

203417

**RESTATED AND AMENDED
Declaration of Covenants, Conditions, and
Restrictions for COYOTE RUN SUBDIVISION**

Preamble

This Declaration of Covenants, Conditions, and Restrictions is made on the __ day of June, 2020, by AGUA DULCE HOLDINGS, LLC. (referred to as "Declarant"), whose mailing address is 605 North Tumbleweed Trail, Austin, Texas 78733.

Recitals

1. Declarant is the owner of all that certain real property ("the Property") located in Midland County, Texas, described as follows: COYOTE RUN SUBDIVISION, a subdivision of Martin County, Texas, according to the map or plat thereof recorded in Volume 4, Page 31A and 31B, of the Plat Records of Martin County, Texas.
2. The Declarant has devised a general plan for the entire Property as a whole, with specific provisions for particular parts and parcels of the Property. This general plan provides a common scheme of development designed to protect and safeguard the Property over a long period.
3. This general plan will benefit the Property in general, the parcels and lots that constitute the Property, the Declarant, and each successive owner of an interest in the Property.
4. Therefore, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, the Declarant desires to restrict the Property according to these covenants, conditions, and restrictions in furtherance of this general development plan. As they are now amended and restated from the original declaration recorded at Volume 756, Page 698, Official Public Records of Martin County, Texas.

NOW, THEREFORE, it is declared that all of the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions.

**ARTICLE I
Definitions**

Declarant

- 1.01. "Declarant" means AGUA DULCE HOLDINGS, LLC, and its successors and assigns.

Lot

- 1.02. "Lot" means any of the numbered plots of land shown on the plat and subdivision map recorded in Volume 4, Page 31A and 31B, of the Plat Records of Martin County, Texas (the "Map"), whether improved or unimproved, and which is intended for development, use and occupancy as a single family dwelling. The term shall not include Common Areas or tracts designated as Drill Sites.

Owner

1.03. "Owner" means the record owner or owners of the fee simple title to any Lot or portion of a Lot in the Property. "Owner" includes contract sellers but excludes persons having only a security interest.

Common Area

1.04. "Common Area" means all roads and streets depicted on the Map which are dedicated for use by all Lot Owners, their guests and invitees.

Association

1.05 "Association" means COYOTE RUN SUBDIVISION PROPERTY OWNERS ASSOCIATION, an association consisting of all Owners, which shall have the duty of maintaining, operating and managing the Common Area as provided in this Declaration. Each Owner shall become a member of the Association contemporaneously with acquiring a Lot, without any further documentation of any kind.

Board

1.06 "Board" means the Board of Directors of the Association.

Lender

1.07 "By-Laws" means the By-laws of COYOTE RUN SUBDIVISION PROPERTY OWNERS ASSOCIATION which are attached hereto as Exhibit "A".

ARTICLE 2

Architectural Control

Architectural Control Committee

2.01. Declarant shall designate and appoint an Architectural Control Committee (ACC) consisting of not less than three (3) persons, which shall serve at the pleasure of the Declarant. After the Declarant no longer owns any Lots, the Architectural Control Committee shall continue to serve. Upon the death, resignation or incompetency of any member of the Architectural Control Committee, the Association shall appoint a person or persons to serve on the Committee. In the further event the Association is not in existence, then the remaining member(s) shall appoint a person or persons to serve on the Committee. In the event there are no remaining members of the Architectural Control Committee, then a majority of the Lot Owners in the subdivision may appoint new members to serve on the Architectural Control Committee.

Approval of Plans and Specifications

2.02. The Architectural Control Committee must review and approve in writing all of the following projects on the Property:

- (a) Construction of any building, fence, wall, or other structure.
- (b) Any exterior addition, change, or alteration in any building, fence, wall, or other structure.
- (c) The installation of any manufactured housing on a Lot.

Application for Approval

2.03. To obtain approval to do any of the work described in Paragraph 2.02, an Owner must submit an application to the Architectural Control Committee showing the plans and specifications for the proposed work. Such plans and specifications shall detail the nature, shape, height, materials, colors, and location of the proposed work.

Standard for Review

2.04. The Architectural Control Committee shall review applications for proposed work in order to (1) ensure conformity of the proposal with these covenants, conditions, and restrictions and (2) ensure harmony of external design in relation to surrounding structures and topography. An application can be rejected for providing insufficient information. The Committee shall have broad, discretionary authority to interpret and apply these standards. In rejecting an application, the Committee should detail the reasons for rejection and suggest how the applicant could remedy the deficiencies.

Failure of Committee to Act

2.05. If the Architectural Control Committee fails either to approve or reject an application for proposed work within thirty (30) days after submission, then Committee approval shall not be required, and the applicant shall be deemed to have fully complied with this Article.

ARTICLE 3

Use Restrictions and Architectural Standards

Residential Use

3.01. All Lots may be used for single-family residential purposes. Residences may be "stick-built", modular, single-wide or double-wide manufactured homes, with a limit of one unit or office per tract, subject to the further and additional restrictions set forth within this instrument. No manufactured home which is older than five (5) years at the time of installation shall be permitted on any Lot.

