

## Declaration of Restrictive Covenants of the Buckhorn Loop Road Estates

### Basic Information

Date: March 3, 2020

Declarant: Eberly Investments, LLC,  
A Limited Liability Company

Declarant's Address: Eberly Investments, LLC  
10430 Eberly Ranch Road  
Chappell Hill, Texas 77426

Property:  
A 62.169-Acre tract of land situated in the Joel Lakey Survey, Abstract 63, Austin County, Texas being all of that called 42.131-Acre, Called Tract 1 and Called 20.000 – Acre, Called Tract 2, described in a warranty deed to Eberly Investments, LLC recorded under Austin County Clerk's instrument No. 191650 of the official public records, said 62.169-Acre tract being more particularly described by metes and bounds as follows, (Bearings based on the Texas Coordinate System of 1983, South Central Zone (4204), as determined by GPD measurements):

### **Definitions**

"ACC" means the Architectural Control Committee established in this Declaration, which shall convert to the "Association" if and when the Association is created under the terms of this Declaration.

"Assessment" means any amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration.

"Association" is the collection of Owners of 51% or more of the Lots of the Subdivision.

"Board" is the body which may be elected by the Association to carry out the duties and powers of the Association. The Board must consist of at least three owners.

"Covenants" means the covenants, conditions, and restrictions contained in this Declaration.

"Declarant" means Eberly Investments, LLC and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Easements" means easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

"Governing Documents" means this Declaration, as may be amended from time to time. To the extent that same exist, Governing Documents shall also include standards of the ACC and any rules or bylaws of the Association, as each may be amended from time to time.

"Lot" means each tract of land designated as a lot on the Plat.

"Owner" means every record Owner of a fee interest in a Lot.

"Plat" means the Plat of the Property recorded volume 2, page 172 Buckhorn Loop Road Estates 201149 Plat Records, Austin County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

"Residence" means a detached building designed for and used as a dwelling by a Single Family and constructed on one or more lots.

"Single Family" means a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in a Residence.

"Structure" means any improvement on a Lot (Other than a Residence), including a fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

"Subdivision" means the Property covered by the Plat and any additional property made subject to this Declaration.

"Vehicle" means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

## **Clauses and Covenants**

### **A. Imposition of Covenants**

1. Declarant imposes the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants.
2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with that land and bind all Owners, occupants, and any other person holding an interest in a Lot.
3. Each Owner and occupant of a Lot agrees to comply with this Declaration and agrees that failure to comply may subject the Owner to a fine, damages, or injunctive relief.

## **B. Plat, Easements, Ownership of Lots**

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.
2. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of use of the Easement by Declarant or an Easement holder or damage any utility facilities located on the Easement. Owners do not own any utility facilities located in an Easement.
3. Neither Declarant nor any Easement holder is liable for damage to landscaping or a Structure in an Easement, so long as the use of the Easement by Declarant or any Easement holder is reasonable.
4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

## **C. Use and Activities**

1. *Permitted Use.* A Lot may be used only for an approved Residence and approved Structures for use by a Single Family.
2. *Prohibited Activities.* Prohibited activities are:
  - a. Any activity that is otherwise prohibited by this declaration;
  - b. Any illegal activity;
  - c. Any nuisance or noxious or offensive activity;
  - d. Any dumping of rubbish;
  - e. Any storage of:
    - a. Building materials except during the construction or renovation of a Residence or a Structure; or
    - b. Vehicles, unless they are kept in a garage or Structure, or are operable vehicles parked on a driveway;
  - f. Any exploration for or extraction of minerals:

- g.** Any keeping or raising of animals, livestock, poultry, or bees, except for common domesticated household pets, such as dogs and cats, which is permissible under the following conditions:

  - a.** Domesticated household pets shall not exceed more than five (5) total animals, all of which must be confined to a fenced yard or within the Residence; One (1) horse per three (3) acres
  - b.** No more than two (2) of the permitted five (5) domesticated household pets may be kept outside or in the yard;
  - c.** At all times Owners with domesticated household pets must be able to demonstrate proof of rabies vaccinations from a licensed veterinarian;
  - d.** No pets shall be permitted to roam freely
  - e.** No domesticated household pets shall be kept for breeding or commercial purposes.
  - f.** Livestock, poultry, wolves, and exotic pets, including without limitation, reptiles, monkeys, arachnids, bees, large cats or other species of a wild or non-domesticated nature are strictly prohibited.
  - g.** Provided further, animals may be raised or maintained on any Lot if such animals are used solely for the purposes of 4H, FFA Club or similar projects, under the following conditions.

