

Cypress Fairway Village
Restrictions

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THE STATE OF TEXAS, A
COUNTY OF HAYS. A

KNOW ALL MEN BY THESE PRESENTS:

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That K-P INVESTMENTS, INC., a Texas Corporation having its principal place of business in Wimberley, Hays County, Texas, (hereinafter called the "Developer"), being the owner of that certain tract of land described as Exhibit "A" and known locally as Cypress Fairway Village being an unrecorded plat of said subdivision and lot recorded in the office of the County Clerk of Hays County, and the Developer desiring to create and carry out a uniform plan and scheme for the improvement, development, and sale of property in said plat of Cypress Fairway Village (herein referred to as the "Subdivision"), does hereby adopt, establish, promulgate and impress the following Reservation, Restrictions and Covenants, which shall be and are hereby made applicable to the Subdivision:

1.

GENERAL PROVISION

APPLICABILITY

1. Each Contract, Deed or Deed of Trust which may be hereafter executed with respect to any property in the Subdivision shall be deemed and held to have been executed, delivered and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed or Deed of Trust, and whether or not referred to in any such instrument.

only
CFV

DEEDS
Hays County, Texas

DEDICATION

2. The streets and roads shown on said unrecorded plat are for the sole and exclusive use of the developer and the owners of the lots in this subdivision to be known as "Cypress Fairway Village." The developer reserves the right to convey streets and roads to Woodcreek Resort, Inc., its successors or assigns, to a property owners association created by or for property owners in Cypress Fairway Village, or dedicate said streets and roads to the public, at any time the developer deems such conveyance or dedication to be in the best interest of the Subdivision, the property owners, or the developer. A copy of said unrecorded plat is attached hereto as Exhibit "B".

RESERVATIONS

3. a. No interest in the oil, gas, or other minerals in, on or under the Property will be conveyed by Seller; all interest in the same being expressly reserved by Seller.
- b. All utility easements as hereinafter designated are dedicated with reservation that such utility easements are for the use and benefit of any public utility operating in Hays County, Texas, as well as for the benefit of the Developer and the property owners in the Subdivision to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, gas, water, sanitary sewers, storm sewers and any other utility or service which the Developer may find necessary or proper. Utility easements are reserved over all "common areas", and five feet (5') along all front and back lot lines on each subdivided lot.

c. The title conveyed to any property in the Subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities constructed by the Developer or public utility companies upon, under, along, across or through such public utility easements; and the right (but no obligation) to construct, maintain, repair, and operate such systems, utilities, appurtenances and facilities is reserved to the Developer, its successors and assigns.

d. The right to sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the Developer.

e. The Developer reserves the right to make minor changes in and minor additions to such utility easements for the purpose of more efficiently serving the Subdivision or any property therein.

f. Neither the Developer or its successors or assigns using said utility easements shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers, or other property

of the land owner situated on the land covered by said utility easements.

g. The developer reserves the right to construct brooks, walkways, and flowerbeds in the common areas as shown on the unrecorded plat. The developer reserves the right to improve, landscape, alter, modify and eliminate any one or more of such common areas, or convey same or any part thereof to a property owners association created by or for the property owners of Cypress Fairway Village.

h. The Developer reserves the right at any time, and from time to time hereafter, to promulgate and impose restrictions (as well as vary and amend any such restrictions) as to all or any portion of the unplatted, reserve, or unrestricted areas of the Subdivision on the aforesaid plats. Any such action by the Developer shall not, in order to be fully binding, require the joinder or any other person, whether such person be an owner of property in the Subdivision, a lienholder, a mortgagor, a Deed of Trust beneficiary or any other person.

DURATION

4. The provisions hereof, including the Reservations, Restrictions and Covenants herein set forth, shall run with the land and shall be binding upon the Developer, its successors and assigns, and all persons or parties claiming under it or them for a period of thirty-five (35) years from the date hereof, at which time all of such provisions shall be automatically extended for successive periods of ten (10) years

unless prior to the expiration of any such period of thirty-five (35) years or ten (10) years, the then owners of a majority of lots in the Subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such particular period by the aforesaid thirty-five (35) year period or any successive ten (10) year period thereafter.