The Lots located in COYOTE RUN SUBDIVISION may be used for commercial, retail, or residential purposes. Lots may be used for Heavy or Light Industrial Use as those terms are defined by the various codes used by the City of Midland, Texas.

Type of Buildings Permitted

3.02. Buildings may be erected, altered, installed or permitted on any Lot including detached single-family dwelling not to exceed two stories in height, together with such guest quarters, storage buildings and barns as are approved by the ACC. Including design, Minimum Floor Area, and Exterior Walls

3.03. All residences on a Lot must have a ground floor area of not less than six hundred forty-four (644) square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages.

Setbacks

3.04. Minimum building setback lines of 25' for front yards and 10' for side yards or as may be permitted in writing by the ACC from time to time.

Resubdivision or Consolidation

3.05. No Lot shall be resubdivided or split except as approved in writing by the ACC and Home Owners Association. Notwithstanding the foregoing, the Declarant may resubdivide or consolidate one or more Lots until such time as more than fifty percent (50%) of the Lots in the subdivision have been sold by the Declarant.

Noxious or Offensive Activities Prohibited

3.06. No noxious or offensive activity shall be conducted on any Lot that may be or may become an annoyance or nuisance to the neighborhood.

Duty to maintain Lot

3.07. No accumulation of weeds or uncultivated grasses more than twelve (12") high shall be permitted. It shall be the duty of each Lot Owner to maintain, mow and trim his Lot.

Rubbish, Trash and Garbage

3.08. No Lot shall be used or maintained as a dumping ground for rubbish or trash. All garbage and other waste shall be kept in sanitary containers. There shall be no burning or incineration of trash, garbage, leaves, brush, or other debris.

Animals

3.09. Except for a maximum of two (2) horses per Lot and a reasonable number of dogs, cats or other household pets, no animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. Although dogs, cats and other household pets may be kept in reasonable numbers, the raising and/or breeding of dogs, cats and household pets for commercial purposes is strictly prohibited.

Water Wells

3.10. No more than one water well per Lot.

3.11. Water well must be 50 feet off property boundary as per Martin County Water district requirements.

3.12. Water well must be located on the road side of the property, with the septic located at the back of the property.

3.13. Except for Declarant, there shall be no commercial water sales nor sales of rock or caliche from any lot in the subdivision.

3.14. No junk yards, wrecking yards or flea markets or other similar activity shall be ever conducted on any lot. This provision shall not exclude an occasional "garage sale" by a Lot Owner.

3.15. No swimming pools, other than a child's portable wading pool, shall be permitted in the front yard of any Lot.

Fences

3.16. Fences are to be all one color.

Siding

3.17. No building shall have vinyl siding.

Skirting

3.18. Skirting for any building shall be made of hard board or hard vinyl.

Stairs

3.19. Stairs for any building may only be made of fiberglass or 4x4 wood with 2 handrails.

Driveway

3.20. Each residence shall have a 12 foot wide caliche driveway.

ARTICLE 4 Easements

Reservation of Easements

4.01. With the written consent of the Declarant or ACC, the platted roadways may be used for utility easements. No shrubbery, fence, or other obstruction shall be placed in any easement or roadway.

ARTICLE FIVE Association

Creation

5.01. The Owners shall constitute the Association. Each Owner of a Lot, including Declarant, shall automatically be a member of the Association. Association membership shall be appurtenant to ownership of a Lot. Ownership of a Lot is the sole criterion for membership in the Association. Regardless of the number of Owners, each Lot shall be entitled to only one (1) vote.

Transfer of Membership

5.02. Association membership can be transferred to the grantee of a conveyance of a Lot in fee. Membership shall not be assigned, pledged, or transferred in any other way. Any attempt to make a prohibited transfer shall be void.

Management of Association

5.03. The Association shall be a nonprofit corporation. The Association shall be managed by the board pursuant to the procedures set forth in the Association's bylaws, subject to this Declaration.

Membership Voting, Elections and Meetings

5.04. Each Owner shall have one vote. There shall be at least one meeting of the membership each year. At that meeting the Owners shall elect a Board consisting of three (3) directors, vote on any other matters the Board chooses to place before the membership, and discuss any matter of Association business that the Board or any Owner wishes to bring before the entire membership.

