

Hays County
Liz Q. Gonzalez
County Clerk
San Marcos, Texas 78666



70 2013 13020672

Instrument Number: 2013-13020672

As

Recorded On: June 21, 2013

OPR RECORDINGS

Parties: PLUM CREEK DEVELOPMENT PARTNERS LTD

Billable Pages: 16

To

Number of Pages: 17

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

OPR RECORDINGS	76.00
Total Recording:	76.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

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INDEPENDENCE TITLE COMPANY
ATTN: WHITNEY WHITE
9442 CAPITAL OF TX HWY BLDG 2 STE 200
AUSTIN TX 78759



State of Texas |
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

Liz Q. Gonzalez
Liz Q. Gonzalez, County Clerk

15-1224382-COM/DPP

SUPPLEMENTAL DECLARATION

Bk Vol Pg
13020672 OPR 4671 594

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HAYS §

THIS SUPPLEMENTAL DECLARATION, made as of the date hereinafter set forth by PLUM CREEK DEVELOPMENT PARTNERS, LTD., a Texas limited partnership ("*Declarant*") and accepted and agreed to by ATX PLUM PARTNERS I, LP, a Texas limited partnership ("*Developer*").

WITNESSETH:

WHEREAS, Declarant is the current owner of, among other property, certain property in the County of Hays, State of Texas, being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes (hereinafter referred to as the "*The Property*"); and

WHEREAS, the Property is part of a large development locally known as Plum Creek ("*Plum Creek*"); and

WHEREAS, pursuant to that certain Declaration of Covenants, Conditions and Restrictions for Plum Creek Cromwell Drive Commercial Property Owners' Association recorded under Document No. 201313006280 (Volume 4564, Page 391) of the Official Public Records of Real Property of Hays County, Texas (the "*Commercial Declaration*"), various covenants, conditions and restrictions covering Plum Creek, the Plum Creek Cromwell Drive Commercial Property Owners' Association, Inc. has the right to collect association dues from owners of certain property located in Plum Creek, which a portion of such dues are used to maintain various items of benefit to the Property, including but not limited to common area landscape and signage maintenance; and

WHEREAS, Developer desires to purchase from Declarant the Property and Declarant desires to sell said Property to Developer; and

WHEREAS, as a condition of said sale, Declarant desires to impose certain development covenants, conditions and restrictions on the Property and Developer agrees to accept such covenants, conditions and restrictions.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT Declarant, acting herein by and through its undersigned duly authorized representative, does hereby declare that the Property, and such additions thereto as may hereafter be made in accordance with this Declaration, are and shall be held, transferred, sold, conveyed and occupied subject to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns. It is further hereby declared that each contract or deed which may be hereafter executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the following (regardless of whether or not the same are set out in the full or by reference in said contract or deed):

ARTICLE I

GENERAL

Section 1.01 Definitions: The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

- (a) ***“Applicable Law(s)”*** means all applicable service extension requests, zoning ordinances and building codes; environmental laws; and all other applicable federal, state and local laws, statutes, ordinances, rules, regulations, orders, determinations and court decisions affecting the Property.
- (b) ***“ARC”*** has the meaning set forth in the Commercial Declaration.
- (c) ***“Commercial Declaration”*** has the meaning provided in the recitals hereto.
- (d) ***“Declarant”*** shall mean and refer to PLUM CREEK DEVELOPMENT PARTNERS, LTD., a Texas limited partnership, its successors and assigns and shall include any person or entity to which Declarant may assign its rights, privileges, duties and obligations hereunder, all of which are and shall be assignable, in whole or in part.
- (e) ***“Declaration”*** shall mean this instrument, and as it may hereafter amended from time to time.
- (f) ***“Developer”*** shall mean and refer to the party identified in the preamble of this Declaration as Developer and its successors and assigns.
- (g) ***“Improvement”*** or ***“Improvements”*** shall mean every building, structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, parking areas, loading areas, driveways, patios, garages, storage buildings, fences, screening wall, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning equipment, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities, and detention, drainage and filtration ponds and systems.
- (h) ***“POA”*** shall mean Plum Creek Cromwell Drive Commercial Property Owners’ Association, Inc., is successors or assigns.
- (i) ***“Plans and Specifications”*** shall mean any and all documents designed to guide or control the construction or erection of any Improvements, including but not limited to those indicating size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications for all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.
- (j) ***“Property”*** shall mean and refer to that portion of the real property (including improvements) described more particularly on Exhibit “A” attached hereto and made part

hereof for all purposes, and additions thereto, as are subject to this Declaration or any Supplementary Declaration (as hereinafter defined).

