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S492691

200-58-2327

CORRECTED

02/25/94 00961148 P720112 \$ 84.00

RESTATED AND AMENDED RESTRICTIONS AND COVENANTS
50.7971 ACRES, SOLOMON BROWN SURVEY, ABSTRACT 7
HARRIS COUNTY, TEXAS

Amend

THE STATE OF TEXAS §
COUNTY OF HARRIS §

06/12/97 200436029 S492691

\$89.00

KNOW ALL MEN BY THESE PRESENTS:

513-42-1221

WHEREAS, CONNIE T. WILSON, TRUSTEE, by instrument dated May 4, 1981, imposed certain Restrictions and Protective Covenants covering and applying to the following described property, to-wit:

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50.7971 acres, more or less, out of a 126 acre tract and being all of that certain tract or parcel of land South of Spring Creek (the county line between Harris and Montgomery Counties) out of a 100.35 acre tract deeded to Christina Magee by deed dated March 8, 1924, from J.A. Helfrich, et ux, recorded in Volume 564, Page 557, of the Deed Records of Harris County, Texas, in the Solomon Brown Survey, Abstract No. 7, Harris County, Texas, said 50.7971 acre tract being more particularly described by Exhibit "A" attached hereto and incorporated herein for all intents and purposes.

WHEREAS, on said date CONNIE T. WILSON, TRUSTEE, was the owner of all of the lots in the said 50.7971 acres, the said instrument creating said Restrictions and Protective Covenants having been recorded under Clerk's File No. G967976, of the Real Property Records of Harris County, Texas.

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WHEREAS, the undersigned, being the owner of a majority (more than 50%) of the lots in said 50.7971 acres as covered by the aforesaid Restrictions and Protective Covenants and Restrictive Covenants, (hereafter referred to herein as the "Restrictions") desire to restate and amend said Restrictions and to combine said Restrictions as restated and amended into one comprehensive set of restrictions affecting all of the lots located in the above described 50.7971 acres.

NOW, THEREFORE, for and in consideration of the premises and of the mutual benefits to be derived therefrom, the undersigned owners of lots in said 50.7971 acres (hereinafter referred to together as the "2920 West Subdivision") do hereby restate and amend the said Restrictions and combine said Restrictions as restated and amended into one comprehensive set of restrictions and covenants (the "Restated and Amended Restrictions and Covenants") affecting the 2920 West Subdivision as follows:

ARTICLE ONE
DEFINITIONS

Owner

Owner shall mean and refer to the record owner, whether one or more persons or entities, of the 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 buyers, but excluding those having such interest merely as security for the performance of an obligation.

Properties

Properties shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdictions of the Association.

Lot

Lot shall mean and refer to each homesite plotted, each being not less than one-half (1/2) acre. The term lot shall not include

any common areas nor any other reserves shown on the map or plat of the subdivision.

Declarant

Declarant shall mean and refer to the undersigned lot owners and their successors and assigns.

ARTICLE TWO
ARCHITECTURAL CONTROL
Architectural Control Committee

Declarant shall designate and appoint an Architectural Control Committee consisting of not less than three (3) qualified persons, which committee shall serve at the pleasure of the Declarant.

Approval of Plans and Specifications

No building, fence, well or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to, or change or alteration therein, be made, nor shall any landscaping of any lot or lots be undertaken, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the Architectural Control Committee as to harmony of external and internal design in location in relation to surrounding structures and topography.

Failure of Committee to Act

In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Committee shall fail either to approve or reject such plans and specifications for a period of thirty (30) days, following such submission, approval by the Committee shall not be required, and full compliance with this Article shall be deemed to have been had.

In the event of death or resignation of any member of the Committee the remaining member or members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to these restrictions. After the first ten (10) lots are sold, one additional person shall be designated and appointed to the Committee by the Committee members. Such appointee must be an owner of at least one of the lots in the subdivision.

ARTICLE THREE
USE RESTRICTIONS

All lots shall be used for residential purposes only, and no building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height and a private garage for not more than six or less than two automobiles.