    - i.** The number of animals shall not exceed two (2) head per 4H, FFA Club or similar organization member residing on premises;
    - ii.** Animals permitted under this paragraph shall remain on the Lot only for the duration of the specific organization's project and not on a continuing basis;
    - iii.** All lots, pens, and other areas where animals are kept or raised shall be kept and maintained in a neat and clean condition, reasonably free from odors;

- iv. All lots, pens, and other areas where animals are kept or raised shall be periodically sprayed or otherwise treated to restrict and minimize flies and other insects so as not to become a nuisance to owners of the Lots;
- v. All poultry must be housed internally in a sound protective barrier so as to ensure the peaceful enjoyment of the neighborhood. Such house shall be kept and maintained in a neat and clean condition reasonably free from odors and shall be periodically sprayed or otherwise treated to restrict and minimize flies and other insects so as not to become a nuisance to Owners of the Lots;
- vi. The Association may further adopt rules governing keeping of livestock as the need arises.
- h. Any commercial or professional activity except reasonable home office use;
- i. Multi-family residences, including, without limitation, the renting of a portion of a Residence or Structure; provided, however, this provision shall not prohibit the renting of a guest house to a family member;
- j. The drying of clothes in a manner that is visible from any street;
- k. The display of any sign except;
  - i. One not more than six (6) square feet, advertising the Lot for sale or rent or advertising a garage or yard sale or 16 square feet for new house construction builder; and
  - ii. Political signage not prohibited by law or the Governing Documents;
- l. Installing a mobile home, manufactured home, manufactured housing, motor home, or travel trailer on a Lot;
- m. Any structure of a temporary character used as a residence;

- n. Moving a previously constructed house onto a Lot; provided, however, this provision shall not be construed as prohibiting the use of modular or preconstructed building components in the construction of a Residence or Structure on a Lot;
- o. Interfering with a drainage pattern or the natural flow of surface water without Association approval;
- p. Hunting
- q. Discharging or shooting a pistol, rifle, shotgun, or any other firearm, or firework, or any other device capable of killing or injuring or causing property damage, except as may be required for:
  - i. The personal protection of the Owners of the Lots and their property or animals from predators or nuisance species;
  - ii. The personal protection of life, liberty, and the pursuit of happiness as protected and regulated by the laws of the State of Texas;
- r. Occupying a structure that does not comply with the construction standards of a Residence;
- s. The permanent or semi-permanent storage of a vehicle in a public street or right-of-way; provided, however an Owner may store the Owner's operating vehicle in a Structure on the Owner's Residence. No inoperable vehicles may be stored outside of structure;
- t. The operation of unlicensed self-propelled vehicles on the streets of the Subdivision, and provided further that the Association has the right to adopt rules and regulations controlling the operation of self-propelled vehicles on Lots, to protect other Owners from excessive noise, annoyance and hazards; and
- u. burning trash, other than in an enclosed barrel with screen on top which does not otherwise cause a nuisance to other Owners.