- (k) “**Rules**” shall mean the rules adopted by Declarant pursuant to its powers granted herein as they may be amended from time to time.
- (l) “**Street**” shall mean and refer to a road or right-of-way that has been or is intended to be dedicated for use by the public.
- (m) “**Supplementary Declaration**” shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add additional land to the Property or (ii) to subject any portion of the Property to further covenants, conditions or restrictions or (iii) to withdraw land from the Property.

Section 1.02 Property Subject to Declaration. The real property covered by this Declaration is described in Exhibit “A” attached hereto and incorporated herein by reference, and shall include any additions thereto pursuant to this Declaration. All of the Property and any right, title or interest therein shall be owned, held, used, leased, sold and/or conveyed by Developer or any subsequent property owner and any subsequent owner of all or any part thereof, subject to this Declaration and the covenants, restrictions, charges and liens set forth herein.

ARTICLE II GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

Section 2.01 Antennae. Antennae, satellite dish receivers or other devices designed to receive telecommunication signals, including but not limited to radio, television or microwave signals which are intended for radio communications, data transmission, cable television, network television reception or entertainment purposes, whether commercial or otherwise, may only be erected or maintained upon the Property with the prior written approval of the Declarant if such devices are clearly visible from ground level and if they exceed three feet (3’) in diameter or extend more than five feet (5’) above the roof (or, if higher, the parapet wall) of a building on the Property.

Section 2.02 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and any such container shall be kept within an enclosed structure or appropriately screened from view in accordance with Section 2.16 hereof. Also, on a frequent basis as necessary (but in no event less than every three (3) hours), all trash and debris will be removed from the Property and the parking areas and sidewalks located on or adjacent to the Property.

Section 2.03 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant or the City of Kyle, unless adequate provision is made for proper drainage and approved by the Declarant.

Section 2.04 Hazardous and/or Noxious Activities. No activities shall be conducted on the Property and no Improvements constructed on the Property which are or might be unsafe or hazardous to

any person or property unless such activities are legally permitted and performed in accordance with applicable laws and regulations. Nor shall any noxious or offensive activity be conducted on the Property.

Section 2.05 Temporary and Prefabricated Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon the Property, except that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen, during the process of construction approved by the Declarant may be maintained with the prior approval of the Declarant, such approval to include the nature, size, duration and location of such structures. No preconstructed, prefabricated or existing structure may be moved upon or relocated to any portion of the Property, unless approved by the Declarant.

Section 2.06 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth, without the prior approval of the Declarant.

Section 2.07 Vehicles. The use and storage of all vehicles, including but not limited to helicopters, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles shall be subject to regulation by Declarant, which may either regulate, prohibit or limit the use or storage thereof within specified parts of the Property. Notwithstanding the foregoing, Declarant authorizes Developer and its successors and assigns to specify a location on the Property for the use and/or storage of a mobile radiology unit.

Section 2.08 Outdoor Storage. Except during construction of improvements on the Property, no outdoor storage of any items or materials shall be permitted in any portion of the Property without the prior written consent of the Declarant.

Section 2.09 Offensive Activities. The Declarant, in its sole and absolute discretion, shall determine what constitutes a noxious or offensive activity. No exterior speaker, horn, whistle, bell or other sound device, except security devices used exclusively for security purposes, shall be located, used or placed on any part of the Property. Activities expressly prohibited, without limitation, include (1) the use or discharge of firecrackers or other fireworks within the Property, (2) the storage of flammable liquids in excess of five gallons unless adequate safety, provision is made therefore, (3) other activities which may be offensive by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which are hazardous by reason of excessive danger, fire or explosion, (4) hunting, trapping and discharge of firearms, or (5) activities which affect adversely the health, safety, or property values of the Property.

Section 2.10 Construction Design and Approvals. The design and construction of any and all improvements to be placed on the Property require the prior written approval of Declarant, such approval not to be unreasonably withheld. All plans and specifications, including but not limited to: (a) architectural and landscaping design and construction; (b) construction of any building, fence, wall, road, trail, path, parking facility or other structure; (c) any exterior addition, change, or alteration in any building, fence, wall, road, trail, path, parking facility or other structure; (d) lighting and signage; and (e) any landscaping, drainage or grading of the Property. Plans and Specifications are not approved for engineering or structural design or quality of materials, and by approving such Plans and Specifications the Declarant does not assume liability or responsibility therefore, or for any defect in any structure constructed from such Plans and Specifications, or for the failure of the Plans and Specifications to comply with this Declaration or applicable governmental laws, rules, codes, regulations and ordinances.

