

THE STATE OF TEXAS §

COUNTIES OF KENT
AND GARZA

§

Amended Declaration of Restrictive Covenants
(Rio Brazos Estates)

WHEREAS, **ASHLEY AND FAGAN INVESTMENTS COMPANY, INC.**, a Delaware Corporation, (hereinafter referred to as "Declarant"), is the present owner of that certain 200.000 acre tract of land lying and being situated in Kent and Garza Counties, Texas, and being more particularly described on Exhibit "A" which is attached hereto and incorporated herein (and being known as the "Rio Brazos Estates"); and,

WHEREAS, Declarant deems it to be in the best interests of Declarant and of any person who may hereafter purchase any or all of said lands, that there be established and maintained a uniform plan for the improvement, use and development of the land; and,

WHEREAS, Declarant has previously filed a "Declaration of Restrictive Covenants" dated June 23, 2000, covering such property, recorded in Volume 250, Page 1088, Deed Records, Garza County, Texas, and in Volume 3, Page 698, Official Public Records, Kent County, Texas; and, Declarant now desires to amend and modify such Restrictive Covenants as hereafter provided and to provide and establish that such Restrictive Covenants cover only the 200.00 acre tract of land described on Exhibit "A" attached hereto;

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, Declarant does hereby ADOPT, IMPOSE and IMPRESS upon each lot which may now or hereafter be subdivided within the lands described on Exhibit "A", the restrictive covenants as set forth below, which shall be binding upon each and every owner of a lot or lots, their heirs, representatives, successors and assigns.

For the purposes hereof, the following terms shall have the following meanings:

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any portion of the Subject Tract, but, excluding those having such interest merely as a security for the performance of an obligation.

“Subject Tract” shall mean and refer to all or part of that certain real property described on Exhibit “A” which is attached hereto and which is also known as the “Rio Brazos Estates”.

“Lot” shall mean and refer to that portion of any of the Subject Tract sold as a unit, or consolidated into one tract by separate purchases of contiguous tracts by the same Owner.

“Declarant” shall mean and refer to ASHLEY AND FAGAN INVESTMENTS COMPANY, INC., a Delaware Corporation, its successors and assigns.

Declarant hereby imposes and impresses upon the Subject Tract, the following restrictive covenants:

1. Residential Purposes Only. All lots within the Subject Tract shall be used for residential purposes only, and no business or commercial enterprises of any kind shall be constructed, operated or permitted on any such lot or lots. No structure of any kind shall be erected, placed, or permitted to remain on any of the said lots other than one detached, single family dwelling, together with a garage and any structures for well houses, shop or storage buildings or buildings for the protection and storage of boats and watercrafts.

2. Offensive Behavior. No noxious or offensive behavior or activity shall be permitted upon any lot or lots, nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood, or which is illegal, dangerous or immoral, or which, in the sole judgment of Declarant and/or the Architectural Control Committee (as defined herein), shall have the effect of degrading the environment or character of the Subject Tract.

3. Vehicles/Trailers. No lot shall be used as a depository for abandoned or junked motor vehicles. No junk of any kind or character, or any accessories, parts or objects used with cars, buses, trucks, travel trailers, mobile homes, or the like, shall be kept on any lot, other than in a garage, or other structure approved by the Architectural Control Committee.

4. Waste or Refuse. No lot shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept, except in sanitary containers.

5. Minimum Size of Residence. All dwellings shall contain at least one thousand two hundred fifty square feet (1,250 sq. ft.) of living area, exclusive of any garages, breeze-ways, porches and any outbuildings. No trailer, mobile

home, tent, shack, garage, shed or other outbuilding shall ever be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

6. Type of Construction. All dwellings, garages and other private outbuildings shall be constructed of brick, stone, wood siding, metal siding, vinyl siding, adobe or stucco on all outside walls and no asbestos siding shall be used, unless approval to the contrary is obtained as described hereinbelow. Additionally, such buildings may also be constructed of a "log cabin" type design. Corrugated metal shall be permitted on well houses, storage buildings, work shops and related structures, so long as such metal is of a color other than natural zinc coating. "Ready-built" homes shall be permitted; however, no "modular" or "manufactured housing" shall be permitted on the Subject Tract at any time. Detached garages or other outbuildings shall not exceed the height of the primary residential unit, unless approved to the contrary is granted by the Architectural Control Committee.

