

DEDICATION AND PROTECTIVE COVENANTS  
AND RESTRICTIONS APPLICABLE TO

"KEARNEY ADDITION"

A SUBDIVISION IN THE ROBERT CUNNINGHAM AND  
DANIEL GILLELAND LEAGUES,  
COLORADO COUNTY, TEXAS

THE STATE OF TEXAS,           \*  
  \*       KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF COLORADO.        \*

THAT WE, JAMES C. KEARNEY and JOHN ALLEN KEARNEY, who do business as the **KEARNEY REAL ESTATE PARTNERSHIP**, and who will be referred to from this point on as the "DEDICATORS", are owners of a certain tract of land in Colorado County, Texas, that comprises 120.5264 acres, of which 25.3227 acres is in the Daniel Gilleland League and 95.2037 acres is in the Robert Cunningham League. The attached EXHIBIT A gives a full and legal description of these lands. The Dedicators have subdivided this tract of land and the subdivision will be known, and referred to herein, as the "**KEARNEY ADDITION**". The plat of this subdivision has been approved by Commissioners' Court and is duly recorded as Plat 74 of the Plat Records of Colorado County, Texas. The Dedicators refer to this, the public record, in all that follows:

WHEREAS, Dedicators will convey the above described properties subject to certain easements, restrictions, covenants and conditions as hereinafter set forth.

WHEREAS, the Dedicators wish to develop "**KEARNEY ADDITION**" in an orderly way that makes the land accessible and convenient for those who purchase land there, we dedicate to the use of the public the street and easements shown on the subdivision plat. The street is designated as a "60' WIDE ROAD" on the plat and the utility easements are shown by dotted lines. All utility easements are 20 feet wide and the aerial easements extend upward 20 feet and 5 feet wide. Where the utility easement runs alongside the road, the easement shall extend 10 feet into the road easement and 10 feet into the adjoining property. These easements and streets are for the benefit of the public and of all utility companies that now serve or that in the future may serve this subdivision.

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the

value and desirability of, and which shall be covenants running with, said real property, and shall be binding on all parties having any right, title or interest in or to the above described property, or any part thereof, and their heirs, successors, assigns and personal representatives, and which easements, restrictions, covenants and conditions shall inure to the benefit of each Owner thereof.

1. All lots shown on the plat shall be used for residential purposes only. The term "residential purposes" shall be construed to exclude hospitals, hotels, motels, nursing homes, retirement homes, multi-family dwellings, duplex houses, and apartment houses, and also to exclude any commercial or professional use. Any such usage of this property, other than for residential purposes, is hereby expressly prohibited.
2. The floor area of the residence comprising the main structure shall be no less than 1,200 square feet for a one-story structure and 2,000 square feet for a two-story structure, exclusive of open porches, steps, screen porches, carports, breezeways, garages and other outbuildings. The use of house trailers, mobile homes (whether or not attached to the ground), portable buildings, buses, trucks or similar vehicles, is hereby prohibited and no such vehicles shall be kept or permanently parked on the herein described land. All improvements of any kind whatsoever constructed upon any lot shall be of new materials and shall be constructed in a good and workmanlike quality.
3. No building or other improvement (other than fencing) shall be located closer than 25 feet from any property line.
4. No advertising signs, billboards, or other advertising device shall be permitted on any lot, provided however, that the owner thereof may place on such premises such advertising signs or devices necessary for the sale, lease or rental of any lot.
5. Swine are expressly prohibited from being kept and maintained on said property. In the event any livestock (except hogs or pigs) are kept, not more than one (1) head of livestock per acre shall be kept on any lot, and any lot containing livestock shall be fenced. No poultry shall be kept or raised on any lot, except for poultry for the personal use of the owner, and these must be kept and maintained in such a way that they are not a nuisance to the neighbors.
6. No obnoxious, illegal or offensive activity shall be carried on upon any lot, nor shall anything be done or carried on thereon which is or may become an annoyance or a nuisance. No garbage, trash, ashes, debris, junked vehicles, or other refuse shall be permitted on any lot, nor shall the land be used as a dumping ground for such. The trash generated through the normal and routine operations of

a household shall be contained in a clean and sanitary way, and disposed of in such a way that conforms to all pertinent county, state, and federal regulations.