Section 2.11 Construction Materials. During and after construction of any Improvement, no construction materials shall be stored in or upon streets.

Section 2.12 Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any part of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other structures as approved in writing by the Declarant; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures which have been previously approved in writing by the Declarant. The installation method, including, but not limited to, location, type of installation equipment, trenching method and other aspects of installation, for both temporary and permanent utilities shall be included in the Plans and Specifications and approved in writing by the Declarant.

Section 2.13 Chemical Fertilizers, Pesticides or Herbicides. No commercial chemical fertilizers, pesticides or herbicides other than those approved by the Declarant shall be used on any part of the Property. This provision in no way limits the use of those products which are readily available for consumer use and approved by an agency, such as the Food and Drug Administration, for the purpose intended.

Section 2.14 General. Any use which is contrary to this Declaration or any governmental laws, rules, ordinances, statutes, and regulations, including but not limited to applicable environmental laws, rules, ordinances, statutes and regulations.

Section 2.15 Outside Structures. Developer will, at Developer's sole cost and expense, keep and maintain any and all service areas, mechanical equipment, dumpsters, air conditioning, loading areas and other similar outside areas, structures and equipment used in the operation of the first class commercial retail site in a neat and clean manner, away from public areas to the extent possible, and screened from view by walls, berms, shrubs and trees; provided such outside areas, structures and equipment shall be in a location agreed to by Declarant and screened from view either by walls, berms, shrubs and/or trees, as such walls, berms, shrubs and/or trees is approved by Declarant, in Declarant's sole and absolute discretion.

Section 2.16 Garbage Receptacles. All refuse, garbage and trash shall be kept at all times in covered containers and any such container shall be kept within an enclosed structure and appropriately screened from view, in a manner approved by Declarant, in Declarant's sole and absolute discretion.

Section 2.17 Drives and Parking Areas. At all times, all paved surfaces (including, without limitation, drive way and parking areas) located on the Property will be maintained, reconditioned, restriped and/or repaired to a condition that is level, smooth, and free of potholes, with the type of material as originally used or a substitute material of equal or greater quality than the type of material originally used. Additionally, Developer shall restripe the parking area as is necessary in order to keep and maintain clearly defined and visible parking lines on the Property at all times. Developer will or will cause all paved and/or concrete surfaces on the Property to be washed or sweep in order to maintain, all times, a clean and neat appearance.

Section 2.18 Grease Traps and Attendant Lines. To the extent approved in writing by Declarant, Developer will or will cause to be installed, used, maintained and repaired grease traps and/or any attendant lines as necessary and as required in order to comply with all applicable laws.

COVENANTS

Section 3.01 Use Limitations. Developer will design, build, operate and maintain a first class commercial site to be operated on the Property for medical uses (except as prohibited in subsections (o) and (p) below) and as retail space, restaurant space, and general office uses, none of which may be inconsistent with the terms and conditions of these Declarations. The following uses shall not be permitted on all or any portion of the Property:

- (a) Any use that violates any currently existing exclusive use or exclusive covenant agreement for any land located in Plum Creek;
- (b) Overnight parking of campers, mobile homes, boats, trailers, recreational vehicles or motor homes, except in areas approved by the Declarant for such uses. This provision shall not apply to the overnight parking of a mobile radiology unit.
- (c) Junk yards, automotive wrecking yards, salvage yards, vehicle or equipment disassembly, or businesses engaged in the storage, sale, dismantling or other processing or used or waste materials;
- (d) Adult bookstores, adult arcades, adult theater, adult novelty shops, adult encounter parlor, nude modeling studio, adult cabarets or lounges, or any other commercial enterprise which holds itself out to be primarily in the business of offering a service which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, to the exclusion of matter which is of redeeming social value;
- (e) Quarries, borrow pits, sand and gravel operations, oil and gas extractions, and mining operations, or other on-site extraction of surface or subsurface mineral products or natural resources;
- (f) Stockyards, animal sales, auction yards, or the temporary keeping of livestock for slaughter market or shipping;
- (g) In the event a veterinary clinic or animal boarding facility is located on the Property, all animals will be housed completely within an enclosed structure containing solid walls, flooring and roof. All noise and/or odors will be confined within such structure;
- (h) Any use which would create any dangerous, injurious, noxious or otherwise objectionable noise, glare, smoke, dust or other form of air pollution, liquid or solid refuse or waste or other substance so as to materially, adversely affect any use within the Property or the vicinity of the Property;