7. Roof Construction. The roof of any dwelling, garage or other private outbuilding shall be constructed of wood shingles, clay tile, metal, or flexible brown composition shingles not below a grade of 340 pounds per square. No asbestos shingles shall be permitted. This section shall not be construed to mean that the use of solar collective panels or other energy conservation devices is prohibited when used in conjunction with the building of the principal residential structure on an individual lot.

8. Architectural Control Committee. No dwelling, buildings or other improvements, shall be erected or altered on any lot until the building plans, specifications, and plat plan showing the location of all such improvements have been approved, in writing, as to the locations, conformity and harmony of external design by the Architectural Committee appointed by the Developer of the Rio Brazos Estates. Such approval shall be indicated by the signature of the Architectural Committee Chairman on the plans and specifications or in his absence, any other duly appointed member of the Architectural Committee. Refusal of approval of plans and specifications by the Architectural Control Committee may be based on any ground, including, but not limited to, purely aesthetic grounds, which in the sole and uncontrolled discretion of the Architectural Control Committee shall seem sufficient.

9. Surface Mining. It is expressly forbidden by these restrictions to mine surface or subsurface minerals by strip-mining or by any other method, for resale from any lot within the Subject Tract. This restriction is inclusive of caliche or other similarly known soil materials. This restriction does not prohibit the pumping of ground water for consumption upon the lot wherein the well is located.

10. Lot Size. Upon completion of the initial sale of each and every lot within the Subject Tract, further subdividing of the original lots by the owners of record at such time shall be prohibited, unless approved, in writing, by Declarant. In no event shall any subdivided lot so permitted, be less than 2.0 acres.

11. Livestock. Since it is the established intent of the Rio Brazos Estates to provide quality residential development sites, neither the construction of any livestock related facility nor the keeping of any livestock, (including, but not limited to, cattle, horses, swine or any other livestock), will be permitted on any individual lot. In no instance will completion and occupancy of a livestock related facility be permitted before substantial completion on the residential structure. Discretionary control shall reside with the Architectural Committee. No cattle, horses, sheep, goats, chickens, ostriches, emus, hogs or any other poultry shall be permitted on the Subject Tract.

12. Drainage. Care shall be taken in the design and lot location of each structure to insure that existing surface drainage patterns in the are not adversely affected. If required by the Architectural Committee, the builder or owner of any structure in question shall submit for review and approval an improvement survey of the subject lot which shall delineate the proposed changes in grade so that the Committee may ascertain compliance with the intention of this item. Enforcement of this item shall include any and all surface water storage facilities; the intent being not to allow the construction of any earthen tank or similar impoundment which would alter the existing surface drainage patterns to the detriment of existing channels or pools of water.

13. Water Well. In the event a water well is drilled on any lot, the size of the pump shall not exceed one inch (1") in capacity and such well shall be of standard construction and shall be cased in a workmanlike manner from the surface of the ground to the producing strata. Such well shall be installed in a manner so as to prevent contamination of the underground water supply. Any such well shall be located not less than fifty feet (50') from the rear line of the lot. The septic system on each lot shall be located at least one hundred fifty linear feet (150') away from the site of any water well on such lot.

14. Septic System. Strict adherence to the regulations governing the installation of sewage septic systems, as promulgated by the State of Texas and the Counties of Kent and Garza, shall be required of all individual lot owners. The septic system on any lot shall be located in such a manner that the nearest point of any portion of the system, including the absorption field, shall not be less than one hundred fifty feet (150'), measured in a straight line, from the water well on said lot. The same separation provision shall apply to adjoining lots.

15. Flood Easements and Restrictions. Declarant stipulates that the Subject Tract is presently subject to the restrictions, flood easements and rights as set out in a Warranty Deed dated August 24, 1989 from Mary Ellen Headstream and husband, J.W. Headstream, to The City of Lubbock, Texas, recorded in Volume 183, Page 787, Deed Records, Garza County, Texas and in Volume 195, Page 707, Deed Records, Kent County, Texas. Each owner shall be required to strictly comply with all of the terms, restrictions, covenants and conditions contained therein, including any setback requirements, elevation requirements and with any and all other rules and regulations which may now or hereafter be promulgated by the City of Lubbock.