Minimum Floor Area and Exterior Walls

Any single story residence constructed on said lots must have a ground floor area of not less than 1,700.00 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. Any residence other than a single story residence must have not less than 1,000 square feet of ground floor living area, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. The exterior walls of any residence shall consist of not less than fifty-one percent (51%) masonry construction, and all roofs shall be constructed of fireproof materials, unless a variance is specifically approved by the Architectural Control Committee.

Setbacks

No building shall be located on any lot nearer to the front lot line than fifty feet (50'). No side yards at the front building setback line shall be less than twenty-five feet (25'). If two or more lots or fractions thereof, are consolidated into a building site in conformity with the provision of these restrictions, these building setback provisions shall be applied to such resultant building site as if it were one original, platted lot.

Resubdivision or Consolidation

None of said Lots shall be resubdivided in any fashion except that any persons owning two or more adjoining lots may subdivide or consolidate such lots into building sites, with the privilege of constructing improvements as permitted in paragraphs hereinabove on each resulting building site, provided that such subdivision or consolidation does not result in any building site having a front lot line of less than fifty feet (50').

Easements

Easements for the installation and maintenance of utilities and drainage facilities are reserved as may become reasonably necessary. No utility company, water district, political subdivision, or other authorized entity using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, or flowers, or to any other property of the Owner situated within any such easement.

In consideration of approval by Harris County Flood Control District to allow the granting of building permits, a perpetual easement and right-of-way for drainage and flood control described in Exhibit "B" attached hereto and incorporated herein for all intents and purposes is hereby and herein granted, sold, and conveyed unto the 2920 West Homeowners Association, hereinafter called "Association", its successors and assigns; to have and to hold the above described easement and right-of-way, together with all and singular the rights and appurtenances thereto in anywise belonging, including all necessary rights of ingress, egress and regress, unto the said Association, its successors and assigns forever; and the undersigned and owners herein do hereby bind themselves and their successor and assigns to warrant and forever defend all and singular the premises described on Exhibit "B" attached hereto unto the said Association its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. The Association may widen, straighten, clear and improve waterways and ditches located upon the said premises, may excavate and dispose of soil, and may bring upon said premises and operate thereon all necessary machinery and equipment to efficiently prosecute the work.

The undersigned and owners reserves all oil, gas and other minerals in, or under said premises, but waives all rights of ingress and egress for the purposes of exploring, developing, mining or drilling for the same; however, nothing in these restrictions shall prohibit or in any manner restrict the right of the undersigned and owners to develop the premises for oil and gas, by directional drilling from a nearby site; provided however, that nothing contained herein shall ever legally authorize the undersigned and owners, their successors and assigns to remove sand, soil, gravel or stone from said easement above described without the prior written consent and approval of the Association; and provided further that no rights or privileges of the undersigned and owners in the above described property are to be used by the undersigned and owners which would interfere with or abridge the rights granted to said Association.

Easements are hereby reserved on the 4.710 acres being a sixty foot (60') road easement described in Exhibit "C" attached hereto and incorporated herein for all intents and purposes. Said Easements being for the right of egress and ingress for public use as vehicular traffic, thorough fares, and any other use compatible with the use of the adjoining lots and nearby lots for residential purposes and to facilitate such use, such easements may be improved and maintained as necessary.

Noxious or Offensive Activities Prohibited

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Prohibited Residential Uses

No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

Signs

No signs of any character shall be allowed on any lot except such signs that have been approved by the Architectural Control Committee.

Oil Development Prohibited

No oil well drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on a lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any lot.

Rubbish, Trash and Garbage

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. All incinerators or other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition.

Animals

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. Also, one horse may be kept if it is corralled on the back one-third of the property.

Fences, Walls, Hedges and Utility Meters

No fence, wall, hedge or utility meter shall be placed, or permitted to remain, on any lot nearer to the street or streets adjoining such lot than is permitted for the main residence on such lot, except for decorative subdivision entry fences.