7. Owners shall be responsible for keeping the property in a neat and orderly manner. The owners may keep part of the property in a native and natural state, if they so desire, but such improvements that are made on the property must at all times have the appearance of an orderly and responsible stewardship.

8. No firearms may be discharged in the subdivision.

9. No individual absorptive system may be constructed within 150 feet of a private well. All construction of private sewage facilities must conform to the rules and regulations of Colorado County, Texas, adopted January 23, 1990 for private sewage facilities and the Texas Department of Health for on-site disposal systems, effective date September 1, 1989. On any tract of land less than 10 acres, sewage disposal systems and water wells must be 75 feet from the property line of each tract in accordance with Chapter 8 of the On-Site Waste Disposal Order No. 045. Before construction, the landowner must meet the current State rules pertaining to sewage disposal. Building permits must be obtained prior to any construction. All tracts must be permitted for septic system regardless of acreage.

10. No mining or excavation for sand, gravel, caliche, rock or other minerals shall be permitted on any lot.

11. No trucks, tractor trucks, trailers or buses having a capacity of one and one-half (1½) tons or more, nor heavy machinery such as a bulldozer, road grader, or ditching machine shall be permitted to be kept or maintained on any portion of said subdivision.

12. Only vehicles which bear a current State inspection sticker shall be kept upon or be permitted to be upon said premises.

13. These covenants shall run with the land and remain in full force and effect until January 1, 2016, after which time they shall be automatically extended for consecutive periods of five (5) years unless, by a vote and written resolution signed by the owners of a majority of the acreage as described in Paragraph 14 below, such restrictions are amended or modified.

14. Prior to January 1, 2016, the foregoing restrictions and covenants may be changed, altered, amended, or terminated by the execution of a written instrument executed by the owners of a majority of the acreage of "**KEARNEY ADDITION**", such owners being allowed votes in a precise equivalence to the amount of acreage owned. For example, an owner of 3.765 acres will be allowed 3.765 votes. Fractional or undivided interest owners shall be entitled to a vote of

their fractional interest owned. Such written instrument shall be recorded in the office of the County Clerk of Colorado County, Texas.

15. Dedicators or any owner of land in the "KEARNEY ADDITION" shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions and reservations now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

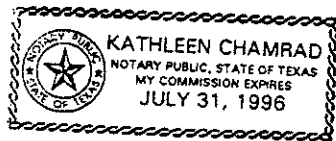
EXECUTED by said Dedicators this the 26 day of April, 1996.

James C. Kearney  
JAMES C. KEARNEY

John A. Kearney  
JOHN ALLEN KEARNEY

THE STATE OF TEXAS, \*  
\*  
COUNTY OF COLORADO. \*

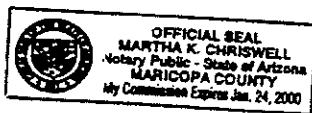
This instrument was acknowledged before me on this the 26<sup>th</sup> day of April, 1996, by JAMES C. KEARNEY.



Kathleen Chamrad  
Notary Public, State of Texas.

THE STATE OF Arizona  
COUNTY OF Maricopa

This instrument was acknowledged before me on this the 30 day of April, 1996, by JOHN ALLEN KEARNEY.



Martha K. Chriswell  
Notary Public, State of ~~Texas~~  
Arizona

**CHARLIE KALKOMEY SURVEYING, INC.**

1815 MONS AVENUE  
ROSENBERG, TEXAS 77471  
(713) 342-2033

CHARLIE KALKOMEY  
REGISTERED PROFESSIONAL LAND SURVEYOR

CHARLES A. KALKOMEY  
REGISTERED PROFESSIONAL LAND SURVEYOR

FIELD NOTES FOR A 120.4933 ACRE TRACT OF LAND, 95.1706 ACRES BEING IN THE ROBERT CUNNINGHAM SURVEY, ABSTRACT 16, COLORADO COUNTY, TEXAS, BEING A PART OF THE C. W. KEARNEY CALLED 1174 ACRE TRACT, RECORDED IN VOLUME 226, PAGE 379, DEED RECORDS, COLORADO COUNTY, TEXAS, AND 25.3227 ACRES IN THE DANIEL GILLELAND LEAGUE, ABSTRACT 26, COLORADO COUNTY, TEXAS, BEING THAT CERTAIN CALLED 31.6 ACRE TRACT OF LAND AWARDED TO C. W. KEARNEY, RECORDED IN VOLUME 206, PAGE 491, DEED RECORDS, COLORADO COUNTY, TEXAS. THE BASE BEARING FOR THE HEREIN DESCRIBED TRACT IS THE COMMON LINE OF THE DANIEL GILLELAND LEAGUE AND THE ROBERT CUNNINGHAM LEAGUE BEING SOUTH 85 DEGREES 04 MINUTES 30 SECONDS EAST;