16. Setback Requirements. No part of any dwelling, garage or other outbuilding shall extend closer than the Setback Restrictions as reflected on the survey of the Subject Tract; reference to survey being incorporated herein for all purposes.

17. Boat Docks. The City of Lubbock, at its discretion, may grant permits for the construction of any boat docks. Any such boat docks must be constructed in strict compliance with all rules and regulations imposed by the City of Lubbock.

18. Underground Electric Utility Lines. Big Country Electric Cooperative, Inc. will install above-ground electric utility lines to designated areas within the Subject Tract; and will then construct and install underground electric utility lines from each such designated location to the property line of each lot. The owner of each lot shall be responsible for the cost of installing underground electric lines from each lot line to any residence which may now or hereafter be constructed on the Subject Tract. No above-ground utilities or overhead powerlines shall be permitted on any lot.

19. Horseback Riding, Hiking, Off-Road Vehicles. All lot owners shall be entitled to ride horses and to hike along any trails on the remainder of the Subject Tract not sold by the developer of Rio Brazos Estates to any other party. Each lot owner shall assume all risk and liability associated with such activities and the developer of the Rio Brazos Estates shall in no event be liable for any injury or accidents occurring during such activity. No four-wheelers, motorcycles or any other type of off-road vehicle are permitted to be operated on any roads or on any remaining portions of the Subject Tract at any time; however, each lot owner shall be permitted to operate such vehicles on his respective property

20. Hunting. No hunting shall be permitted at any time on any of the Subject Tract. Firearms may be kept in each residence, but shall not be allowed on any portion of the Subject Tract which provides for a common access to and from any lot.

21. Access to Boat Ramps and Park Areas. Each owner of any property located within any of the lands described in the following Warranty Deeds:

(a) Warranty Deed dated March 23, 2000 executed by Carol Sue Reed to Ashley and Fagan Investments Co., Inc., recorded in Volume 249, Page 1013, Deed Records, Garza County, Texas, and in Volume 2, Page 289, Official Public Records, Kent County, Texas.

(b) Warranty Deed dated March 23, 2000 executed by John E. Reed, Jr. and wife, Stacy Reed, to Ashley and Fagan Investments Co., Inc., recorded in Volume 249, Page 1016, Deed Records, Garza County, Texas, and in Volume 2, Page 292, Official Public Records, Kent County, Texas;

shall be entitled to utilize the Boat Ramp and Park Area to be located on the 200.0 acre tract of land described on Exhibit "A" attached hereto; and, the property shall be subject to the joint and mutual rights of any such property owners to utilize the Boat Ramps and Park Area, together with all access easements associated with such use.

22. Term of Restrictive Covenants. These restrictive covenants shall run with the Subject Tract and all lots, and shall be binding on all persons claiming under them for a period of thirty (30) years from the date these protective covenants are recorded, after which time said covenants shall be automatically extended for successive periods of thirty (30) years unless an instrument signed by a majority of the then owners of the lots, has been recorded in the Deed Records of the counties in which the lots are situated, agreeing to change or amend these restrictive covenants, in whole or in part.

23. Enforcement of Restrictive Covenants. Enforcement of the restrictive covenants shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Invalidation of any one of these restrictive covenants by judgment or a court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

24. Release of Restrictions as to Remaining Lands. The initial "Declaration of Restrictive Covenants" dated June 23, 2000 previously executed by Declarant, recorded in Volume 250, Page 1088, Deed Records, Garza County, Texas, and in Volume 3, Page 698, Official Public Records, Kent County, Texas, covered certain lands described on Exhibit "A" which was attached thereto. Declarant hereby RESCINDS and RELEASES all such restrictions insofar as they cover all lands described therein, SAVE AND EXCEPT however, for the 200.00 acre tract described on Exhibit "A" which is

attached to these Amended Restrictions.

25. Amended Restrictions. These Restrictions shall AMEND, MODIFY and SUPERCEDE the original "Declaration of Restrictive Covenants" dated June 23, 2000 described above.

EXECUTED this _____ day of _____, 2001.

