secretary

BY James C. Beck  
James C. Beck President

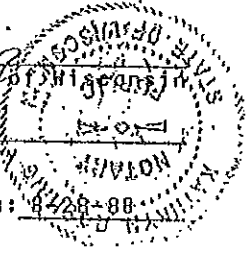
THE STATE OF WISCONSIN c

COUNTY OF Fond du Lac c

BEFORE ME, the undersigned authority, on this day personally appeared James C. Beck, President of Community Savings & Loan Association, a savings and loan association, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 7th day of September, 1984.

Kathryn Roehrig  
Notary Public, State of Wisconsin  
Kathryn Roehrig  
Printed Name of Notary  
My Commission expires: 8-28-88



Recorded the 24 day of Sept. A.D. 1984 at 8:15 o'clock P. M.  
LESTER SCHNEIDER, County Clerk By *Deena Oatwell*, Deputy.

AMENDMENT NO. ONE

TO

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONSTHE FALLS, SECTION ONE AND TWO

STATE OF TEXAS §  
 COUNTY OF COLORADO §

This Amendment No. One, to the Declaration of Covenants, Conditions and Restrictions of THE FALLS, Section One and Section Two, made on the date hereinafter set forth by THE TEXAS FALLS CORPORATION, a Texas corporation, (hereinafter called "TFC"), and THE FALLS OWNERS ASSOCIATION, INC., a non-profit Texas corporation, (hereinafter called the "Association").

W I T N E S S E T H:

WHEREAS, the Colorado Oaks Enterprises, Inc., a Texas corporation, as the Declarant, filed a certain Declaration of Covenants, Conditions and Restrictions for The Falls, Section One and Section Two, recorded in Volume 492, Pages 181-199 of the Deed Records of Colorado County, Texas, (hereinafter called "Original Declaration") to which Original Declaration and the recordation thereof, reference is hereby made for all purposes; and

WHEREAS, The Texas Falls Corporation, a Texas corporation is the successor-in-interest to the Declarant and is the present owner of more than two-hundred (200) Lots in The Falls, Section One and Section Two; and

WHEREAS, Article IV, Section Two of the Original Declaration designated B. Jay Riviere, Carl Gulley and Darlene Riviere as members of the Architectural Control Committee; and

WHEREAS, B. Jay Riviere, Carl Gulley and Darlene Riviere have tendered their written resignation as members of the Architectural Control Committee; and

WHEREAS, TFC and the Association, desire to amend the Original Declaration so as to re-establish an Architectural Control Committee.

NOW, THEREFORE, for and in consideration of the mutual benefits to be gained by the performance hereof, The Texas Falls Corporation, a Texas corporation and The Falls Owners Association, Inc., a Texas non-profit corporation, which was established pursuant to the Original Declaration and which The Falls Owners Association, Inc. was responsible for overseeing the recreation, health, safety and welfare of the residents and Owners of Lots in The Falls, Section One and Section Two, do hereby amend the Original Declaration as follows;



- 1. Article IV, Section Two of the Original Declaration is hereby amended to add thereto the following:

"After March 1, 1995, the Architectural Control Committee members shall be composed of:

Dave C. Swalm, John T. Shelton and Claude E. Manning who by majority may designate a representative to act for them. Address for the Architectural Control Committee after March 1, 1995, is: 1001 North Falls Drive, New Ulm, Texas 78950."

- 2. Except as herein amended, all other terms and provisions of the Original Declaration, shall remain in full force and effect;
- 3. In event of any conflict between the Original Declaration and this Amendment No. One the terms and provisions of this Amendment No. One shall govern and control.

EXECUTED, this the 28<sup>th</sup> day of February 1995.

ATTEST:

LaNell Cooke  
LaNell Cooke

THE TEXAS FALLS CORPORATION

By: Dave C. Swalm  
Dave C. Swalm, Chairman of the Board

ATTEST:

LaNell Cooke  
LaNell Cooke

THE FALLS OWNERS ASSOCIATION, INC.

By: John T. Shelton Jr.  
John T. Shelton, President

AMENDMENT TO DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
THE FALLS, SECTION ONE (1) AND SECTION TWO (2)

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

THAT on September 10, 1984, COLORADO OAKS ENTERPRISES, INC., a Texas corporation, executed a Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration"), recorded in Volume 492, Page 181, of the Colorado County Deed Records, to which Declaration reference is hereby made, and which Declaration placed certain restrictions on the use of the following described land:

All that certain 105.83 acre tract of land in the Charles Fritsche Survey, Abstract No. A-199, and the Peter Piper Survey, Abstract No. A-447, and the Robert H. Tobin Survey, Abstract No. 1-551, all in Colorado County, Texas, which is more particularly described as follows:

- Lots One (1) through Thirty (30), inclusive, Block Two (2);
- Lots One (1) through Fifty-four (54), inclusive, Block Three (3);
- Lots One (1) through Twenty-eight (28), inclusive, Block Four (4);
- Lots One (1) through Twenty-six (26), inclusive, Block Five (5);
- Lots One (1) through Three (3), inclusive, Block Six (6);
- Lots One (1) through Four (4), inclusive, Block Seven (7);
- Lots One (1) through Eleven (11), inclusive, Block Eight (8);
- Lots One (1) through Four (4), inclusive, Block Nine (9);
- Lots One (1) through Eighteen (18), inclusive, Block Ten (10);
- Lots One (1) through Thirty-two (32), inclusive, Block Eleven (11);

All of said lots being in The Falls, Section One (1), according to the map or plat thereof, recorded in Slide No. 63 of the Map Records of Colorado County, Texas; and

- Lots One (1) through Twenty-nine (29), inclusive, Block One (1);
- Lots One (1) through Fourteen (14), inclusive, Block Two (2);
- Lots One (1) through Thirty (30), inclusive, Block Three (3);
- Lots One (1) through Twenty-nine (29), inclusive, Block Four (4);
- Lots One (1) through Four (4), inclusive, Block Five (5);