## D. Construction and Maintenance Standards

### 1. Lots

- a. *Consolidated of Lots.* An Owner of adjoining Lots may consolidate those Lots into one side for the construction of a Residence. In the event of an approved consolidation, the setback lines along the common boundary of the adjoining Lots shall not apply; provided, however, the Owner shall pay all costs of re-routing any utilities placed within the setback lines of the adjoining Lots.
- b. *Subdivision Prohibited.* No Lot may be further subdivided by an Owner except, Declarant, George Eberly investment, LLC and a written document which approves and authorizes the subdivision of a lot by another owner.
- c. *Easements.* Declarant has reserved Easements for utilities as shown on the Plat and no Residences or Structures may be placed on such Easements. No Owner may grant any Easement without approval from the Association, except for easements required by utility providers beyond those reserved by Declarant. Neither Declarant nor any utility company using any easements shall be liable for any damage done by them, their agents, assigns, employees or servants to the shrubbery, trees, flowers, or improvements of the owner located on the land within or affected by any easements.
- d. *Maintenance.* Each Owner must keep the Lot, all landscaping, the Residence, and all Structures in a neat, well-maintained, and attractive condition.
  - i. The surface of the roads in the Subdivision might not extend to the boundary of a given Lot. Each Owner is responsible for the maintenance of driveways and drainage ditches between the Lot boundary and the edge of the surface of the road. Each owner shall be solely responsible for the maintenance of driveways from the road of the Subdivision to his or her respective Lot. Each Lot shall have approved culvert.

- ii. Owners shall keep all Residences, Structures, and landscaping in a neat, well maintained, and attractive manner. Any Owner that chooses to cultivate native Texas wildflowers and blooming grasses shall keep the same at heights of less than thirty inches (30") tall. All native wildflowers shall be promptly mowed after such plants have dropped seeds.
- iii. Fencing alongside and rear boundaries is not required; however it is recommended that Owners construct some form of property division such as fences, hedges, or another means of indicating boundary lines between Lots. The form of such division along boundary lines will be negotiated between adjoining property owners. The boundary division, whether it be fences, shrubbery, or the like, shall be well-maintained, orderly, and neat. The erection and maintenance of such boundary division shall be a negotiated expense between adjoining property owners.
- iv. Additional rules and regulations about fencing or boundary division may be addressed at a later time at the discretion of the Association if the need arises.

## 2. Residences and Structures

- a. *Aesthetic Compatibility.* All Residences, Structures, and Landscaping must be aesthetically compatible with the Subdivision, as determined by the Association, with at least 90% of the exterior of each Residence being constructed of stone, brick, hardi-type siding, or stucco.
- b. *Maximum Height.* No Residence may exceed two (2) stories in height. No Structure on a Lot may exceed the height of the Residence. All structures must have a roof which matches the roof of the Residence and is compatible with the color of the Structure and approved by the ACC.
- c. *Required Area.* The total area of a Residence, exclusive of porches, garages, or carports, must be at least 1,750 square feet, with not less than 1,200 square feet on the



ground floor. The square footage of any other Structure may not exceed sixty (60%) of the ground floor square footage of the Residence. However, these requirements may be waived or overridden on a case by case basis by the ACC or the Association.

- d. *Location on Lot.* No residence or Structure may be located in violation of the setback lines shown on the Plat or 50 foot from roads. Each Residence must face the front Lot line, except for Lot 16 being optional. All Structures must be located behind the front wall of the Residence.
- e. *Garages.* Each Residence may have a multi-car garage or carport accessed by a driveway. To the extent any garage or carport is constructed separately from the Residence, the same shall be constructed of the same exterior material and covered with the same roofing material as the Residence approved by the ACC.
- f. *Damaged or Destroyed Residences and structures.* Any Residence or Structure that is damaged must be repaired within forty-five (45) days (or within a period approved by the Association) and the Lot restored to a clean, orderly, and attractive condition. Any residences or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within ninety (90) days and the Lot restored to a clean and attractive condition.
- g. **Section 14: Walls, Fences, and Hedges.** As part of the common scheme and plan as shown on the recorded plat, Owner is not required to fence, however, if Owner chooses to fence the main road frontage on the Main Roads, shall be fenced and constructed as specified hereafter ("the Main Road Fence"). The specifications for the Main road Fence are as follows:

If fencing is built along public road frontage, the Main Road Fence shall be constructed of Treated pine or cedar or similar natural hardwoods and painted black. The fence height shall be approximately Fifty (50") inches in height. The vertical supports (posts) of the fence shall be four inches by four inches (4" x 4") on seven-foot centers. There shall be three (3) equidistant horizontal cross-

members of the fence. The cross-members shall be 2" x 6" planks).