INVESTMENTS

**ASHLEY AND FAGAN
COMPANY, INC.**

By: _____ **LAWAYNE FAGAN,**
President

THE STATE OF TEXAS §

COUNTY OF SCURRY §

This instrument was acknowledged before me on the _____ day of _____, 2001 by **LAWAYNE FAGAN**, as President of **ASHLEY AND FAGAN INVESTMENTS COMPANY, INC.**, a Delaware Corporation, on behalf of said corporation.

My commission expires:

Notary Public in and for
the State of Texas

BOBBIE\REALEST\B553A

Exhibit "A"

**attached to and made a part of
Amended Declaration of Restrictive Covenants – Rio Brazos Estates**

INVESTMENTS

**ASHLEY AND FAGAN
COMPANY, INC.**

President
BOBBIE\REALEST\B553A

COUNTY OF KENT §

WHEREAS, **ASHLEY AND FAGAN INVESTMENTS COMPANY, INC.**, a Delaware Corporation, (hereinafter referred to as “Declarant”), is the present owner of that certain 267.169 acre tract of land lying and being situated in Kent County, Texas, and being more particularly described on Exhibit “A” which is attached hereto and incorporated herein (and being known as the “Rio Brazos Estates Phase 2”); and,

WHEREAS, Declarant deems it to be in the best interests of Declarant and of any person who may hereafter purchase any or all of said lands, that there be established and maintained a uniform plan for the improvement, use and development of the land; and,

WHEREAS, Declarant has previously filed a Plat of Rio Brazos Estates Phase 2 of record in Volume 1, Page 46, Plat Records, Kent County, Texas;

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, Declarant does hereby ADOPT, IMPOSE and IMPRESS upon each lot which may now or hereafter be subdivided within the lands described on Exhibit "A", the restrictive covenants as set forth below, which shall be binding upon each and every owner of a lot or lots, their heirs, representatives, successors and assigns.

For the purposes hereof, the following terms shall have the following meanings:

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any portion of the Subject Tract, but, excluding those having such interest merely as a security for the performance of an obligation.

"Subject Tract" shall mean and refer to all or part of that certain real property described on Exhibit "A" which is attached hereto and which is also known as the "Rio Brazos Estates Phase 2", as shown and dedicated on the Plat of Rio Brazos Estates Phase 2, recorded in Volume 1, Page 46, Plat Records, Kent County, Texas.

"Lot" shall mean and refer to that portion of any of the Subject Tract sold as a unit, or consolidated into one tract by separate purchases of contiguous tracts by the same Owner.

"Declarant" shall mean and refer to ASHLEY AND FAGAN INVESTMENTS COMPANY, INC., a Delaware Corporation, its successors and assigns.

Declarant hereby imposes and impresses upon the Subject Tract, the following restrictive covenants:

1. Residential Purposes Only. All lots within the Subject Tract shall be used for residential purposes only, and no business or commercial enterprises of any kind shall be constructed, operated or permitted on any such lot or lots. No

structure of any kind shall be erected, placed, or permitted to remain on any of the said lots other than one detached, single family dwelling, together with a garage and any structures for well houses, shop or storage buildings or buildings for the protection and storage of boats and watercrafts.

2. Offensive Behavior. No noxious or offensive behavior or activity shall be permitted upon any lot or lots, nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood, or which is illegal, dangerous or immoral, or which, in the sole judgment of Declarant and/or the Architectural Control Committee (as defined herein), shall have the effect of degrading the environment or character of the Subject Tract.

3. Vehicles/Trailers. No lot shall be used as a depository for abandoned or junked motor vehicles. No junk of any kind or character, or any accessories, parts or objects used with cars, buses, trucks, travel trailers, mobile homes, or the like, shall be kept on any lot, other than in a garage, or other structure approved by the Architectural Control Committee.

4. Waste or Refuse. No lot shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept, except in sanitary containers.

5. Minimum Size of Residence. All dwellings shall contain at least one thousand two hundred fifty square feet (1,250 sq. ft.) of living area, exclusive of any garages, breeze-ways, porches and any outbuildings. No trailer, mobile home, tent, shack, garage, shed or other outbuilding shall ever be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

6. Type of Construction. All dwellings, garages and other private outbuildings shall be constructed of brick, stone, wood siding, metal siding, vinyl siding, adobe or stucco on all outside walls and no asbestos siding shall be used, unless approval to the contrary is obtained as described hereinbelow. Additionally, such buildings may also be constructed of a "log cabin" type design. Corrugated metal shall be permitted on well houses, storage buildings, work shops and related structures, so long as such metal is of a color other than natural zinc coating. "Ready-built" homes shall be permitted; however, no "modular" or "manufactured housing" shall be permitted on the Subject Tract at any time. Detached garages or other outbuildings shall not exceed the height of the primary residential unit, unless approved to the contrary is granted by the Architectural Control Committee.