All of said Lots Being in The Falls, Section Two (2), according to the map or plat thereof recorded in Slide No. 62 of the Map Records of Colorado County, Texas; and

WHEREAS, the Declaration provides in Article VII, Section 1, that the Declaration "...during the first twenty (20) year period may be amended at any time when an instrument setting forth said changes and signed by ninety percent (90%) of the Lot Owners is placed on record in the Real Property Records of Colorado County, Texas"; and

WHEREAS, The Texas Falls Corporation, a Texas corporation, is the Developer as successor in interest to Colorado Oaks Enterprises, Inc. the original Declarant and Developer in the Declaration; and

WHEREAS, The Texas Falls Corporation, a Texas corporation, as the Developer owns 227 lots in The Falls, Sections One and Sections Two; and

WHEREAS, The Texas Falls Corporation and the other Lot Owners in The Falls Sections One and Two (comprising no less than 90% of the current owners of Lots in The Falls Sections One and Two) are desirous of amending the aforesaid Declaration as hereinafter set forth.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions dated September 7, 1984, recorded in Volume 492, page 181 of the Colorado County Deed Records is hereby amended as follows:

1. Article I, Section 3 of the Declaration is hereby amended to add the following:

As of the date of this Amendment to the Declaration, The Texas Falls Corporation, a Texas corporation, is the owner of 227 lots in The Falls Sections One and Two and The Texas Falls Corporation is the Developer as successor in interest to Colorado Oaks Enterprises, Inc. the original Declarant and Developer.

2. Article III Section 3 of the Declaration is hereby amended and restated to read as follows:

"Section 3 Composite Building Site. None of the lots in The Falls Section One and Section Two (other than the lots owned by The Texas Falls Corporation) shall be replated or resubdivided. Any person (other than The Texas Falls Corporation) owning two (2) or more adjoining lots may consolidate such lots into a building site, with the privilege of paving or constructing improvements, as permitted herein, on such resulting site. The Texas Falls Corporation, as the owner of the following lots in The Falls, Section One and Section Two shall have the right, in its sole discretion to add, delete, replat or resubdivide any of the hereinafter described lots in The Falls, Sections One and Two without requiring any further approval or consent of any other owners of lots in The Falls, Sections One and Two:

The Falls, Section One (1)

Block Two (2), Lots 1, 2, 6, 7, 10-30.  
 Block Three (3), Lots 1-23, 25-39, 42, 47-53.  
 Block Four (4), Lots 1-3, 7, 10, 13, 15, 17-28.  
 Block Five (5), Lots 1, 6-26.  
 Block Six (6), Lots 2 and 3.  
 Block Seven (7), Lots 3 and 4.  
 Block Eight (8), Lots 3-8, 10 and 11.  
 Block Nine (9), Lots 2 and 4.  
 Section Ten (10), Lots 3, 9-18.  
 Section Eleven (11), Lots 2, 3, 5-7, 9-14, 16-19, 21-25, 27-30.

The Falls, Section Two (2)

Block One (1), Lots 1-5, 7-15, 17-20, 25 and 27.  
 Block Two (2), Lots 1, 2, 7, 8, 12-14.  
 Block Three (3), Lots 2-12, 14-23, 26-28.  
 Block Four (4), Lots 3, 4, 6-8, 11, 13, 14, 18-22, 28 and 29.

In addition, The Texas Falls Corporation, its successors, transferees and assignees shall have the right, in its sole discretion to add, delete, resubdivide or replat any lots owned by The Texas Falls Corporation in any existing or future Sections of The Falls without requiring any further approval or consent of any other owners of Lots in The Falls."

3. A new Section 22 is hereby added to Article III to the Declaration to read as follows:

"Section 22. Exception For Replatted Lots.

At such time as The Texas Falls Corporation files for record in the Map Records of Colorado County, Texas, a replat of nine (9) Lots in Section 1, Block 2, Lots 25 to 30 inclusive and Section 1, Block 3, Lots 1 to 3 inclusive, converting the aforesaid nine (9) Lots into one Lot, then in such event, the Use Restrictions set forth in Article III, Sections 1, 4, 5, 6, 7, 8, 11 and 20 shall not be applicable or enforceable with respect to the replatted nine (9) Lots."

4. A new Section 10 is hereby added to Article VI to the Declaration to read as follows:

"Section 10. Exception for Replatted Lots.

At such time as The Texas Falls Corporation files for record in the Map Records of Colorado County, a replat or replats of any Lots in Section 1 and 2 thereof, then in such event, the Maintenance Assessments set forth in Article VI shall be applicable thereafter to the replatted Lot or Lots, as the case may be, but the owner of any Lot or Lots shall remain liable for any and all unpaid Maintenance Assessments levied by the Association prior to the recordation of the replat or replats.

No other amendments to said Declaration of Covenants, Conditions and Restrictions are made by these Amendments and the undersigned Lot owners hereby expressly ratify and confirm the provisions of the original Declaration, as hereby amended, as covenants running with the herein described real property according to the terms of such Declaration.

This Agreement is executed in a number of counterpart originals, each of which is deemed to be an original and all of which shall constitute one and the same instrument. This Agreement shall be effective as to each party on the date of such parties' signature and acknowledgment and placed on record in the Real Property Records of Colorado County, Texas.

In the event of any conflict between the terms and provisions of the Declaration and this Amendment, the terms and provisions of the Amendment shall govern and control.