**BEGINNING** at a 1/2 inch iron rod found on the north line of Dee Allen Road at the lower northeast corner of said called 1174 acre tract for the southeast corner and Place of Beginning of the herein described 120.4933 acre tract of land, said point also being the southeast corner of said 95.1706 acre tract and the southwest corner of the adjoining Larry J. Herring et ux 6.744 acre tract, recorded in Volume 534, Page 447, Deed Records, Colorado County, Texas;

**THENCE** North 86 degrees 06 minutes 41 seconds West along the north line of Dee Allen Road being the south line of the herein described tract, 483.64 feet to a 1/2 inch iron rod found on said line for an angle point;

**THENCE** North 86 degrees 02 minutes 45 seconds West, 181.13 feet to a 1/2 inch iron rod found at an angle point on said line;

**THENCE** North 85 degrees 58 minutes 02 seconds West along the north line of Dee Allen Road being the south line of the herein described tract, 607.03 feet to a concrete nail set in the concrete base of a 4 inch pipe post found on said line for an angle point, same being the northeast corner of the adjoining Walter Lee Guthman, Jr. 4.753 acre tract recorded in Volume 434, Page 12, Dced Records, Colorado County, Texas;

**THENCE** North 85 degrees 01 minute 38 seconds West along the common line of the herein described tract and the aforementioned adjoining Walter Lee Guthman, Jr. 4.753 acre tract, 412.66 to a 1/2 inch iron pipe set on said line for an angle point, said point being at the northwest corner of said Walter Lee Guthman, 4.753 acre tract, same being the northeast corner of the adjoining Feynildo F. Garza, et ux, 4.981 acre tract, recorded in Volume 437, Page 275, Deed Records, Colorado County, Texas;

**THENCE** North 85 degrees 45 minutes 16 seconds West along the common line of the herein described tract and the aforementioned adjoining Feynildo F. Garza 4.981 acre tract, 411.66 feet to a 1/2 inch iron rod found at a fence corner intersection for the southwest corner of the herein described 120.4933 acre tract, same being the northwest corner of the Feynildo F. Garza, et ux, 4.981 acre tract;

**EXHIBIT A**

**THENCE** North 05 degrees 19 minutes 38 seconds East along a line establishing the west line of the herein described 120.4933 acre tract and being across the aforementioned 1174.33 acre tract, as recorded in Volume 226, Page 379, Deed Records, Colorado County, Texas, 1999.12 feet to a 1/2 inch iron rod found at a fence corner intersection for the lower northwest corner of the herein described 120.4933 acre tract, same being the northwest corner of said 95.1706 acre tract, said point also being on the south line of the adjoining Michael W. Gordy, et ux, 3.40 acre tract, recorded in Volume 471, Page 270, Deed Records, Colorado County, Texas;

**THENCE** South 85 degrees 06 minutes 27 seconds East along the common line of the Robert Cunningham League, Abstract 16 and the Daniel Gilleland League, Abstract 26, 547.77 feet to a 1/2 inch iron rod found at a fence corner intersection for an angle point, same being the southeast corner of the adjoining Douglas R. Ullrich, Jr., et ux, 3.2463 acre tract, recorded in Volume 62, Page 357, Deed Records Colorado County, Texas, same being the southwest corner of the aforementioned 25.3227 acre tract;

**THENCE** North 02 degrees 45 minutes 43 seconds East along the common line of the 25.3227 acre tract and the aforementioned adjoining Douglas R. Ullrich, Jr., et ux, 3.2463 acre tract, 466.21 feet to a 1/2 inch iron rod found on the south right-of-way line of F.M. Highway 2434 for the upper northwest corner of the herein described 120.4933 acre tract, same being the northwest corner of said 25.3227 acre tract and the northeast corner of the aforementioned adjoining Douglas R. Ullrich, Jr., et ux, 3.2463 acre tract;