7. Roof Construction. The roof of any dwelling, garage or other private outbuilding shall be constructed of wood shingles, clay tile, metal, or

flexible brown composition shingles not below a grade of 340 pounds per square. No asbestos shingles shall be permitted. This section shall not be construed to mean that the use of solar collective panels or other energy conservation devices is prohibited when used in conjunction with the building of the principal residential structure on an individual lot.

8. Architectural Control Committee. No dwelling, buildings or other improvements, shall be erected or altered on any lot until the building plans, specifications, and plat plan showing the location of all such improvements have been approved, in writing, as to the locations, conformity and harmony of external design by the Architectural Committee appointed by the Developer of the Rio Brazos Estates Phase 2. Such approval shall be indicated by the signature of the Architectural Committee Chairman on the plans and specifications or in his absence, any other duly appointed member of the Architectural Committee. Refusal of approval of plans and specifications by the Architectural Control Committee may be based on any ground, including, but not limited to, purely aesthetic grounds, which in the sole and uncontrolled discretion of the Architectural Control Committee shall seem sufficient.

9. Surface Mining. It is expressly forbidden by these restrictions to mine surface or subsurface minerals by strip-mining or by any other method, for resale from any lot within the Subject Tract. This restriction is inclusive of caliche or other similarly known soil materials. This restriction does not prohibit the pumping of ground water for consumption upon the lot wherein the well is located.

10. Prohibition on Resubdivision. No lot owner may resubdivide or sell a portion of any dedicated lot as set out on the Plat of Rio Brazos Estates Phase 2.

11. Livestock. Since it is the established intent of the Rio Brazos Estates to provide quality residential development sites, neither the construction of any livestock related facility nor the keeping of any livestock, (including, but not limited to, cattle, horses, swine or any other livestock), will be permitted on any individual lot. In no instance will completion and occupancy of a livestock related facility be permitted before substantial completion on the residential structure. Discretionary control shall reside with the Architectural Committee. No cattle, horses, sheep, goats, chickens, ostriches, emus, hogs or any other poultry shall be permitted on the Subject Tract.

12. Drainage. Care shall be taken in the design and lot location of each structure to insure that existing surface drainage patterns in the are not adversely affected. If required by the Architectural Committee, the builder or owner of any structure in question shall submit for review and approval an

improvement survey of the subject lot which shall delineate the proposed changes in grade so that the Committee may ascertain compliance with the intention of this item. Enforcement of this item shall include any and all surface water storage facilities; the intent being not to allow the construction of any earthen tank or similar impoundment which would alter the existing surface drainage patterns to the detriment of existing channels or pools of water.

13. Water Well. In the event a water well is drilled on any lot, the size of the pump shall not exceed one inch (1") in capacity and such well shall be of standard construction and shall be cased in a workmanlike manner from the surface of the ground to the producing strata. Such well shall be installed in a manner so as to prevent contamination of the underground water supply. Any such well shall be located not less than fifty feet (50') from the rear line of the lot. The septic system on each lot shall be located at least one hundred fifty linear feet (150') away from the site of any water well on such lot.

14. Septic System. Strict adherence to the regulations governing the installation of sewage septic systems, as promulgated by the State of Texas and the County of Kent, shall be required of all individual lot owners. The septic system on any lot shall be located in such a manner that the nearest point of any portion of the system, including the absorption field, shall not be less than one hundred fifty feet (150'), measured in a straight line, from the water well on said lot. The same separation provision shall apply to adjoining lots.