- (i) No advertising structures containing or exhibiting any advertisement for the sale of pornographic materials;
- (j) No sale of any pornographic materials, including, without limitation, magazines, books, movies, videos, photographs and other similar media, shall be allowed, except for such items that make up less than five percent (5%) of the total monthly sales of such retail space operated on all or any portion of the Property;
- (k) No check cashing, fast cash, title loans, payday loans or other similar businesses;
- (l) No bars, saloons, clubs or other similar establishments, no liquor stores and no businesses that derive more than ninety percent (90%) of their gross revenue from the sale of alcohol;
- (m) No pawn shops;
- (n) No tattoo, body piercings or other similar businesses and/or establishments;
- (o) No medical business that the primary or majority of such business is for blood donations and/or transfusions, sperm donations and other similar practices;
- (p) No planned parenthood and/or abortion clinics; or
- (q) Any use which violates any section of this Declaration or is contrary to or in violation of any governmental laws, rules, ordinances, statutes and regulations.

Section 3.02 Exterior Illumination. Illumination will be required on all parking areas and walkways between buildings and parking areas unless otherwise waived or modified by the Declarant. Such illumination must conform to plans reasonably approved by the Declarant, and shall be placed so as not to constitute a hazard to vehicular traffic or to constitute a nuisance to or cause interference with adjacent properties.

Section 3.03 Design and Construction Standards. The objective of these construction standards is to obtain consistency and quality in architectural design to protect and enhance values in the Plum Creek Property. The positioning of any Improvement on any part of the Property is subject to the approval of the Declarant, and the Declarant reserves the right to determine the precise location of any Improvement on any part of the Property. To maintain consistency, yet permit interest and variety and the use of new materials as they may develop, all structures shall meet the following requirements (except as may be modified by the Declarant):

- (a) Exterior building materials and colors must be approved by the Declarant;
- (b) All exterior walls of buildings, structures or other improvements must be faced with wood, brick, stone, hardie-plank, or other material as may be approved by the Declarant. Tilt wall type building materials may be used only with specific approval of the Declarant as to quality and appearance. Windows shall not be glazed or regaled with mirrored or reflective glass without prior approval of the Declarant;
- (c) The use of various roofing materials within the Property shall be permitted; however, no roofing materials shall be used without first obtaining the Declarant's approval of same.

The Declarant will only approve roofing materials which are of high grade and quality and which are consistent with the exterior design, color and appearance of other improvements within the Property;

- (d) Construction must conform to plans and specifications submitted to and approved by the Declarant prior to construction of any type. Factors to be considered by the Declarant in approving building materials and plans and specifications may include but shall not be limited to whether the plans meet the following criteria:
 - (i) Provide adequate fire protection systems as may be required by the City of Kyle;
 - (ii) Provide for all underground utilities (public and private);
 - (iii) Preserve the quality and atmosphere of the area and do not detract from adjacent property;
 - (iv) Do not include exterior fire escapes unless required by applicable law;
 - (v) Do not make extensive use of highly reflective or mirrored glass; and
 - (vi) Conform to the provisions of this Declaration.
- (e) The sorting, handling, moving, storing, removing and disposing of all trash and waste materials must be housed or screened in a manner approved by the Declarant at the time the plans and specifications are submitted. Not more than one (1) waste receptacle area shall be permitted for each building, unless a greater number is approved by the Declarant and is justified by a building of an unusual shape, use or configuration, it being the intention of Declarant to encourage the use of trash compactors and to reduce the number of trash dumpsters used within the Property. All facilities and plans for the disposal of wastes other than by public sewage methods (such as shredding, compaction, incineration, reclamation or chemical dissolution) must be approved by the Declarant at the time the plans and specifications were submitted;
- (f) Each kitchen facility within a commercial building or complex of buildings shall contain a water flushing garbage grinder disposal and grease trap, as may be required by the City of Kyle;
- (g) All structures shall be equipped with gutters, downspouts, and/or other drainage conveyances. All surface drainage, including roof drainage of buildings, shall be designed to conform to the overall drainage of the Property;
- (h) No excavation shall be made except in conjunction with construction of an improvement. During construction appropriate erosion controls shall be installed and maintained, and when such Improvement is completed all exposed openings shall be back-filled and graded;
- (i) All lighting in parking and driveway areas shall be hooded so as to minimize off-site glare and hazards to vehicular traffic;
- (j) Chain link or other wire fabric fences will not be allowed except temporarily as a container at construction sites;