IN WITNESS WHEREOF, the owner of lots in The Falls, Sections One and Two, have executed this Amendment as of the 1 day of August, 1998.

| <u>Section Number</u> | <u>Block Number</u> | <u>Lot Number</u>      | <u>Name of Recorded Owner</u> |
|-----------------------|---------------------|------------------------|-------------------------------|
| One (1)               | Two (2)             | Lots 1, 2, 6, 7, 10-30 |                               |

| <u>Section Number</u> | <u>Block Number</u> | <u>Lot Number</u>                       | <u>Name of Recorded Owner</u>                    |
|-----------------------|---------------------|---|--|
|                       | Three (3)           | 1-23, 25-39, 42, 47-53                  |  |
|                       | Four (4)            | 1-3, 7, 10, 13, 15, 17-28               |  |
|                       | Five (5)            | 1, 6-26                                 |  |
|                       | Six (6)             | 2 and 3                                 |  |
|                       | Seven (7)           | 3 and 4                                 |  |
|                       | Eight (8)           | 3-8, 10 and 11                          |  |
|                       | Nine (9)            | 2 and 4                                 |  |
|                       | Ten (10)            | 3, 9-18                                 |  |
|                       | Eleven (11)         | 2, 3, 5-7, 9-14, 16-19, 21-25, 27-30    |  |
| Two (2)               | One (1)             | 1-5, 7-15, 17-20, 25 and 27             |  |
|                       | Two (2)             | 1, 2, 7, 8, 12-14                       |  |
|                       | Three (3)           | 2-12, 14-23, 26-28                      |  |
|                       | Four (4)            | 3, 4, 6-8, 11, 13, 14, 18-22, 28 and 29 |  |
|                       |                     |   | The Texas Falls Corporation                      |
|                       |                     |   | By: <u>Todd Coover</u><br>Todd Coover, President |
| One (1)               | Two (2)             | Lot 3                                   | <u>William F. Seefeldt</u>                       |
|                       |                     |   | <u>Karen A. Seefeldt</u>                         |
| One (1)               | Two (2)             | Lot 4                                   | <u>Anjali Jain</u>                               |

**AMMENDMENT TO DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
THE FALLS, SECTION ONE (1) AND SECTION TWO (2)**

2006 DEC 22 AM 10:40  
E. HAYEK  
COLORADO CO. CLERK

**THE STATE OF TEXAS §**

**§ KNOW BY ALL THESE MEN PRESENT**

**COUNTY OF COLORADO §**

THAT on September 10, 1984, COLORADO OAKS ENTERPRISES, INC., a Texas corporation, executed a Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration"), recorded in Volume 492, Page 181, of the Colorado County Deed Records, to which Declaration reference is hereby made, and which Declaration placed certain restrictions on the use of the following described land:

All that certain 105.83 acre tract of land in the Charles Fritsche Survey, Abstract No. A-199, and the Peter Piper Survey, Abstract No. A-447, and The Robert H. Tobin Survey, Abstract No. A-551, all in Colorado County, Texas, which is more particularly describes as follows:

- All lots in The Falls Replat Section One (1) consisting of 169 lots,
- All lots in The Falls Replat Section Two (2) consisting of 82 lots
- All lots in The Falls Section Three (3) consisting of 6 lots
- All of said lots being recorded in Slide No. 86, 85, 84, and 82 of the Map Records of Colorado County, Texas.

WHEREAS, The Declaration provides in Article VII, Section 1; that the Declaration may amend these Covenants, Conditions and Restrictions at any time (after the first twenty (20) years these Covenants are in effect) when a majority of the Lot Owners sign an instrument and record said instrument setting forth said changes is placed on record in the Real Property Records of Colorado County, Texas and

WHEREAS, The Texas Falls Corporation, A Texas corporation is the Developer as successor in interest to Colorado Oaks Enterprises, Inc. the original Declarant and Developer in the Declaration; and

WHEREAS, The Texas Falls Corporation, a Texas corporation as the Developer owns 157 lots of the 257 total lots in the The Falls Replat Section One, The Falls Replat Section Two and The Falls Section Three and

WHEREAS, The Texas Falls Corporation, owning the majority of the lots (61%) in The Falls Replat Section One, The Falls Replat Section Two and The Falls Section Three is desirous of amending the aforesaid Declaration as hereinafter set forth.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions dated September 7, 1984, recorded in Volume 492, Page 181 of the Colorado County Deed Records is hereby amended as follows:

1. Article III, Use Restrictions of the Declaration is hereby amended to be named "Article III The Falls Resort and Golf Club Deed Restrictions" and has been completely revised, arranged and changed as shown on the Attachment Labeled "Article III The Falls Resort and Golf Club Deed Restrictions" said revision consisting of six pages in length..
2. Article IV, Architectural Control Committee of the Declaration is hereby completely amended in its entirety and is shown on the Attachment Labeled "Article IV, Architectural Control Committee" said revision consisting of two pages in length.

No other amendment to said Declaration of Covenants, Conditions and Restrictions are made by these Amendments and the undersigned Lot Owners hereby expressly ratify and confirm the provisions of the original Declaration as hereby amended, as covenants running with the herein described real property according to the terms of such Declaration.

In the event of any conflict between the terms and provisions of the Declaration and this Amendment, the terms and provisions of the Amendment shall govern and control.

IN WITNESS WHEREOF, the owner of the majority of lots in The Falls Replat Section One, The Falls Replat Section Two and The Falls Section Three have executed this Amendment as of the 21<sup>st</sup> day of December, 2006.

Dave C. Swalm  
Dave C. Swalm,  
President  
The Texas Falls Corporation

The State of Texas  
County of Colorado

Before me, the undersigned authority, on this day personally appeared, DAVE SWALM, of The Texas Falls Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

Given under my hand and seal of office on this 21<sup>st</sup> day of December, 2006.