15. Flood Easements and Restrictions. Declarant stipulates that the Subject Tract is presently subject to the restrictions, flood easements and rights as set out in a Warranty Deed dated August 24, 1989 from Mary Ellen Headstream and husband, J.W. Headstream, to The City of Lubbock, Texas, recorded in Volume 183, Page 787, Deed Records, Garza County, Texas and in Volume 195, Page 707, Deed Records, Kent County, Texas. Each owner shall be required to strictly comply with all of the terms, restrictions, covenants and conditions contained therein, including any setback requirements, elevation requirements and with any and all other rules and regulations which may now or hereafter be promulgated by the City of Lubbock.

16. Setback Requirements. No part of any dwelling, garage or other outbuilding shall extend closer than the Setback Restrictions as reflected on the survey of the Subject Tract; reference to survey being incorporated herein for all purposes.

17. Boat Docks. The City of Lubbock, at its discretion, may grant permits for the construction of any boat docks. Any such boat docks must be constructed in strict compliance with all rules and regulations imposed by the City of Lubbock.

18. Underground Electric Utility Lines. Big Country Electric Cooperative, Inc. will install above-ground electric utility lines to designated areas within the Subject Tract; and will also construct and install underground electric utility lines from each such designated location to the property line of each lot. The owner of each lot shall be responsible for the cost of installing underground electric lines from each lot line to any residence which may now or hereafter be constructed on the Subject Tract. No above-ground utilities or overhead powerlines shall be permitted on any lot.

19. Horseback Riding, Hiking, Off-Road Vehicles. All lot owners shall be entitled to ride horses and to hike along any trails on the remainder of the Subject Tract not sold by the developer of Rio Brazos Estates Phase 2 to any other party. Each lot owner shall assume all risk and liability associated with such activities and the developer of the Rio Brazos Estates Phase 2 shall in no event be liable for any injury or accidents occurring during such activity. No four-wheelers, motorcycles or any other type of off-road vehicle are permitted to be operated on any roads or on any remaining portions of the Subject Tract at any time; however, each lot owner shall be permitted to operate such vehicles on his respective property

20. Hunting. No hunting shall be permitted at any time on any of the Subject Tract. Firearms may be kept in each residence, but shall not be allowed on any portion of the Subject Tract which provides for a common access to and from any lot.

21. Access to Boat Ramps and Park Areas. Each owner of any property located within any of the lands described in the following Warranty Deeds:

(a) Warranty Deed dated March 23, 2000 executed by Carol Sue Reed to Ashley and Fagan Investments Co., Inc., recorded in Volume 249, Page 1013, Deed Records, Garza County, Texas, and in Volume 2, Page 289, Official Public Records, Kent County, Texas.

(b) Warranty Deed dated March 23, 2000 executed by John E. Reed, Jr. and wife, Stacy Reed, to Ashley and Fagan Investments Co., Inc., recorded in Volume 249, Page 1016, Deed Records, Garza County, Texas, and in Volume 2, Page 292, Official Public Records, Kent County, Texas;

shall be entitled to utilize the Boat Ramp and Park Area to be located on the 267.169 acre tract of land described on Exhibit "A" attached hereto; and/or on the 200.00 acre tract of land known as Rio Brazos Estates as described in Amended Declaration of Restrictive Covenants recorded in Volume 8, Page 793, Official

Public Records, Kent County, Texas; and, the Subject Tract shall be burdened by the joint and mutual rights of any such property owners to utilize the Boat Ramps and Park Area, together with all access easements associated with such use.

22. Dedication of Water Pipeline Easements and Utility Easements. Declarant hereby dedicates the Water Pipeline Easements and Utility Easements as shown on the Plat of Rio Brazos Estates Phase 2 and each lot owner shall receive title to such property, subject to the easements and rights as shown and dedicated on said Plat; and, in addition thereto, Declarant hereby dedicates, as a utility easement in favor of Big Country Electric Cooperative, Inc., an overhead power line easement across Tracts Nos. 121, 122, 123 and 124 of Rio Brazos Estates Phase 2; more particularly described by metes and bounds on Exhibit "B" which is attached hereto and incorporated herein.

23. Term of Restrictive Covenants. These restrictive covenants shall run with the Subject Tract and all lots, and shall be binding on all persons claiming under them for a period of thirty (30) years from the date these protective covenants are recorded, after which time said covenants shall be automatically extended for successive periods of thirty (30) years unless an instrument signed by a majority of the then owners of the lots, has been recorded in the Official Public Records of Kent County, Texas, agreeing to change or amend these restrictive covenants, in whole or in part.