**THENCE** North 69 degrees 23 minutes 01 second East along the south right-of-way line of F.M. Highway 2434, 59.43 feet to a 1/2 inch iron pipe set on said line at the beginning of a curve to the right;

**THENCE** with said curve to the right with a radius bearing Out: South 25 degrees 03 minutes 33 seconds East, 1909.80 feet, and a radius bearing In: North 16 degrees 10 minutes 25 seconds West, 1909.80 feet to a 1/2 inch iron pipe set on the south right-of-way line of F.M. Highway 2434 at the tangency of said curve in the beginning of a true curve to the right;

**THENCE** around said true curve to the right with a central angle of 25 degrees 57 minutes 06 seconds, a radius of 1860.12 feet, a length of 842.53 feet, a tangent of 428.62 feet and a chord bearing South 82 degrees 21 minutes 34 seconds West, 835.35 feet to a 1/2 inch iron pipe set at the tangency of said curve and the beginning of a curve to the right;

**THENCE** around said curve to the right with a radius bearing Out: South 01 degree 30 minutes 45 seconds West, 1909.86 feet, a radius bearing In: North 09 degrees 09 minutes 36 seconds East, 1909.86 feet to a 1/2 inch iron pipe set on the south right-of-way line of F.M. Highway 2434 at the tangency of said curve;

**THENCE** South 84 degrees 39 minutes 52 seconds East along the south line of F.M. Highway 2434, 152.98 feet to a creosote post found on said line for the northeast corner of the herein described 120.4933 acre tract, same being the northeast corner of the aforementioned 25.3227 acre tract, same being the northwest corner of the Franklin Hudec 0.90 acre tract, recorded in Volume 413, Page 134, Deed Records Colorado County, Texas;

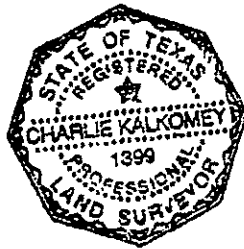
**THENCE** South 04 degrees 53 minutes 56 seconds West along the east line of said 25.3227 acre tract being the west line of the aforementioned Frank Hudec 0.90 acre tract and the west line of a 0.4185 acre tract being the Bradley L. White, et ux, tract recorded in Volume 443, Page 248, Deed Records Colorado County, Texas, for a total distance of 797.88 feet to a 1/2 inch iron pipe set on said line for an angle point, same being the southeast corner of the aforementioned 25.3227 acre tract and the northeast corner of the 95.1706 acre tract;

FIELD NOTES 120.4933 Acre Tract (Cont'd)

Page 3

THENCE South 04 degrees 42 minutes 04 seconds West along the east line of said 95.1706 acre tract at 8.34 feet pass a 1/2 inch iron rod found on said line being the southwest corner of the aforementioned adjoining 0.4185 acre tract, same being the northwest corner of a portion of the Stephen J. Girndt 4.836 acre tract, recorded in Volume 434, Page 404, Deed Records Colorado County, Texas said point also being the northeast corner of a 0.5220 acre parcel of land conveyed to James C. Kearney being a part of the Stephen J. Girndt 4.836 acre tract recorded in Volume 434, Page 404 of the Deed Records Colorado County, Texas at 693.47 feet pass a 1/2 inch iron pipe set on said line at the southwest corner of said 0.5220 acre tract and continuing for a total distance of 1973.59 feet to the Place of Beginning and containing 120.4933 acres of land, more or less.

For reference and further description see Survey Plat No.0073-02-CO, prepared by the undersigned on same date.



*Charlie Kalkomey*  
Charlie Kalkomey, R.P.L.S.  
Texas Registration No. 1399  
May 6, 1996

Job No.0073-02-CO

42385

FILED FOR RECORD

24<sup>th</sup> day of May 19 96  
at 7:30 o'clock P. M.

DARLENE HAYEK

CLERK COUNTY COURT, COCHADO CO., TEX  
By Dolores Odstrcil

Deputy  
DOLORES ODRSTRCIL

RETURN TO  
GATES, STEIN & PRAUSE

PA.  
2100

Recorded the 11<sup>th</sup> day of June  
DARLENE HAYEK, County Clerk

A.D. 1996 at 9:50 o'clock A. M.  
By Jean Perkins Deputy.

PK