Any other privacy walls, fences, or hedges that obstruct views of the Lots from the Main Roads shall be approved by the ACC prior to commencing construction. Any privacy walls, fences, and hedges erected on a Lot by Declarant, or its assigns, shall pass ownership with title to the Lot, and it shall be Owners of the Lots responsibility to maintain said walls, fences, or hedges thereafter. Hurricane-type of chain-link fences are strictly prohibited and forbidden, and no variance for same will be granted.

- h.** *Antennae.* No antenna may be erected on any Lot unless the same is located behind the Residence and in no event shall the height of the antenna exceed the height of the roof ridge line by more than fifteen feet (15'). All antenna must be erected in a manner such that they are installed without guide wires.
- i.** *Flags.* An Owner may display only flags of the United States of American and/or the State of Texas. A display of the flag of the United States of America shall be displayed only in accordance with 4 U.S.C. Sections 5-10 and remain lighted in accordance with such rules. A display of the flag of the State of Texas shall be displayed only in accordance with Chapter 3100, Texas Government Code. There are to be no game day flags.
- j.** *Traffic Sight Lines.* No landscaping that obstructs traffic sight lines may be placed on any Lot.
- k.** *Landscaping.* Landscaping must be installed within six months after occupancy.
- l.** *Trash.* All trash receptacles, containers, dumpsters, and other objects used to store trash shall be kept out of sight of all streets. Storing of trash at or near the road is strictly prohibited; provided, however, movable trash containers may be placed near the entrance to each Lot the night before or morning of a scheduled trash pickup day by a hired garbage company. Any burning of garbage must be in a screened receptable and must not be a nuisance to any other Lots or Owners.

- m.** *Mailboxes.* Mailboxes and newspaper delivery bins must be placed within three (3') feet from the edge of the roadway surface. The mounting post shall be constructed of metal, galvanized or powder coated and not impede the flow of water and debris alongside the road. The prescribed height of the mailbox is 42" (forty two inches) from the base of the box to the ground. Mailboxes and newspaper delivery bins shall be constructed with the standards of the Subdivision and are subject to Association approval.

**3. Building Materials for Residences and Structures**

- a.** Roofs, composition shingle, metal or tile roofs may be used on Residences and Structures. All roof stacks must be painted to match the roof color and match aesthetics of the property surrounding the Owner's property.
- b.** *Air Conditioning.* Window unit of wall-type air conditioners may only be used in the rear of the Residence.
- c.** Exterior Walls. All exterior walls shall have veneer comprised of stone, brick, stucco, or cement siding unless otherwise approved by the ACC.
- d.** *Color Changes.* The color of the exterior walls, trim, and roof of Residence or Structure must be earth tone, neutral unless otherwise improved by the ACC.
- e.** *Driveways and Sidewalks.* All driveways must have an approved culvert at entrance. At least the first 15 feet of the driveway from the adjoining road of the Subdivision shall be concrete. The remaining driveway and sidewalks shall be surfaced with concrete, asphalt, gravel, shell, or crushed rock. No grass or dirt driveways or sidewalks will be permitted.
- f.** *Lot Identification.* Lot address numbers must be clearly stated on the exterior of a Residence and be aesthetically compatible with the Subdivision.
- g.** *Septic Systems:* Prior to occupying any Residence, the Owner shall have installed a septic system in compliance with state and county regulations and approved by the Austin County environmental department, or any successor governmental agency exercising jurisdiction over such matters.