24. Enforcement of Restrictive Covenants. Enforcement of the restrictive covenants shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Invalidation of any one of these restrictive covenants by judgment or a court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

EXECUTED this 15th day of January, 2003.

INVESTMENTS

ASHLEY AND FAGAN
COMPANY, INC.

By: _____ LaWAYNE FAGAN,
President

THE STATE OF TEXAS §

COUNTY OF SCURRY

§

This instrument was acknowledged before me on the _____ day of January, 2003, by **LaWAYNE FAGAN**, as President of **ASHLEY AND FAGAN INVESTMENTS COMPANY, INC.**, a Delaware Corporation, on behalf of said corporation.

My commission expires:

Notary Public in and for
the State of Texas

BOBBIE\REALESTC101A

Exhibit "A"
attached to and made a part of
Amended Declaration of Restrictive Covenants – Rio Brazos Estates Phase 2

Being a 267.169 Acre Tract of Land of which 21.162 acres are within a 60' wide Access Road Easement in Sections 57 and 58, Block 5, H.& G.N. RR. CO. SURVEY, Kent and Garza Counties, Texas and being a part of that land in said sections conveyed to Ashley And Fagan Investments Co.,Inc. from John E. Reed, Jr. and wife, Stacy Reed by deed recorded in Volume 249, Page 1016, Deed Records of Kent County, Texas and being a part of that land in said sections conveyed to Ashley And Fagan Investments Co.,Inc. from Carol Sue Reed by deed recorded in Volume 249, Page 1013, Deed Records of Kent County, Texas, said 267.169 Acres being more particularly described as follows:

Beginning at a 1/2" Iron Rod/Cap marked "Stewart Surveying" found in the north line of said tract in Section 57 and being in a south line of a tract of land conveyed to the City of Lubbock by deed recorded in Volume 195, Page 707, Deed Records of Kent County, Texas and also recorded in Volume 183, Page 787, Deed Records of Garza County, Texas from which point a found 1-1/2" Iron Pipe set by F.M. German for the northeast corner of said Section 57 bears N.58_26'21"E. a distance of 1516.21 feet and N.17_40'34"E. for a distance of 666.08 feet;

Thence N 58_26'21"E. along a north line of this tract and along a south line of said City of Lubbock tract for a distance of 560.00 feet to a point for a corner of this tract;

Thence S 00_01'01"W along an east line of this tract for a distance of 3172.58

feet to a point for a corner of this tract;

Thence S 13_21'45"W along an east line of this tract for a distance of 904.66 feet to a point for a corner of this tract;

Thence S 01_37'15"W along an east line of this tract for a distance of 60.00 feet to a point in the south line of Section 57 and north line of Section 58 for a corner of this tract, from which point the southeast corner of Section 57 and northeast corner of Section 58 bears S 88_20'56"E a distance of 1079.80 feet;

Thence S 14_43'01"E along an east line of this tract for a distance of 994.51 feet to a point for a corner of this tract;

Thence S 01_37'15"W along an east line of this tract for a distance of 2588.22 feet to a point for a corner of this tract;

Thence N 88_21'38"W along a south line of this tract for a distance of 1416.26 feet to a point for a corner of this tract;

Thence S 29_07'29"E along an east line of this tract for a distance of 1546.49 feet to a point for a corner of this tract;

Thence S 26_44'27"W along an east line of this tract for a distance of 452.69 feet to a point in the south line of Section 58 and north line of Section 59 for the southeast corner of this tract from which point a 1-1/2" Iron Pipe set by F.M. German for the southeast corner of Section 58 bears S 88_21'38"E a distance of 1617.87 feet;

Thence N 88_21'38"W along a south line of this tract and along the south line of said Section 58 and along the north line of Section 59 as conveyed to Carol Sue Reed by deed recorded in Volume 210, Page 419 Deed Records of Kent County, Texas for a distance of 618.40 feet to a 1/2" Iron Rod/Cap marked "STEWART SURVEYING" found for the southwest corner of this tract and being the southeast corner of Tract 64 of the Survey of Rio Brazos Estates by Stewart Surveying Company dated May 2, 2000;