C E Manning  
Notary Public, State of Texas

CLAUDE MANNING  
Printed Name of Notary Public

My Commission Expires: 12/8/10



**Article III**  
**The Falls Resort and Golf Club**  
**Deed Restrictions**

**Section 1. Single Family Residential Construction.**

No building shall be erected, altered or permitted to remain on any lot other than one detached single family dwelling used for residential purpose only, not to exceed two stories in height. Maximum height of building is twenty-eight (28) feet unless otherwise approved by the Architectural Control Committee. Each dwelling shall have a garage for not more than four (4) cars. As used herein, the term "Residential Purpose" shall be construed to prohibit mobile homes or trailers, being placed on the lots or the use of lots for garage apartments, or apartment houses, townhouse, duplexes, or any other such attached dwelling unit. No lot shall be used for business or professional purpose of any kind, nor for any commercial or manufacturing purpose. No building of any kind shall ever be moved onto any lot within THE FALLS without the written consent of the Architectural Control Committee.

**Section 2. Location of the Improvements Upon the Lot.**

No building shall be located on any lot nearer than ten (10) feet to the side property line or as shown on the recorded plat. On lots having a rear garage, no building may be located within five (5) feet of the rear property line. On lots having the garage in the front or the side, no building may be located within fifteen (15) feet of the rear property line. Regardless of location, no garage may open facing the street.

On the ten (10) foot side building set back line, eaves, steps and unroofed terraces shall not be considered as part of a building; however, this shall not be construed to permit any portion of the construction on a lot to extend upon another lot. No building shall be located nearer than twenty (20) feet from the front property line or as shown on the recorded plat.

For the purposes of these restrictions, the front of each Lot shall coincide with and be the property line having the smallest or shortest dimension abutting a street. Unless otherwise approved in writing by the Architectural Control Committee, each main residence building will face the front of the Lot, and each detached garage will face and be located at least sixty-five (65) feet from the front of the Lot on which it is situated and will be provided with the driveway access from the front of the Lot only. All buildings must face the street to which it is addressed.

No garage shall open onto the golf course. No improvement or fill may be placed within twenty feet of the lake or golf course without the written consent of the Architectural Control Committee.

**Section 3. Composite Building Site.**

None of said lot shall be resubdivided. Any person owning two or more adjoining lots may consolidate such lots into a building site with the privilege of placing or constructing improvements as permitted herein in such resulting building site.

**Section 4. Minimum Square Footage Within Improvements.**

All lots within THE FALLS, SECTION ONE (1) SECTION TWO (2) and SECTION THREE (3) are restricted to minimum size of five thousand seven hundred seventy five square feet. All dwelling units shall have specified minimum square feet of living area exclusive of open porches, atriiums and garage as follows:

- A. For lots not abutting the golf course or lakes.  
Section 1 lots minimum of 1,600 square feet.  
Section 2 lots minimum of 1,600 square feet.  
Section 3 lots minimum of 1,600 square feet.
- B. For golf course lots or those abutting a lake.  
Section 1 lots minimum of 1,800 square feet.  
Section 2 lots minimum of 1,800 square feet.  
Section 3 lots minimum of 1,800 square feet.

**Section 5 Type of Construction and Materials.**

The exterior materials of the main residential structure and any attached garage shall be a minimum of 60 percent masonry, unless otherwise approved in writing by the Architectural Control Committee. Masonry is defined as brick, stone, stucco, or rock. (Hardi Plank is not considered masonry) No two residential structures of identical floor plan and elevation detail should be constructed closer than every fifth lot. Yellow, pink, or orange brick should not be used except where permission is given in writing by the Architectural Control Committee. The roof of any building shall be constructed or covered with any non-reflective, dark material with a minimum expected life of twenty (20) years. Asphalt, composition or metal are acceptable materials. The decisions regarding the use of any other type roofing material shall rest exclusively with the Architectural Control Committee. Wooden shingles of any type are strictly prohibited!

**Section 6. Water and Sanitary Sewer.**

No water wells, septic tanks or other similar utility related improvements are permitted on any lot. Each lot shall utilize the water and sanitary sewer systems provided by the Municipal Utility District. The M.U.D shall have the right to assess and collect a tap fee for such water and sewer, utility service. At such time as utility service from the M.U.D is available to the boundary of a lot, the owner of said lot shall pay a standby fee for such utility service not to exceed 15.00 dollars per month, commencing on the first day of the next month succeeding installation of service.

**Section 7. Walls and Fences.**

No fence or wall shall be erected, placed, or altered on any lot nearer to any street than the front wall of the existing residence. The Architectural Control Committee may at its discretion permit variances on fence location if approved in writing. All fencing for interior lots shall be of wrought iron. Walls can be brick, stucco, decorative concrete or native stone. All fencing or walls must be approved by the Architectural Control Committee prior to erection.

The only permitted fence on the golf course lots shall be constructed of brick columns and wrought iron or all wrought iron so that the view to the golf course is not impaired. Maximum height must be five (5) feet.

However, fencing if installed adjacent to major thoroughfares or public spaces, must be a standard design material and color as approved by the Architectural Control Committee. No fence shall exceed 6 feet in height nor shall any item be placed on the top of any fence without written

permission from the Architectural Control Committee. All fences or walls hereafter placed on the common boundary line of any two lots in the subdivision shall be jointly owned and maintained by each of the adjoining lot owners. All screen fencing or walls located on reserves adjacent to the lots listed above will be maintained by the Falls Owners Association Inc.

**Section 8. Window Air Conditioning.**

No window or wall type air conditioning shall be permitted to be used, erected, placed or maintained on or in any building in any part of the properties, however the Architectural Control Committee, may at its discretion permit window or wall type air conditioners to be installed if such unit, when installed, shall not be visible from a street. Such permission, if granted, must be in writing.