Duties and Powers of Board

5.05. Through the Board, the Association shall have the following powers and duties:

- (a) To adopt rules and regulations to implement this Declaration and the Association's bylaws;
- (b) To enforce this Declaration, the bylaws, its rules and regulations;
- (c) To elect officers of the Board and select members of the Architectural Control Committee when that power devolves to the Board;
- (d) To delegate its powers to committees, officers, or employees;
- (e) To prepare a balance sheet and operating income statement for the Association and deliver a report to the membership at its annual meeting;

(f) To establish and collect regular assessments to defray expenses attributable to the Association duties, to be levied against each Owner, excluding Declarant, who shall not be assessed for any Lot it owns;

(g) To establish and collect special assessments for capital improvements or other purposes, to be levied against each Owner, excluding the Declarant, who shall not be assessed for any Lot it owns;

(h) To file liens against Lot owners because of nonpayment of assessment duly levied and to foreclose on those liens;

(i) To receive complaints regarding violations of this Declaration, the bylaws, or the rules and regulations;

(j) To hold hearings to determine whether to discipline Owners who violate this Declaration, the bylaws, or the rules and regulations;

(k) To give reasonable notice to all Owners of all annual meetings of the membership and all discipline hearings;

(l) To hold regular meetings of the Board at least annually;

(m) To manage and maintain all of the Common Area in a state of high quality and in good repair;

(n) To pay taxes and assessments that are or could become a lien on the Common Area.

ARTICLE SIX General Provisions

Enforcement

6.01. A. The Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations imposed by this Declaration. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

B. Each assessment, as mentioned in Section 5.05, is a personal obligation of each Owner when the assessment accrues. Assessments are secured by a continuing lien on each Lot. By acceptance of a deed to a Lot, each Owner grants a lien, together with the power of sale, to the Association to secure assessments.

C. A late charge of \$50.00 will be assessed for delinquent payment of assessments. Delinquent Assessments will accrue interest at the rate of 18% percent per annum. The Board may change the late charge and the interest rate.

D. If the Association complies with all applicable notice requirements, an Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent assessments, foreclosing the Property Owners Association's lien, and enforcing the Dedicatory Instruments.

Severability

6.02. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

Covenants Running With the Land

6.03. These easements, restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the real property and shall be binding on all parties having any right, title, or interest in the Property in

whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Lot, and each Lot Owner.

Duration and Amendment

6.04. The covenants, conditions, and restrictions of this Declaration shall be effective for a term of 25 years from the date this Declaration is recorded, after which period the covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years subject to termination by an instrument signed by more than sixty percent (60%) of the Owners.

The covenants, conditions, and restrictions of this Declaration may be amended from time to time by an instrument signed by more than seventy-five percent (75%) of the Owners. These covenants, conditions or restrictions may be amended at any time by the Declarant so long as Declarant shall own at least fifty percent (50%) of the Lots. Neither any amendment nor any termination shall be effective until recorded in the Official Public Records of Midland County, Texas, and all requisite governmental approvals, if any, have been obtained.

Attorneys' Fees

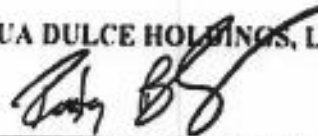
6.05. If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

Liberal Interpretation

6.06. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.

This Declaration is executed this 30th day of June, 2020.

AGUA DULCE HOLDINGS, LLC



Layne Russell Bourland, Managing Member

STATE OF TEXAS

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COUNTY OF MIDLAND

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This instrument was acknowledged before me on June 30th, 2020 by Layne Russell Bourland, Managing Member of AGUA DULCE HOLDINGS, LLC, a Texas limited liability company, on behalf of said company.




NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires: 12/07/2022

WATER QUALITY ACKNOWLEDGMENT AND GENERAL RELEASE

I/We, _____ and _____ (hereinafter referred to as "Buyer"), hereby affirm and stipulate that he/she/we knowingly and willingly acknowledge and understand that no representations or warranties, either express or implied, has, is, or will be made by The Real Estate Ranch, LLC, or its agents, employees, representatives, contractors, or owners (hereinafter referred to as "Broker") as to the condition of the water situated on or under any real property which shall be interpreted or relied upon in connection with Buyer's entry into an agreement or contract regarding the purchase of such real property.

This document is sufficient warning that Broker advises Buyer to seek independent testing and conduct an independent investigation to ensure water is safe for domestic use, livestock watering, plant irrigation or any other use intended by Buyer prior to entering into any agreement or contract regarding the purchase of real property. Buyer further acknowledges that no warranty or representation, either express or implied, is made by Broker as to the condition of the septic system, plumbing functionality, or plumbing compatibility with the water supply located on any real property. Broker advises Buyer to seek independent testing and investigation to ensure the septic system, plumbing functionality, and plumbing compatibility is capable of safely treating and disposing septic waste sourced with the water on any real property or as otherwise desired by Buyer. Buyer further acknowledges and agrees that Broker has no control over the condition of the groundwater, surface water, or septic system and undertakes no duties to render an opinion on any groundwater, surface water, or septic system located on or under any real property. The undersigned acknowledges that Broker has made no representations or warranties regarding the quality or investigation of any groundwater, surface water, or septic system on or under the property.

The undersigned acknowledges that he/she is fully aware that Broker has advised Buyer to seek independent testing and investigation, and by execution hereof, agrees to assume all such risks, acknowledges fair and sufficient warning, and releases Broker of any and all claims, charges, allegations and demands arising from groundwater, surface water, or septic systems issues and concerns, as well as any and all representations, warranties, or investigations related to same.

Buyer

Date

Buyer

Date

Received by: _____
Date