Thence N 26_44'27"E along a west line of this tract and a west line of a 60' wide Access Road and an east line of the 200.000 Acre tract of land hereafter called Rio Brazos Estates for a distance of 417.46 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 30_05'23"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 612.73 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found

for a corner of this tract;

Thence N.28_20'01"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 762.81 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N.72_06'37"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 476.95 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 01_48'18"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 519.98 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 14_16'42"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 391.41 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 50_10'41"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 1366.32 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 31_41'33"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 743.78 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 10_17'50"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 270.05 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 72_57'04"E along a north line of this tract and north line of said 60' wide Access Road and along a south line of said Rio Brazos Estates for a distance of 576.01 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence S 56_45'12"E along a north line of this tract and north line of said 60' wide Access Road and along a south line of said Rio Brazos Estates for a

distance of 280.07 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence S 19°59'14"E along a north line of this tract and north line of said 60' wide Access Road and along a south line of said Rio Brazos Estates for a distance of 380.79 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence S 82°48'09"E along a north line of this tract and north line of said 60' wide Access Road and along a south line of said Rio Brazos Estates for a distance of 2316.00 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 39°59'38"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 254.69 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 15°29'05"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 817.32 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 13°05'32"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 422.38 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 24°31'19"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates at a distance of 119.14 feet pass the north line of Section 58 and the south line of Section 57, from which point the northeast corner of said Section 58 bears S.88°20'56"E. a distance of 1680.64 feet continuing for a total distance of 271.55 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 76°48'12"E along a north line of this tract and north line of said 60' wide Access Road and along a south line of said Rio Brazos Estates for a distance of 85.70 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 12°46'36"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 161.16 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found

for a corner of this tract;

Thence N 11_54'00"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 718.55 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 25_23'23"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 704.06 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 00_07'24"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 1407.21 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 44_19'47"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 638.97 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 08_09'25"E along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 144.62 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for a corner of this tract;

Thence N 31_33'39"W along a west line of this tract and west line of said 60' wide Access Road and along an east line of said Rio Brazos Estates for a distance of 164.68 feet to a 1/2" Iron Rod/Cap marked "Stewart Surveying" found for the northeast corner of Tract 1 of Rio Brazos Estates and also being the place of beginning.

IDENTIFICATION:

INVESTMENTS

EXHIBIT "A" SIGNED FOR

ASHLEY AND FAGAN

COMPANY, INC.

By: _____ **LaWAYNE FAGAN,**

President
BOBBIEVREALESTC101A

Exhibit "B"
attached to and made a part of
Amended Declaration of Restrictive Covenants – Rio Brazos Estates Phase 2

UTILITY EASEMENT
TRACTS 121, 122, 123 & 124

Being a center-line description of an existing overhead power line with 5 poles and 3 guy wires in Section 57, Block 5, H.& G.N. RR. CO. SURVEY, Kent County, Texas and being on Tracts 121, 122, 123 and 124 of the Survey of Rio Brazos Estates Phase 2, as recorded in Volume 1, Page 46 of the Plat Records of Kent County, Texas, said center-line being as follows:

Beginning at a point in Tract 121 in the east line of a 10' wide Utility Easement as reserved by said plat of the Survey of Rio Brazos Estates Phase 2, from which point the southwest corner of said Tract 121 bears S 00_07'24"E a distance of 71.04 feet and S 89_52'36"W distance of 10.00 feet;

Thence N 13_45'04"E for a distance of 154.63 feet to a point of deflection to the left in Tract 121;

Thence N 16_43'29"W for a distance of 120.03 feet to a point of deflection to the right in Tract 121;

Thence N 35_58'04"E crossing Tracts 122 and 123 for a distance of 415.16 feet to a point in Tract 124 for the end of this description and being in the east line of a 10' wide Utility Easement as reserved by said plat of the Survey of Rio Brazos Estates Phase 2, from which point the southwest corner of said Tract 124 bears N 45_40'43"W a distance of 10.00 feet and S 44_19'47"W distance of 30.01 feet.

IDENTIFICATION:

INVESTMENTS

EXHIBIT "B" SIGNED FOR

ASHLEY AND FAGAN

COMPANY, INC.

By: _____ **LaWAYNE FAGAN,**

President
BOBBIEVREALESTVC101A