**Section 9. Use of Temporary Structures.**

No structures of a temporary character such as mobile home, trailer, tent, shed, garage or other temporary building of any nature shall be placed or constructed on any lot for residential purpose. A temporary office or work shed, may, may be installed following approval by the Architectural Control Committee as long as it is maintained by a building contractor or sales agency in connection with the erecting and sale of a dwelling in the subdivision, but such temporary structures shall be removed at completion of construction or ten days following notice from Declarant or its assigns. Outbuildings including portable structures used for accessory or storage purpose shall be limited to a maximum of 8 feet in height and 120 feet of floor space, and must be compatible in style with the architecture of the main building and is subject to approval from the Architectural Control Committee.

**Section 10. Use of Garage.**

No garage of any residential structure shall be used for any purpose other than the storage of motor vehicles. Specifically, no garage shall be used for permanent storage of building materials, tools, etc. in such a manner as to preclude it's use for the parking of automobiles nor shall any garage be converted to living space, such use of which would preclude the parking of automobiles. The Declarant reserves the right to allow the temporary use of a garage within model homes as a sales office.

**Section 11. Storage of Automobiles, Boats, Trailers and Other Vehicles.**

No trucks, trailers, boats, automobiles, campers or other vehicles shall be stored, parked or kept on any driveway, in the front yard, or in the street in front of the lot unless such vehicle is in day to day use off the premises and such parking is only temporary from day to day, not to exceed 48 hours in duration. Permanent and semi permanent storage of such items and vehicles must be screened from public view, either within the garage or behind the fence that encloses the rear of the lot.

**Section 12. Visual Obstruction at the Intersections of Public Streets.**

No object or thing that obstructs sight lines at elevations between two (2) feet and eight (8) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street property lines, or extension thereof shall be placed, planted or permitted to remain on any corner lots.

**Section 13. Lot Maintenance.**

The owner or occupants of all lots shall at all times keep all weeds and grass cut in a sanitary, healthy and attractive manner. In no event lot or lots are not to be used for storage of materials and

equipment except for normal residential requirements including improvements. The drying of clothes in full public view is prohibited. The owners or occupants of any lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment or storage piles, which are incident to the normal residential requirements of a typical family. No lot should be used or maintained as a dumping ground for trash or other waste material. Waste materials shall not be kept except in sanitary containers. Sanitary containers should be constructed of metal, plastic or masonry materials with sanitary covers. Equipment for the storage of waste materials should be kept in clean and sanitary conditions. All playground equipment must be placed at the rear of the property and must be placed behind a fence if the lot is fenced. No outside clothesline shall be permitted that is visible from any street.

New building materials used may be placed upon such lot at the time construction is commenced and may be maintained thereon for a reasonable time so long as the construction progresses without undue delay. After the completion of the improvements the material shall be removed or stored in a suitable enclosure. No open burning of anything is permitted by the Owner or occupant of any lot at any time. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any one of them, such default continuing after ten (10) days written notice thereof, Declarant or its assigns may, without Liability to the Owner or occupant for trespass or otherwise, enter upon said Lot or cause to be removed such garbage, trash and rubbish or do anything necessary to secure compliance with these restrictions so as to place said lot in neat attractive and sanitary conditions and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the property to pay for such work immediately upon receipt of a statement therefore. In the event of failure to pay such statement, the amount thereof will be added to the annual charge provided for herein.

**Section 14. Prohibition of Offensive Activities.**

Other than with regard to the normal sales activities required to sell homes in the subdivision and the lighting effects utilized to display model homes, no activity or business, whether for profit or not, shall be carried on any lot which is not related to single family residential purpose. No obnoxious or offensive activity of any sort shall be permitted nor shall be done on any lot which may be or become an annoyance or nuisance to the neighborhood.

**Section 15. Animal Husbandry.**

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats or other common household pets. A total of three adult animals may be kept provided that they are not bred or maintained for commercial purpose. Dogs maintained outside must be restrained by a fenced rear yard. No such animal shall be allowed to become a nuisance or health hazard. Should such pets become a nuisance in the opinion of the Declarants, they must be removed from the premises and the subdivision. No pets are to run at large.

**Section 16. Mineral Operations.**

No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any lot, nor shall any wells, tanks, tunnels, mineral excavation or other structures designed for the use in boring for oil or natural gas be erected maintained or permitted upon any lot.

Article III

The Falls Deed Restrictions Rev. 2006

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**Section 17. Signs, Advertisements, Billboards.**

Signs owned by Declarant or builders, with the consent of the Declarant, may be erected advertising their model homes during the period of original construction and home sales. No signs, advertisement or billboard structure of any kind other than one normal "for sale" sign not to exceed five square feet in total size may be erected or maintained on any lot in said subdivision. Owners committee has the right to remove any sign, advertisement, billboard or structure that does not comply with the above. The committee will not be subject to liability of trespass or other sort in the connection with said removal.

**Section 18. Maintenance of Antennae.**

No electronic antenna or device of any type other than an antenna for receiving normal TV signals shall be erected, constructed, placed or permitted to remain on any lot, house or building. TV antennae may be attached to the house; provided, however, such antenna must be located to the rear of the roof ridge line, gable or center line of the principal dwelling, unless this is not possible due solely to the design of the roof. Freestanding antennas must be attached to and located behind the rear wall of the main residential structure. Guy wires may be installed for purpose of securing antenna provided however that such wires do not encroach upon any easement or adjoining lot that are located behind the rear wall of the main residential structure and are screened from view by installation of approved fencing as described in Section 7. No antenna either freestanding or attached shall be permitted to extend above the roof of the main residential structure on the lot or shall be erected on a wooden pole. The Architectural Control Committee must approve the location of any satellite dish, antenna, receiver or other similar antenna.