ENFORCEMENT

5. In the event of any violation or attempted violation of any of the provisions hereof, including any of the Reservations, Restrictions or Covenants herein contained, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. It shall be lawful for the Developer or for any person or persons owning property in the Subdivision (after such resignation, if in fact it occurs), to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate such provisions.

INVALIDITY

6. In the event that any portion of the provisions hereof shall become or be held invalid, whether by reason or abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provision hereof which was not thereby held invalid; and such other provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

EFFECT OF VIOLATIONS ON MORTGAGES

7. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any Mortgage or Deed of Trust presently or hereafter placed of record or otherwise affect the rights of the Mortgagee under any such Mortgage, holder of any such lien or beneficiary of any such Deed of Trust; and any such Mortgage, lien or Deed of Trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained including said Reservations, Restrictions and Covenants.

II.

ARCHITECTURAL CONTROL

BASIC RULE

1. No building or other improvement of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made thereto or exterior alteration including but not limited to change of exterior color, made therein

for original construction on any property in the Subdivision
the obtaining of the necessary approval (as hereinafter
provided) of the construction plans and specifications and a
plat showing the location of such building or other improve-
ments. Approval shall be granted or withheld based on matters
in compliance with the provisions of this instrument, quality
of materials, harmony of external design with existing and
proposed structures and location with respect to topography
and finished grade elevation.

ARCHITECTURAL CONTROL AUTHORITY

2. a. The authority to grant or withhold archi-
tectural control approval as referred to above
is vested in the Developer; except, however,
that such authority of the Developer shall cease
and terminate upon the election of the Cypress
Fairway Village Architectural Control Committee,
in which event such authority shall be vested
in and exercised by the Cypress Fairway Village
Architectural Control Committee (as provided in
b. below), hereinafter referred to, except as
to plans and specifications and plats thereo-
fore submitted to the Developer which shall
continue to exercise such authority over all such
plans, specifications and plats.
- b. At such time as the Developer voluntarily
resigns as Architectural Control Committee, then
the Developer shall appoint a committee of three
(3) members to be known as the Cypress Fairway

Village Architectural Control Committee
(herein referred to as the "Committee.")

Each member of the Committee must be an owner of property in some section of Cypress Fairway Village.

The Developer shall be obligated to arrange for the appointment of such committee within sixty (60) days following the resignation of the Developer. Nothing herein shall be interpreted to require that the Developer actually resign so long as he has not resigned as above stated, nor to affect the time at which the Developer might take such action if, in fact, the Developer does take such action.

After such appointment has been made, thereafter the Committee shall be obligated to arrange for committee.

Upon the death, resignation, refusal or inability of any member of the Committee to serve, the remaining members of the Committee shall fill the vacancy by appointment.

EFFECT OF INACTION

3. Approval or disapproval as to architectural control matters as set forth in the preceding provisions shall be in writing. In the event that the authority exercising the prerogative of approval or disapproval (whether the

Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plat submitted to it in thirty (30) days following such submission, such plans and specifications and plat shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plat and all of the other terms and provisions hereof.

EFFECT OF APPROVAL.

4. The granting of the aforesaid approval shall constitute only an expression of opinion, whether by the Developer or the Committee, that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plat; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plat. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Exercise of any such prerogative by one (1) or more members of the Committee in their capacity as such shall not constitute action by the Developer after the election of such Committee members, notwithstanding that any such Committee member may be a Director of the Developer.

DESIGNATION OF TYPE OF LOTS

1. All lots in the Subdivision shown as the unrecorded plat are hereby designated as "Town House Lots."
2. The "General Restrictions" set forth in IV below shall be applicable to all types of lots in the Subdivision hereinabove enumerated and designated. The "Special Restriction" set forth in V below shall, in addition to the General Restrictions, apply to the particular type of lots in the Subdivision so indicated.

IV.

GENERAL RESTRICTIONS

1. None of the lots or the improvements thereof shall be used for anything other than town house private residential purposes; however, these units may be rented or leased for residential purposes.
2. The living area of the residential structure (exclusive of porches, whether open or screened, garage or other car parking facility, terraces, driveways and servants quarters) shall not be less than 750 Square Feet.
3. All lots in the Subdivision shall be used only for residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood. No lot in the Subdivision shall be used for any commercial, business or professional purpose nor for church purposes. No house trailer, camper trailer, camper

vehicle or motor vehicle (or portion thereof) shall be lived in or stored on any lot.