- (k) All reasonable precautions must be taken to preserve existing trees on the Property;
- (l) Once commenced, construction shall be diligently pursued to the end and in no event shall any structure remain unfinished for more than one (1) year after construction has commenced;
- (m) No structure more than the greater of (i) fifty feet or (ii) three (3) stories, including the height of any parapet walls, may be built; and
- (n) All construction shall comply with all applicable governmental laws, ordinances, rules and regulations, and shall have received all required governmental permits or approvals.

MAINTENANCE OF PROPERTY

Section 4.01 Duty of Maintenance. Developer and occupants (including lessees) of any part of the Property shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of the Property so owned or occupied, including Improvements and grounds or drainage easements or rights-of-way incident thereto or in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes but is not limited to:

- (a) Prompt removal of all litter, trash, dead vegetation, refuse and wastes, including any such items resulting from storm, flood or other casualty;
- (b) Tree and shrub pruning;
- (c) Watering landscaped areas;
- (d) Keeping exterior lighting and mechanical facilities in working order;
- (e) Keeping lawn and garden areas alive, free of weeds and attractive;
- (f) Keeping parking areas, driveways and roads in good repair;
- (g) All painted Improvements and other painted structures on the Property shall be repainted by the Developer at its sole cost and expense as often as is reasonably necessary to ensure the attractiveness and aesthetic quality of the Property or Improvement; and
- (h) Developer may, at its sole cost and expense, install underground landscape irrigation system on the Property where appropriate.

Section 4.02 Enforcement. If, in the reasonable opinion of Declarant, Developer or any occupant/lessee of Developer has failed in any of the foregoing duties or responsibilities or in any of the duties, obligations and responsibilities set forth elsewhere in this Declaration, then the Declarant (or the POA, may give such person written notice of such failure and such person must within thirty (30) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the (i) Declarant or the POA through their authorized agent or agents shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person; and (ii) Declarant or the POA, as applicable, shall have the ability assess fines for each violation,

as such fines are or may be imposed from time to time by the POA for such violation, commencing from the date notice of the violation is given until such violation is cured. In addition to those enforcement provisions set forth in Section 4.02 hereof, the Declarant or the POA shall also have the right to seek injunctive or other relief provided or allowed by law against such violation and to recover from Developer all its expenses and costs in connection therewith, including but not limited to attorneys fees and costs or court. The Developer and occupants (including lessees) of any part of the Property on which such work is performed shall jointly and severally be liable for the cost of such work and any fines assessed thereto for the failure to perform such work and shall promptly reimburse the Declarant or the POA, as applicable, for such cost. If Developer or its occupants/lessees shall fail to reimburse the Declarant or the POA, as applicable, within thirty (30) days after receipt of a statement for such work from the Declarant or the POA, as applicable, and/or fail to pay any fines, when due, then said indebtedness and such fines shall be a debt of all of said persons jointly and severally and shall constitute a lien against that portion of the Property on which said work was performed, provided, however, that each such lien shall be secondary, subordinate, and inferior to all liens, present and future, given, granted and created by or at the instance and request of the Developer to secure the payment of monies advanced or to be advanced on account of the construction of improvements on the Property.

MISCELLANEOUS PROVISIONS

Section 5.01 Duration. This Declaration and the covenants, restrictions, charges and liens set out herein shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant and every owner of any part of the Property, including Developer, and their respective legal representatives, heirs, successors and assigns, for a term beginning on the date this Declaration is recorded and continuing through and including December 31, 2032, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Section 5.02 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Declarant for the purpose of service of notices or to the residence of such person if no address has been given to the Declarant. Such address may be changed from time to time by notice in writing given by such person to the Declarant.

Section 5.03 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of the Plum Creek Property. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 5.04 Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by Developer. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with the provisions of this Declaration, and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision of this Declaration, including but not limited to any provision prohibiting temporary structures, may be granted by the Declarant, provided that such waiver shall be only for the reasonable period of such construction.