**Section 19. Underground Telephone Service.**

A buried telephone cable system shall be installed in The Falls Sections 1, 2 and 3. The owner of each lot shall at his/her own cost install flexible or rigid conduit with pull wire and a minimum of 3 outlets boxes at locations where they desire, all in accordance with specifications of the telephone company so that the telephone company may install its wiring and equipment in each home in the expeditious and least cost manner. In the event an owner fails to comply with the requirements of the preceding sentence, the telephone company will install its standard exposed wiring in such owner's home. The owner will be required to pay the telephone company standard installation charges therefore.

**Section 20. Cable TV Service**

Declarant reserves the rights to hereafter enter into a franchise or similar type agreement with one or more cable TV companies. Declarant shall have the right and power in such agreement or agreements to grant to such Cable TV Company or companies the right to install and maintain communication cable and related equipment within the utility easement or right of way reserved herein the referenced plat. Declarant does hereby reserve unto itself, its successors and assigns the sole and exclusive right to obtain and retain all income, revenue and other things of value paid or to be paid by such cable companies to declarant, pursuant to any such agreements between declarant and such cable companies. However, the rights herein reserved to Declarant with regard to any cable company shall terminate and automatically be transferred to The Falls Owners Association, at such time as the class B membership shall cease as provided in article V hereafter.

**Section 21. Owners Easement of Enjoyment.**

Every Owner shall have the right and easement of enjoyment in and to the Common Areas, if any, which shall be appurtenant to and shall pass with title to every lot, subject to the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, if any.
- B. The right of the Association to suspend the voting rights and right to use the Common Areas, if any, by an Owner for any period during which any assessment against their lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- C. 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 members. No such dedication or transfer shall be effective unless an instrument signed by 2/3 of each class of members agreeing to such dedication or transfer has been recorded.
- D. Any Owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Areas, if any, and facilities to the members of his/her family, his tenants or contract purchasers who reside on the property.

**Article IV**  
**Architectural Control Committee**

**Section 1. Approval of Building Plans.**

A copy of the construction plans, specifications and plot plan, together with such information as may be deemed pertinent shall be submitted to the Architectural Control Committee (A.C.C.) or its designated representative prior to commencing construction.

No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plot plan showing the location of the structure have been approved by the A.C.C. in writing. The plans must be in compliance with minimum construction standards as determined by the A.C.C. The A.C.C. may require the submission of other documents at its discretion. In the event the A.C.C. fails to approve or disapprove such plans and specifications within 30 days after the receipt of the required documents, such approval shall be deemed to have been given. Placing or altering of any structure on any lot in a manner prohibited under the terms of this declaration is strictly prohibited. The A.C.C. shall have full and complete authority to approve construction of any improvement on any lot and its judgment shall be final.

The approval or lack of disapproval by the A.C.C. of any plans and specifications or of the location plot plan, shall in no event create any liability whatever in the Declarant, the members of the Committee, the duly authorized representative of the Committee, or in any other party for any warranty or representation by such committee including, without limitation, any warranty or representation relating to fitness, design, adequacy or location of the proposed construction or compliance with applicable statutes, codes and regulations, in any building or structure erected and located in accordance with such plans and specifications and location plot plan.

Anything contained in this section or elsewhere in this declaration to the contrary notwithstanding, the A.C.C. and its duly authorized representative, is hereby authorized and empowered at its sole and absolute discretion, to make and permit reasonable modifications of and deviations from any of the requirements of the declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any subdivision lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of the committee or its duly authorized representative, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the subdivision and its improvements as a whole.

The Architectural Control Committee may require the submission of such documents and items (including such examples but without limitation, written request for description of the variances requested, plans, specifications, plot plans and samples of materials), as it shall deem appropriate, in connection with its consideration of a request for a variance. If the A.C.C. shall approve such request for a variance and grant its permission for such variance, it must be by written instrument, signed by a majority of the members of the A.C.C. (or by the committee's duly authorized representative), addressed to the owner of the lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the A.C.C. to permit the variance, describing when applicable and the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the A.C.C. or (b) failure by

the A.C.C to respond to the request for variance. In the event the A.C.C or any successor to the authority thereof shall not then be functioning and/or the term Architectural Control Committee shall have expired and the board of directors of the association shall not have succeeded to the authority thereof as herein provided, no variances from the covenants of this declaration shall be permitted, it being the intention of the Declarant that no variances be available except at the discretion of the A.C.C, or if it shall have succeeded to the authority of the A.C.C in the manner provided herein. The A.C.C shall have no authority to approve any variance except as expressly provided in this declaration.

**Section 2. Committee Membership**

The A.C.C members shall be composed of directors of the association and shall be three in number. By majority vote, they may designate a representative to act for them. The address for the A.C.C is: 1750 North Falls Dr, New Ulm TX 78950. The current members of the A.C.C. as of the date hereof, are: Dave Swalm, Beth Swalm, and Claude Manning.

**Section 3. Replacement**

In the event of death or resignation of any member or members of said committee, the remaining number of members shall appoint by recorded instrument a successor member or members, and until such successor member or members shall have been appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

**Section 4. Minimum Construction Standards.**

The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards provided, however that such outline will serve as a minimum guideline and the A.C.C shall not be bound thereby.

**Section 5. Term**

The duties and powers of the A.C.C and of the designated representative shall cease on or after 20 years from the date of this instrument. Thereafter, the approval described in this covenant shall not be required, and all power vested in said Committee by this covenant shall cease and terminate. Provided that any time after January 1, 2025, by 2/3 vote of members present and voting The Falls Owners Association or generally elected Committee may assume the duties and powers of the Architectural Control Committee.