Shrubs and Trees

No shrub or tree planting which obstructs sight lines at elevations between two and six feet (2' and 6') above the roadway shall be planted or permitted to remain on any corner lot within the triangular area formed by the curblines of intersecting streets and a line connecting such curbline at points twenty-five feet (25') from their intersection, or in the case of a rounded corner, from the intersection of the curblines as extended. The same sight line limitations shall apply on any lot

within ten feet (10') of the intersection of a street curblin and edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height of no more than six feet above the ground level.

Trucks, Buses and Trailers

No truck, bus or trailer shall be left parked in the street in front of any lot except for construction and repair equipment while a residence or residences are being built or repaired in the immediate vicinity, and no truck, bus, boat, or trailer shall be parked on the driveway or any portion of the lot in such manner as to be visible from the street, except a boat and trailer may be parked on the back one-third of any lot.

Prohibited Activities

No professional, business, or commercial activity to which the general public is invited shall be conducted on any lot.

The use or discharge of pistols, rifles, shotguns, or other firearms is expressly prohibited on any part of the property.

All lots shall be kept at all times in a sanitary, healthful, attractive condition, and the owner/occupant of all lots shall keep all weeds and grass thereon cut and shall in no event use any lot for storage of material and equipment except for normal residential requirements, incidental to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind, and shall not burn any garbage, trash or rubbish. No clotheslines, yard equipment, wood piles or storage piles will be kept on the front fifty feet (50') of any lot, and no chain link fences will be permitted, except on the back one-third of any lot unless such chainlink fences are erected as backstops for a tennis court.

ARTICLE FIVE 2920 WEST HOMEOWNERS ASSOCIATION

Separate from the Architectural Control Committee and in addition to it, there is hereby created a 2920 West Homeowners Association, which shall be composed of three members, all of whom are property owners and the first three such members shall be as follows, to-wit:

1. Mr. James O'Bannon, c/o 824 Wilson, Tomball, Texas, 77375;
2. Mrs. Rosaland Busa, 22811 Three Pine Drive, Hockley, Texas 77447; and
3. Mrs. Connie T. Wilson, 824 Wilson, Tomball, Texas 77375

The committee members shall each serve for a period of three (3) year terms which shall be staggered and thus a new member will be appointed or one of the members shall be reappointed each year. The initial term of (1) James O'Bannon, shall be for a period of one year; the initial term of (2) Mrs. Rosaland Busa, shall be for a period of two years; and the initial term of (3) Mrs. Connie T. Wilson, shall be for a period of three years. Annually hereafter a committee member will be reappointed or a new committee member will be appointed by the other two committee members for three year terms. The Committee shall be trustees in charge of collecting, holding, investing, and disbursing a perpetual improvement fund for the purpose of constructing and/or maintaining all streets, alleyways, and easements in the subdivision and such maintenance and beautification projects as the committee or the Association may determine is needed or desirable.

Maintenance Fund

Each residential lot (or residential building site) in the subdivision shall be and is hereby made subject to a maintenance charge paid monthly on or before the first (1st) day of each month. The maintenance charge referred to shall be used to create a fund to be known as the "Maintenance Fund". Increases to the maintenance charge may be made once annually by the improvement committee and notice of the increase is to be mailed to all property owners at least thirty (30) days prior to the effective date of increase. Upon the adoption of these Restated and Amended Restrictions and Covenants, the monthly maintenance charge due on the next payment date following the effective date hereof for all lots in the Subdivision shall be TEN AND NO/100 DOLLARS (\$10.00) per lot.