Section 5.05 Assignment by Developer. The terms of this Supplemental Declaration shall be a covenant running with the land and shall be binding on subsequent owners of the Property.

Section 5.06 Enforcement and Nonwaiver. Except as otherwise provided herein, Declarant (and/or the POA, at their own expense, shall have the right to enforce all of the provisions of these Restrictions. Such right of enforcement shall include both damages for and injunctive relief against the breach of any such provision. Every act or omission whereby any provision of these Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by Declarant and/or the POA. The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

Section 5.07 Construction. The provisions of this Declaration shall be deemed independent and severable and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof. It is specifically understood that all decisions, determinations, consents and approvals provided hereunder for or with respect to any matter and by any person or entity shall not be unreasonably withheld.

[SIGNATURE AND NOTARY PAGES ON THE FOLLOWING PAGES]

EXECUTED as of the 18th day of June, 2013.

DECLARANT:

PLUM CREEK DEVELOPMENT PARTNERS, LTD.
a Texas limited partnership

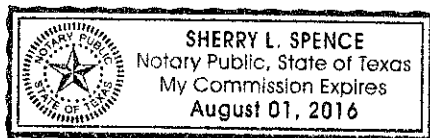
By: BGI PLUM CREEK DEVELOPERS, LTD.,
a Texas limited partnership,
its general partner

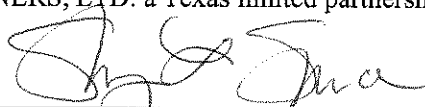
By: BENCHMARK LAND DEVELOPMENT,
INC., a Texas corporation, its general partner

By: 
David C. Mahn, Vice President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on June 10, 2013, by David C. Mahn, who is known to me, as Vice President of BENCHMARK LAND DEVELOPMENT, INC., a Texas corporation, the general partner of BGI PLUM CREEK DEVELOPERS, LTD., a Texas limited partnership, as general partner of PLUM CREEK DEVELOPMENT PARTNERS, LTD. a Texas limited partnership.



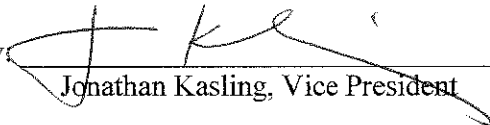

Notary Public, State of Texas

AGREED AND ACCEPTED:

DEVELOPER:

ATX Plum Partners I, LP, a Texas limited partnership

By: ATX Plum Management, LLC, a Texas limited liability company,
Its general partner

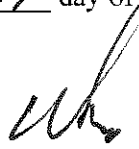
By: 
Jonathan Kasling, Vice President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

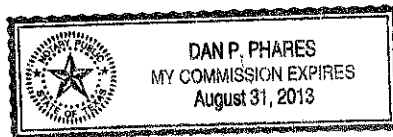
Before me the undersigned authority on this day personally appeared Jonathan Kasling, the Vice President of ATX Plum Management, LLC, a Texas limited liability company, the general partner of ATX Plum Partners I, LP, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed on behalf of such limited liability company and limited partnership.

Given under my hand and seal of office this 19th day of June, 2013.

[NOTARY SEAL]



Notary Public in and for the State of Texas

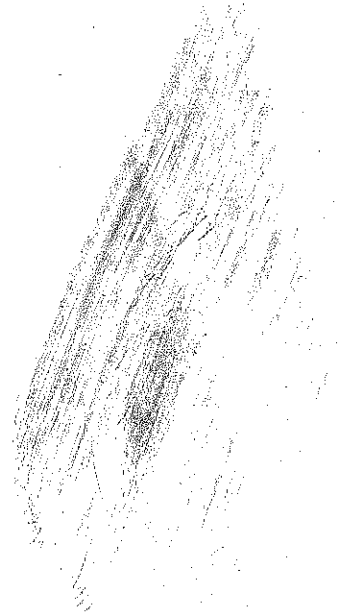


Return to:
ATTN: Whitney White
Independence Title Company
9442 Capital of Texas Hwy
Bldg. 2, Suite 200
Austin, TX 78759

EXHIBIT "A"

Property

[SEE ATTACHED LEGAL DESCRIPTION ON THE NEXT TWO PAGES]



1.424-Acres
John Cooper Sur. No. 13, A-100,
Jesse Day Sur., A-152
Hays County, Texas