4. No structure of a temporary character, trailer, basement, tent, shack garage, barn or other outbuilding shall be used on any lot at any time as a residence. And except also that a field office by Developer as hereinafter provided, may be established.

Until the Developer has sold all other lots in Cypress Fairway Village (and during the progress of construction of residences in the Subdivision), a temporary field office for sales and related purposes may be located and maintained by the Developer (and/or its sales agents). The location of such field office may be changed, from time to time, as lots are sold. The Developer's right to maintain such field office (or permit such field office to be maintained) shall cease when all lots in Cypress Fairway Village, except the lot upon which such field office is located, have been sold.

5. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept as household pets provided they are not kept, bred or maintained for commercial purposes and provided they do not constitute a nuisance and do not, in the sole judgment of the Developer constitute a danger or potential or actual disruption of other lot owners, their families or guests. All dogs must be maintained on a leash or under immediate control of the owner.

6. The drying of clothes in public view is prohibited.

7. All lots shall be kept at all times in a sanitary, healthful and attractive condition, and the owner or occupant of all lots shall keep all weeds and grass thereon cut and shall in no event use any lot for storage of material or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon. Any incinerator or other equipment for the storage or disposal of such material shall be kept in a clean, sanitary and sightly condition. During the construction of improvements no trash shall be burned on any lot except in a safe manner and unless so burned, shall be removed by the lot owner. Boats, trailers and other recreational vehicles are to be stored in locations other than any lot in this Subdivision or common area in the Subdivision.

8. Before initial residential occupancy, no sign, advertisement, billboard or advertising structure of any kind may be erected or maintained on any lot in the Subdivision without the prior approval of the Developer; and any such approval which is granted by the Developer may be withdrawn at any time by the Developer, in which event, the party granted such permission shall, within the period designated by the Developer (which in no event shall be

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less than five (5) days), thereupon remove same. After initial residential occupancy of improvements on any particular lot in the Subdivision, no sign, advertisement, billboard or advertising structure of any kind other than a normal for-sale sign approved by the Developer as to design, not exceeding two (2) feet by three (3) feet erected on a post in the ground, and applicable to such lot alone, may be erected or maintained on such lot.

The Developer, until the Committee is selected, if it is, and thereafter, the Committee, shall have the right to remove and dispose of any such prohibited sign, advertisement, billboard, or advertising structure which is placed on any lot, and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal or in any way be liable for any accounting or other claim by reason of the disposition thereof.

9. The digging of dirt or the removal of any dirt from any lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on such lot.

10. No lot of Cypress Fairway Village shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring.

11. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or



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unsanitary sewage being carried into any water body. No septic tank or other means of sewage disposal may be installed unless approved by the proper governmental authorities having jurisdiction with respect thereto and the Developer.

12. No oil drilling, oil development operation, oil refining, or mining operations of any kind shall be permitted upon any lot, nor shall any wells (of any kind), tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil, or natural gas, shall be erected, maintained or permitted on any building site. At no time shall the drilling, usage or operation of any water well be permitted on any lot.

13. Drainage structures under private driveways shall always have a net drainage opening area of sufficient size to permit the free flow of water without backwater.

14. The Developers or any person, firm or corporation operating the community, recreational or "common areas" in the Subdivision shall not be held liable for any damages to any lot owner, their guests or their heirs, administrators or assigns resulting from operation of said areas.

15. Where underground utility services shall be available for said lots, no above surface utility wires will be installed outside of any structure. Underground utility service lines shall extend through and under said lots in order to serve any structure thereon, and the area above said underground lines and extending two and one-half (2-1/2') feet to each side of said underground line shall be subject

to excavation, refilling and ingress and egress for the installation, inspection, repair, replacing and removing of said underground facilities by such utility company; and owners of said lots shall ascertain the location of said lines and keep the area over the route of said lines free of excavation and clear of structures, trees or other obstructions.

✓ 16. No exterior television antenna shall be permitted. No exterior antenna for any radio, TV or other similar electronic device or system will be permitted without written approval of the Architectural Control Committee.

V.