- h.** *Water Wells.* All water wells shall be drilled and maintained in accordance with state and county regulations. Owners are advised that not all Lots may be of sufficient acreage to have both a septic system and water well under current Austin County Subdivision Rules. Water wells and septic systems may not encroach on adjoining property access.
- i.** *Electrical Powerlines.* All electrical power, if provided to each lot underground, will remain underground. If electrical power is provided overhead, it may only supply residence and may be rerouted underground, but all other power on property must be below ground.
- j.** *Rainwater Harvesting Systems.* Rain barrels, piping and all other components of any rainwater harvesting system (other than those affixed to the roof of a Residence or a Structure), shall be located behind the Residence or Structure and not visible from the street.
- k.** *Solar Energy Devices.* All components of any solar energy device must be placed on the roof of a Residence or behind the Residence and not visible from the street. If any solar energy device is mounted on a roof, the components may not extend higher than or beyond the roofline; they must be located only on one side of the roof; they must conform to the slope of the roof; and they must have a frame, support bracket or visible piping or wiring that is black of the same color as the roof.
- l.** *Wind energy Devices.* No wind energy devices may be used; however, these rules may be adjusted at any time with the approval of the Association.

## **E. ACC**

### **1. Establishment**

- a.** *Purpose.* The ACC is established as a committee to assist in ensuring that all Residences, Structures, and landscaping within the Subdivision are aesthetically compatible and conform to the Governing Documents.
- b.** *Members.* The ACC shall consist of at least two (2) persons. The initial members of the ACC are George Eberly and John Schneider.

- c. *Term.* ACC members shall serve until replaced by Declarant or the Association, and will be done so in written notice to each Lot Owner.
- d. *Standards.* Subject to the approval of the Declarant, the Association or the ACC may adopt standards that do not conflict with the other Governing Documents to carry out its purpose. On request, Owners will be provided a copy of any standards.

## 2. *Plan Review*

- a. *Required Review by ACC.* No Residence or Structure may be erected on any Lot, or exterior altered, unless plans, specifications, and any other documents required by the ACC have been submitted to and approved by the ACC. The plans and specifications must show exterior design, height, building materials, color scheme, location of the Residence and Structures depicted horizontally and vertically, and the general plan of landscaping, all in the form and detail the ACC may require.
- b. *Procedures*
  - i. *Complete Submission.* Within fourteen (14) days after the submission of plans and specifications by an Owner of any other documents or information required by the ACC. In absence of timely notice from the ACC requesting additional documents or other information, the submission is deemed complete.
  - ii. *Deemed Approval.* If the ACC fails to give notice of disapproval of the plans and specifications to the submitting Owner within forty-five (45) days after complete submission, the submitted plans and specifications are deemed approved.
- c. *Appeal.* Owners have the right of appeal only after the formation of the Association. An Owner may appeal any action of the ACC to the Board. The appealing Owner must

give written notice to the submitting Owner within five (5) days after the ACC's action. The Board shall determine the appeal within ten (10) days after timely notice of appeal is given. The determination by the Board is final.

- d. *Records.* The ACC will maintain written records of all requests submitted to it and of all actions taken. The Board will maintain written records of all appeals of ACC actions and all determinations made. Any Owner may inspect the records of the ACC and Board, but no Owner may inspect or copy the interior floor plan or security system design of any other Owner.
- e. *No Liability.* The Declarant, Association, the Board, and ACC, and their members shall not be liable to any Person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any request.

## **Association**

### 1. *Establishment and Governance*

a. Once fifty-one percent (51 %) of the Lots of the Subdivision are owner by Persons other than the Declarant, George Eberly, Eberly Investments, LLC or any successor entity or trust created by or for the benefit of such persons, the Association will be established immediately and controlled and operated by the Owners of the Subdivision. At that point in time, all Owners will constitute the "Association".

b. Upon creation, the Association shall replace the ACC. The Association will operate under then same rules and restrictions set for the ACC of this document.

2. *Purpose.* The purpose of the Association is over sight and regulation of the development and management of the Subdivision.

3. *Rules.* The Association may adopt rules that do not conflict with applicable Texas or federal law or the Certificate of Formation, Declaration, or Bylaws. On request, Owners will be provided a copy of any rules.