The aforementioned maintenance charge shall be payable to the Community Improvement Committee in advance on or before the 1st day of each month. To secure the payment of this maintenance charge, a Vendor's Lien will be retained in each deed against the lots in the subdivision, which lien shall be reserved in favor of the Community Improvement Committee, its successors and assigns. The aforementioned maintenance charge shall be a personal obligation of the owners of the lots in the subdivision, as well as an obligation running with the land. This annual maintenance charge may be adjusted from year to year by the Community Improvement Committee, its successors and assigns, as the needs of the Subdivision may require, in the judgment of the Committee, its successors and assigns, and increases may be instituted up to ten percent (10%) annually without the need to obtain prior approval of the owners of a majority (more than (50%) of the property. If an increase is proposed that requires prior approval, the owners of a majority (more than 50%) of the property shall constitute a quorum of a duly called annual or special meeting of the property owners of the Subdivision and their voting affirmatively at such meeting will be sufficient to approve such increase. Notice for such meeting shall set forth the increase in the maintenance charge proposed. Any maintenance charge not paid when due shall bear interest from the date it became due until paid at a floating rate equal to the prime rate announced by FIRST REPUBLIC BANK, Tomball or its successors (should FIRST REPUBLIC BANK, Tomball or a successor thereto at any time cease to operate, the Committee may substitute another bank for purposes of this paragraph without the requirement of amendment of these Restrictions or approval by the property owners) from time to time, plus two percent (2%) per annum, but in no event shall such floating rate exceed the maximum rate allowed by applicable law. If a bank is substituted for FIRST REPUBLIC BANK, Tomball by the Committee, the Committee will notify the property owners by posting a notice thereof one time in a community newspaper.

All matters relating to the assessment, collection, expenditure and administration of the Maintenance Fund shall be determined by the Committee.

The maintenance charges collected shall be paid into the Maintenance Fund to be held and used for the benefit of all property owners and residents in the Subdivision; and such Maintenance Funds, to the extent monies are available therein, shall be expended by the Committee for the maintenance of the Subdivision, including the payment of expenses incurred for the maintenance, upkeep and/or improvement of all roads and common areas, including the following: grass, decorative plantings, trees, ditches, walls and entrance signs, including bulletin boards, street lighting, decorative lighting, sprinklers, mosquito control, utilities for common areas, security, trash collection, ambulance services, as well as legal expenses incurred for the enforcement of these Restrictions, and fees incurred for other services similar to those discussed above which are rendered for the benefit of the residents and property owners of the Subdivision by contractors and professionals hereafter engaged by the Committee.

Enforcement

In the event of default on the part of the owners or occupant of any lot in the Subdivision in complying with the herein listed requirements or any of them, such default continuing after ten (10) days written notice thereof, the Community Improvement Committee or its agent or assignee, may without liability to the owner or occupant in trespass or otherwise, enter upon said lot and cut, or cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash and rubbish or do any other things necessary so as to place said lot in a neat, attractive, healthful, safe and sanitary condition, and may charge the owner or occupant of such lot for the cost of such work or to otherwise secure compliance with these restrictions, including the seeking of court action by the Community Improvement Committee to correct violations of the building restrictions and/or the restraint of other activities that are in violation of these restrictions. The owner or occupant, as the case may be, agrees by the purchase or occupation of the property to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the property owner, a lien is herein and hereby granted against the above-described property in favor of the Community Improvement Committee or its agent or assignee. Any foreclosure of any prior or superior lien under the power of sale of any mortgage, deed of trust or other security instrument, or through other court proceedings shall not cut off and extinguish the liens securing said charge which became due and payable prior to such foreclosure date should such funds resulting foreclosure be available, and no such foreclosure shall free any lot and/or unit from the liens securing said charge thereafter becoming due and payable, nor shall the personal obligation of the owner foreclosed be extinguished by any foreclosure.

For a violation or a breach of any of these Restrictions and Covenants by any person, or by virtue of any judicial proceedings, the Community Improvement Committee, on behalf of the lot owners, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them. In addition to the foregoing right, either the Community Improvement Committee or Architectural Control Committee shall have the right, whenever there shall have been built on any lot any structure which is in violation of these restrictions, to enter upon the property where such violation of these Restated and Amended Restrictions and Covenants exists and summarily abate or remove the same at the expense of the owner, and any such entry and abatement or removal shall not be deemed a trespass. The failure promptly to enforce any of these Restated and Amended Restrictions and Covenants shall not bar their enforcement. The failure to uphold any restriction in a specific case by any court shall not invalidate that restriction in future cases. The invalidation of any one or more of these Restated and Amended Restrictions and Covenants by any court of competent jurisdiction in no way shall affect any of the other Restated and Amended Restrictions and Covenants, but they shall remain in full force and effect.