Job No. 5549-01-001
FN1467(en)
Page 1 of 2

FIELD NOTES DESCRIPTION

DESCRIPTION OF 1.424 ACRES OF LAND IN THE JOHN COOPER SURVEY NUMBER 13, A-100, AND THE JESSE DAY SURVEY, A-152, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF A CERTAIN 849.267 ACRE TRACT DESCRIBED IN THE DEED TO WILLIAM NEGLEY, LIFE TENANT OF RECORD IN VOLUME 322, PAGE 589, DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALSO IN THE DEED TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2047, PAGE 133, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID 1.424 ACRES BEING ALSO A PORTION OF A CERTAIN CALLED 95.616 ACRE TRACT DESIGNATED AS PARCEL 1 AND DESCRIBED IN A DEED TO PLUM CREEK DEVELOPMENT PARTNERS, LTD. OF RECORD IN VOLUME 2881, PAGE 599, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 1.424 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "LAI" previously set in the south right-of-way line of Kohler's Crossing (County Road 171), a variable width right-of-way, at the southwest corner of a certain called 1.252 acre tract designated as Parcel 2, Tract 1, and described in a deed to the City of Kyle, Texas, of record in Volume 3218, Page 838, Official Public Records of Hays County, Texas, and the southeast corner of a certain called 0.940 acre tract designated as Parcel 1, Tract 2, and described in a deed to the City of Kyle, Texas, of record in Volume 3218, Page 860, Official Public Records of Hays County, Texas, for a point in the north line and **POINT OF BEGINNING** of the tract described herein;

THENCE N 88°49'05" E, with the south right-of-way line of Kohler's Crossing same being the south line of the said 1.252 acre tract designated as Parcel 2, Tract 1 and the north line of the tract described herein, a distance of 110.40 feet to a 1/2-inch iron rod with a plastic cap stamped "Loomis" set for the northeast corner of the tract described herein;

THENCE S 01°10'55" E, crossing the remainder of the said 849.267 acre tract, with the east line of the tract described herein, a distance of 292.23 feet to a 1/2-inch iron rod with a plastic cap stamped "Loomis" set for the southeast corner of the tract described herein;

THENCE S 88°49'05" W, continuing across the remainder of the said 849.267 acre tract, with the south line of the tract described herein, at a distance of 202.82 feet passing a calculated point in the east line of the said 95.616 acre tract, and continuing for a total distance of 223.67 feet to a mag-nail with a washer stamped "Loomis" set for the southeast corner of the tract described herein;

THENCE continuing across the said 95.616 acre tract, with the west line of the tract described herein, the following two (2) courses and distances:

1. with the arc of a curve to the left having a radius of 310.00 feet, an arc distance of 89.13 feet and a chord which bears N 07°03'18" E a distance of 88.83 feet to a mag-nail with a washer stamped "Loomis" set for a point of tangency, and
2. N 01°10'55" W, a distance of 204.32 feet to a 1/2-inch iron rod with a plastic cap stamped "Loomis" set in the south right-of-way line of Kohler's Crossing, same being the south line of the said 0.940 acre tract, for the northwest corner of the tract described herein, from which a 1/2-inch iron rod with a plastic cap stamped "LAI" previously set for an angle point in the south line of the said 0.940 acre tract bears S 88°49'05" W, a distance of 101.32 feet;

THENCE N 88°49'05" E, with the south right-of-way line of Kohler's Crossing same being the south line of the said 0.940 acre tract and the north line of the tract described herein, a distance of 100.54 feet to the **POINT OF BEGINNING** and containing 1.424 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

H:\Survey\FieldNotes\FN-1400s\FN1467(en).doc

1.424-Acres
John Cooper Sur. No. 13, A-100,
Jesse Day Sur., A-152
Hays County, Texas

Job No. 5549-01-001
FN1467(en)
Page 2 of 2

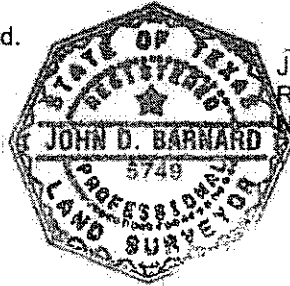
BOWMAN WORD FILE: FN1467(en)

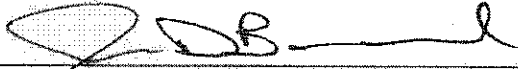
THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying sketch is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the month of March 2013, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 7th day of June 2013 A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746





John D. Barnard
Registered Professional Land Surveyor
No. 5749 – State of Texas