4. *Membership and Voting Rights.* Every Owner is a Member of the Association. Membership is automatic upon becoming an Owner and membership in the Association is transferred along with title to the Lot owned by the Member. Meetings and voting will be solely in the control of the member majority.
5. *Creation of Board.* The Association may elect to create a Board to delegate its duties and powers hereunder. If such an election is made, the Board must consist of at least three Owners. If a Board is created, the Board will carry on the duties and powers of the Association on behalf of the Association. Majority vote of the Association shall control membership of the Board based on terms and policies instituted by the Association. Any voting measure will be approved by majority vote, with Declarant acting as a tie breaking vote should the need arise.

#### G. Assessments

1. *No Regular Assessments.* There will be no membership dues or regular fees or assessments to operate the Subdivision or any common areas located within the Subdivision.
2. *Approval of Special Assessments.* Any Special Assessment must be approved by a majority vote at a meeting of the Association.

#### H. Remedial Rights

1. *Fines.* The Association may levy a fine against an Owner for a violation of the Governing documents as permitted by law. Such a fine must be paid within 60 days of the date of the fine.
2. *Late Charges and Interest on Unpaid Fines and Special Assessments.* A late charge of five percent (5%) of any delinquent amount is assessed for delinquent payments of any fine or special assessment properly assessed against an Owner. Delinquent payments accrue interest at the rate of nine percent (9%) per year. The Association may change the late charge and the interest rate. The Association shall have a lien against any Owner and his or her property for the nonpayment of a fine or special assessment.
3. *Judicial Enforcement.* The Association may bring an action against an Owner to collect delinquent fines or special assessments, foreclose the Association's lien, or enforce or enjoin a violation of the Governing

Documents. An Owner may bring an action against another Owner to enforce or enjoin a violation of the Governing Documents.

4. *Costs, Attorney's Fees, and Expenses.* The Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent fines and special assessments and foreclosing the Association's lien. The Owner is liable to the Association or another Owner, as the case may be, for all costs and reasonable attorney's fees incurred in enforcing the Governing Documents or enjoining a violations thereof.
5. *Suspension of Voting.* An Owner delinquent in payment of any fine or special assessment may not vote on any matter concerning the rights or responsibilities of the Owner.
6. *Suspension of Other Rights.* If an Owner violates the Governing Documents, the Association may suspend the Owner's Rights under the Governing Documents in Accordance with law.

#### I. General Provisions

1. *Term.* This Declaration runs with the land and is binding in perpetuity.
2. *No Waiver.* Failure by an Owner to enforce this Declaration is not a waiver.
3. *Corrections.* Declarant may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.
4. *Amendment.* This Declaration may be amended at any time by Declarant until the Association is created. Once the Association is created, the Association may amend this Declaration with an affirmative vote of its majority.
5. *Severability.* If a provision of this Declaration is unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be constructed as if the unenforceable provision is not a part of the Declaration.



- 6. *Notices.* Any notice required or permitted by the Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.
- 7. *Presuit Mediation.* As a condition precedent to the commencement of a legal proceeding to enforce this Declaration, the Owners will mediate the dispute in good faith.

WITNESS BY HAND(S) ON THIS 1<sup>st</sup> DAY OF April, 2020.

George Eberly  
Owner's name printed)

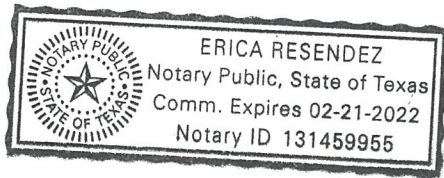
[Signature]  
(Owner's signature)

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS 1<sup>st</sup> DAY OF April, 2020.

Erica Resendez  
Notary Public, State of Texas

Notary's Printed Name:

My Commission Expires:



Instrument # 201302  
4/1/2020 3:10 PM

STATE OF TEXAS COUNTY OF AUSTIN  
I certify that this instrument was filed on the  
date and time stamped by me and was recorded in the  
Official Public Records of Austin County, Texas.

Carrie Gresor, County Clerk  
Austin County, Texas

By: [Signature]