Should an owner fail, neglect, or refuse to satisfy and discharge any lien arising hereunder within thirty (30) days, the Committee, its agent or assignee, shall have the right to collect interest on such liens at a floating rate equal to the prime rate announced by FIRST REPUBLIC BANK, Tomball, or its successor (should FIRST REPUBLIC BANK, Tomball, or a successor thereto at any time cease to operate, the Committee may substitute another bank for purposes of this paragraph without the requirement of amendment of the Restrictions or approval by the property owners) from time to time, plus two percent (2%) per annum, but in no event shall such floating rate exceed the maximum rate allowed by applicable law, and shall be entitled to receive all costs of collection, including a reasonable attorney's fee. If a

bank is substituted for FIRST REPUBLIC BANK, Tomball by the Committee, the Committee will notify the property owners by posting a notice thereof one time in a community newspaper.

The breach of any of the Restated and Amended Restrictions and Covenants shall not defeat or render invalid the lien of any mortgage or deed of trust, outstanding against such lot and improvements thereon, but these Restated and Amended Restrictions and Covenants with respect to a lot shall be binding upon and effective against any such mortgage or trustee or owner thereof, whose title thereto or whose grantor's title is or was acquired by foreclosure, trustee's sale, or otherwise.

No delay or omission on the part of the Community Improvement Committee or the owners of lots in the Subdivision in exercising any rights, powers, or remedy provided upon the event of any breach of these Restated and Amended Restrictions and Covenants shall be construed as an waiver thereof or acquiescence therein, and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Community Improvement Committee for or on account of its failure to bring any action on account of any breach of these Restated and Amended Restriction and Covenants, or for imposing restrictions herein which may be unenforceable by the Community Improvement Committee.

In order to encourage the granting of first mortgage liens on property within this Subdivision, before the Community Improvement Committee may proceed to enforce its lien, granted and reserved under these Restated and Amended Restrictions and Covenants upon any property upon which there is outstanding a valid first mortgage lien, it shall be necessary that a thirty (30) day notice be sent to the nearest office of such first mortgage lien holder by registered mail of such intent, which notice may be a statement of the charges delinquent, together with the notation, "Final thirty (30) day notification to proceed to collect Maintenance Fund lien". Upon request by any first lien mortgage holder, or proposed holder the Community Improvement Committee shall furnish for the mortgage holder's file, an executed form relating the provisions of this paragraph to the applicable property.

Existing Violations

If there exist on the effective date of the adoption of these Restated and Amended Restrictions and Covenants, any violation hereof and which on said date is not subject to either (i) any pending review or a denial by the applicable Architectural Control Committee, or (ii) a suit filed by the Community Improvement Committee and or resident(s) of the Subdivision to compel compliance with the applicable Restrictions, such violation(s) shall be waived by all parties having the right hereunder to compel compliance. However, future improvements placed on said property must be constructed in compliance herewith in all respects.

ARTICLE SIX Amendment

These Restated and Amended Restrictions and Covenants may at any time during the term hereof, or any extension, be amended in whole or in part by the owners of a majority (more than 50%) of the residential lots in the Subdivision subject to these Restrictions by executing and acknowledging an appropriate agreement or agreements, in writing, for such purpose and filing the same for record in the office of the County Clerk of Harris County, Texas. The agreement(s) so executed for this purpose shall be acknowledged by the persons executing the same in the same manner as is required for the execution of deeds entitled to be recorded in the County Clerk's office.

Term

These Restated and Amended Restrictions and Covenants are to run with the land, and shall be binding upon all property owners of