STATE OF TEXAS                      COUNTY OF COLORADO  
I hereby certify that this instrument was FILED on the  
date and time stamped hereon by me; and was duly  
RECORDED to the Volume and Page of the OFFICIAL  
RECORDS of Colorado County, Texas and stamped  
hereon by me, on

DEC 28 2006



*Darlene Hayek*  
DARLENE HAYEK  
COUNTY CLERK, COLORADO COUNTY, TEXAS



**AMENDMENT TO DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
THE FALLS**

STATE OF TEXAS           §  
  §  
COUNTY OF COLORADO §

WITNESSETH:

WHEREAS, the Declaration of Covenants, Conditions and Restrictions, The Falls, Section One (1) and Section Two (2) was recorded under **Volume 492, Page 181** of the Real Property Records of Colorado County, Texas (as amended and/or supplemented, hereinafter referred to as the "Declaration"); and purported amendments to the Declaration were recorded under Volume 154, Page 335, Volume 307, Page 130, and Volume 545, Page 423, all in the Real Property Records of Colorado County, Texas;

WHEREAS, the Owners, as defined in The Declaration, and as specifically permitted by TEX. PROP. CODE § 209.0041, desired to amend the Declaration pursuant to this document (the "Amendment to Declaration");

WHEREAS, TEX. PROP. CODE § 209.0041 (h-1) provides that if a declaration contains a percentage lower than 67, said percentage controls with regard to an amendment to a declaration, and the Declaration contains a percentage of a majority;

WHEREAS, the Articles of Incorporation and Bylaws of The Falls Owners Association, Inc. (the "Association") allocate one (1) vote per Lot to the members of the Association;

WHEREAS, property owners representing no less than a majority of the total votes allocated to property owners entitled to vote on the amendment of the Declaration voted in favor of amending the Declaration as set forth herein below at a duly noticed and called meeting of the members of the Association on February 24, 2018;

NOW, THEREFORE, the Declaration is hereby amended as follows:

**Article IV, Sections 2 and 3** of the Declaration formerly provided as follows:

**Section 2. Committee Membership** The A.C.C. members shall be composed of directors of the association and shall be three in number. By majority vote, they may designate a representative to act for them. The address for the A.C.C. is: 1750 North Falls Drive, New Ulm TX 78950. The current members of the A.C.C. as of the date hereof, are: Dave Swalm, Beth Swalm, and Claude Manning.

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**Section 3. Replacement** In the event of death or resignation of any member or members of said committee, the remaining number of members shall appoint by recorded instrument a successor member or members, and until such successor member or members shall have been appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Said sections have been deleted and replaced with the following:

**Section 2. A.C.C. Membership** The A.C.C. shall consist of three (3) members, who may or may not also be members of the Association. The members of the A.C.C. shall be appointed by a majority of the Board of Directors of the Association at a meeting duly noticed and called at which Owners may be present. Upon any vacancy of any A.C.C. position, the successor may be appointed by a majority of the Board of Directors to fill the vacant term. The Board of Directors shall have the authority to remove at any time any member of the A.C.C. at the sole discretion of the Board. The address for the A.C.C. is: P.O. Box 1304 New Ulm, TX 78950

**Section 3.** Intentionally Omitted.

**Article IV, Section 5** of the Declaration formerly provided as follows:

**Section 5. Term** The duties and powers of the A.C.C. and of the designated representative shall cease on or after 20 years from the date of this instrument. Thereafter, the approval described in this covenant shall not be required, and all power vested in said Committee by this covenant shall cease and terminate. Provided that any time after January 1, 2025, by 2/3 vote of members present and voting The Falls Owners Association or generally elected Committee may assume the duties and powers of the Architectural Control Committee.

Said sections has been deleted and replaced with the following:

**Section 5. Term** Each member of the A.C.C. shall serve a term of years as designated by resolution of a majority of the Board of Directors of the Association from time to time. Each member shall serve until his or her successor has been appointed by the Board of Directors.

**CERTIFICATION:**

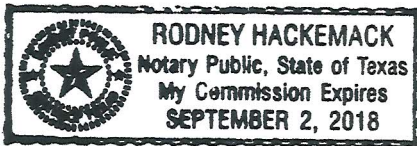
I *Tracy Long*, Secretary of The Falls Owners Association, Inc. (the "Association"), hereby certify that on or about February 24, 2018, property owners representing not less than a majority of the total votes allocated to the property owners in the Association voted in favor of adopting the foregoing amendments to the Declaration.

Dated 06 MAR 2018

*Tracy Long*  
(Signature)  
Printed Name: TRACY LONG  
Secretary, The Falls Owners Association, Inc.

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF Austin   §

This instrument was acknowledged before me on the 6<sup>th</sup> day of ~~February~~ <sup>March</sup>, 2018, by *Tracy Long*, Secretary of The Falls Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.



*Rodney Hackemack*  
Notary Public in and for The State of Texas

SECRETARY'S CERTIFICATE OF FILING

I, Tracy Long, certify that:

I am the duly qualified and acting secretary of The Falls Owners Association, Inc., a duly organized and existing Texas non-profit corporation.

The foregoing instrument is an original unrecorded Dedicatory Instrument, as that term is defined by Section 202.001 of the Texas Property Code, pertaining to The Falls Owners Association, Inc.

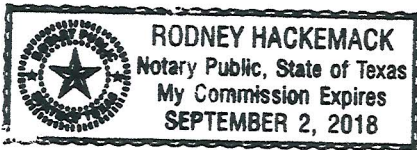
The foregoing instrument is being presented for recording in the Official Public Records of Real Property of Colorado County, Texas, pursuant to Section 202.006 of the Texas Property Code.

Dated: 06 MAR 2018

Tracy Long  
(Signature)  
Printed Name: TRACY LONG  
Secretary, The Falls Owners Association, Inc.

THE STATE OF TEXAS §  
  §  
COUNTY OF AUSTIN §

This instrument was acknowledged before me on the 6<sup>th</sup> day of ~~February~~ <sup>March</sup>, 2018, by Tracy Long, Secretary of The Falls Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.