SPECIAL RESTRICTIONS

1. In addition to the General Restrictions set forth in IV, above, the following restrictions shall apply to all lots, common areas, and recreational areas.

a. The Developer shall have control over all improvements to be placed in the common areas and certain facilities common to all or part of the lots including, by way of example but not limited to, pathways, sewage system, and recreational facilities.

b. Since zero lot line and/or common wall concepts are anticipated, the Developer, until the Committee is selected, if it is, and

thereafter the Committee, shall be the sole and prevailing authority regarding wall, fence and building set-back requirements. Such authority shall at all times be consistent and in the best interest for all parties concerned in Cypress Fairway Village.

VII.

MAINTENANCE FUND

All lots in said Cypress Fairway Village are subject to an annual maintenance charge of Three Hundred Sixty and NO/100 (\$360.00) Dollars per lot for the purpose of creating a fund to be known as "Maintenance Fund" to be paid by the Owner of each lot in said Subdivision, payable annually in advance, on the first day of January following the date of the purchase of respective lots. The annual maintenance charge shall be prorated the year of purchase from date of closing until the following January 1st. Said payments to be made to Developer, or its successors or assigns, as the needs of the property may in Developers' judgment require but in no event shall such charge be more than Five Hundred and NO/100 (\$500.00) Dollars per year per lot unless such adjusted increase has been approved by fifty-one (51%) per cent of the lot owners in Cypress Fairway Village.

The total fund arising from said charge, so far as it may be sufficient shall be used for the payment of the

maintenance expenses incurred for any or all of the following purposes:

Maintenance of streets, paths, parks, parkways and esplanades, including all of the grass and planted area within boundaries of the lots, streets, curbs, and common area parks, furnishing of watchman or patrol service, and maintaining the exterior surface or finish of all units in Cypress Fairway Village in regards to the exterior paint finish and doing any other thing necessary or desirable in the opinion of Developer, his successors or assigns, to keep the property neat or in good order, or which, in the opinion of Developer, his successors, or assigns, may be of general benefit to the owners or occupants of the Subdivision.

Such maintenance charge shall be and remain in effect so long as the restrictions hereinabove set out shall remain in effect and the continuation or extension of such restrictions in the manner provided therefor shall automatically extend this maintenance charge.

Any grantee, by accepting a conveyance of any property in said subdivision agrees and consents to such maintenance charge and to secure the payment of said charge a vendor's lien is retained against the property so conveyed.

TRANSFER OF FUNCTIONS OF THE DEVELOPER

The Developer may at any time hereafter cause one or more non-profit corporations to be organized under the laws of the State of Texas for the purpose of exercising all or any of the duties and preogatives of the Developer hereunder (including the matters relating to "Maintenance Fund.") Any such delegation of authority and duties shall serve to automatically release the Developer from further liability with respect thereto and vest such duties and preogatives in such non-profit corporations. Any such delegation shall be evidenced by the Developer and the afore-said non-profit corporations but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in the Subdivision, a lienholder, mortgagee, Deed of Trust beneficiary or any other person.

IX.

AMENDMENTS

Any or all of the covenants herein may be annulled, amended or modified at any time by the recommendation of the Developer or Architectural Control Authority, if one is appointed, or its successors, and ratified by a vote of two-thirds (2/3) of the lot owners in the Subdivision. All such lot owners shall be given thirty (30) days notice in writing of any proposed amendment before same is adopted. There shall be no annulment, amendment or modification of these covenants without the prior recommendation of the

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Developer or Architectural Control Authority, if any is appointed.

X.

BINDING EFFECT

All of the provisions hereof shall be covenants running with the land thereby affected. The provision hereof shall be binding upon and inure to the benefit of the owners of the land affected and the Developer and their respective heirs, executors, administrator, successors and assigns.

EXECUTED this the 13 day of February, 1979.

K & P INVESTMENTS, INC.

BY: [Signature]
Charles D. Patterson,
President.

ATTEST:

[Signature]
Secretary.

THE STATE OF TEXAS, A
 A
COUNTY OF HAYS. A

BEFORE ME, the undersigned authority, on this day personally appeared CHARLES D. PATTERSON, PRESIDENT of K & P INVESTMENTS, INC., 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 and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 13th day of February, 1979.

[Signature]
Notary Public, in and for
Hays County, Texas.

Gene Majors
My Commission expires: 12-31-81