Rodney Hackemack  
Notary Public in and for The State of Texas

STATE OF TEXAS      COUNTY OF COLORADO  
I hereby certify that this instrument was FILED on the  
date and time stamped hereon by me, and was duly  
RECORDED to the Volume and Page of the OFFICIAL  
RECORDS of Colorado County, Texas and stamped  
hereon by me, on

MAR - 9 2018

VOL 861 PAGE 235



Kimberly Menke  
KIMBERLY MENKE  
COUNTY CLERK, COLORADO COUNTY, TEXAS

FILED FOR RECORD  
COLORADO COUNTY, TX  
2018 MAR - 7 AM 11:59  
KIMBERLY MENKE  
COUNTY CLERK

976

**MANAGEMENT CERTIFICATE  
OF  
THE FALLS OWNERS ASSOCIATION, INC.**

This Management Certificate, pursuant to Section 209.004 of the Texas Property Code, hereby supercedes and replaces any prior management certificates applicable to the property described below and all such prior management certificates are hereby revoked.

1. The name of the subdivision is: **The Falls, Sections One, Two and Three.**
2. The name of the association is: **The Falls Owners Association, Inc.,** a Texas non-profit corporation.
3. The recording data for the subdivision is as follows:

**All those certain residential lots in a tract of land in the Charles Fritsche Survey, Abstract No. A-199, and the Peter Piper Survey, Abstract No. A-447, and the Robert H. Tobin Survey, Abstract No. A-.S.51, in Colorado County, Texas.**

**The plat for Section 1 was recorded under Slide No. 63 of the Map Records of Colorado County, Texas; and the Replat recorded under Plat #85, Side 2 and Plat #86, Sides 1 and 2.**

**The plat for Section 2 was recorded under Slide No. 62 of the Map Records of Colorado County, Texas; and the Replat recorded under Plat #84, Sides 1 and 2.**

**The plat for Section 3 was recorded under Slide No. 81 of the Map Records of Colorado County, Texas.**

4. The recording data for the declaration and all amendments are as follows:

**Declaration of Covenants, Conditions and Restrictions for The Falls, Section One (1) and Section Two (2), recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 492, Page 181;**

**Amendment No. One to Declaration of Covenants, Conditions and Restrictions for The Falls, Section One (1) and Section Two (2), recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 154, Page 335;**

**Amendment to Declaration of Covenants, Conditions and Restrictions for The Falls, Section One (1) and Section Two (2), recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 307, Page 130;**

**Amendment to Declaration of Covenants, Conditions and Restrictions for The Falls, Section One (1) and Section Two (2), recorded in the Official Public Records of Real Property of Colorado County, Texas under Document No. 6238, in Volume 545, Page 423;**

**Amendment to Declaration of Covenants, Conditions and Restrictions for The Falls, recorded in the Official Public Records of Real Property of Colorado County, Texas under Document No. 976, in Volume 861, Page 232.**

5. The name and mailing address of the Association is as follows:

**c/o Registered Agent William C. Hargrave  
102 Masters Court  
New Ulm, Texas 78950**

6. The name, mailing address, telephone number and e-mail address of the person managing the Association or the Association's designated representative is as follows:

**Rochelle Wiley  
201 Seminole Dr.  
New Ulm, TX 78950  
(979) 992-3739  
wiley@industryinet.com**

7. The website address of the Internet website on which the association's dedicatory instruments are available in accordance with Section 207.006 is as follows:

**www.hoathefalls.com**

8. The amount and description of any fees charged by the Association relating to a property transfer in the subdivision is as follows:

**None.**

9. Other information the association considers appropriate is as follows:

**First Amendment to the Bylaws of the Falls Owners Association, Inc., recorded in the Official Public Records of Real Property of Colorado County, Texas under County Clerk's file No. 22227, Volume 16, Page 281;**

**Lot Owner Recreational Maintenance Fee Covenant, recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 632, Page 039;**

**Second Amendment to the By-Laws of The Falls Owners Association, Inc., recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 751, Page 006;**

**Third Amendment to the By-Laws of The Falls Owners Association, Inc., recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 824, Page 805; and**

**Notice of Declarant and Developer Rights The Falls Subdivision, recorded in the Official Public Records of Real Property of Colorado County, Texas in Volume 857, Page 788.**

EXECUTED this 31<sup>st</sup> day of August, 2021.

THE FALLS OWNERS ASSOCIATION, INC.

By:   
Rochelle Wiley, Secretary

THE STATE OF TEXAS

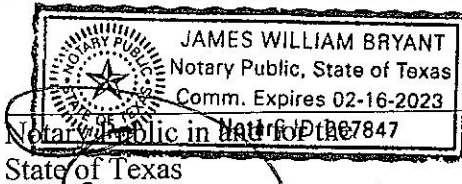
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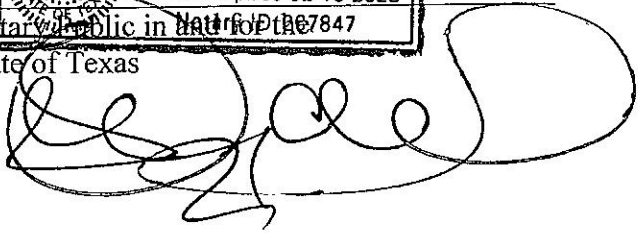
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COUNTY OF COLORADO

§

This instrument was acknowledged before me on the 31<sup>st</sup> day of August, 2021, by Rochelle Wiley, Secretary, of The Falls Owners Association, Inc., a Texas non-profit corporation, on behalf of the corporation.





RETURN TO:  
Neil H. McLaurin IV  
Katine Nechman McLaurin LLP  
1834 Southmore Boulevard  
Houston, Texas 77004  
(713) 808-1000

3880  
FILED FOR RECORD  
COLORADO COUNTY CLERK

2021 SEP -1 AM 9:56

KIMBERLY MENKE  
COUNTY CLERK

*CR*

*[Faint, illegible text]*