

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



70 2014 14017654

Instrument Number: 2014-14017654

As

Recorded On: June 23, 2014

OPR RECORDINGS

Parties: WOODCREEK PROPERTY OWNERS ASSOCIATION

Billable Pages: 47

To WIMBERLEY SPRINGS PARTNERS LTD

Number of Pages: 48

Comment:

(Parties listed above are for Clerks reference only)

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

OPR RECORDINGS	210.00
Total Recording:	210.00

***** 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:

Document Number: 2014-14017654
Receipt Number: 370235
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Record and Return To:

WOODCREEK PROPERTY OWNERS ASSOCIATION
ORIGINAL TO CUSTOMER
SAN MARCOS TX 78666



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

CAUSE NO. 12-0860

WOODCREEK PROPERTY OWNERS	§	IN THE DISTRICT COURT OF
ASSOCIATION OF HAYS COUNTY, INC.	§	
Plaintiff,	§	
	§	
v.	§	HAYS COUNTY, TEXAS
	§	
WIMBERLEY SPRINGS PARTNERS LTD.	§	
AND WIMBERLEY SPRINGS	§	
COMMUNITY ASSOCIATION, INC.	§	
Defendants.	§	428TH JUDICIAL DISTRICT

CAUSE NO. 12-0921

WIMBERLEY SPRINGS PARTNERS, LTD.,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	
	§	
WOODCREEK PROPERTY OWNERS	§	HAYS COUNTY, TEXAS
ASSOCIATION OF HAYS COUNTY, INC.,	§	
SUE CSEJKA, JANELLE DELANEY,	§	
MERRY MERIAN, DIANE SUSAN	§	
PERCELL, GLYNN SCHANEN, and LIZ	§	
SUMTER,	§	
Defendants.	§	428TH JUDICIAL DISTRICT

FINAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This FINAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Final Settlement") is made by and between the Parties (defined below).

1. DEFINITIONS

In this Final Settlement, the following terms shall have the following meanings:

- 1.1. "ACC" means the Architectural Control Committee of the WPOA.
- 1.2. "Claims" means any and all claims, counterclaims, causes of action, losses, costs and expenses, obligations, express or implied warranties, liabilities, damages, and demands of any kind or character, known or unknown, in contract, tort, or arising under statutory law or common law, that (a) Wimberley Springs may have against WPOA, (b) WSCA may have against WPOA, or (c) WPOA may have against any of Wimberley Springs, WSCA or the WSCA Individual Defendants, in each case, including without limitation those

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which have or might have been raised in the Lawsuit. "Claims" specifically does not mean and does not include claims, counterclaims, causes of action, losses, costs and expenses, obligations, express or implied warranties, liabilities, damages, and demands of any kind or character that any Party may have against any WPOA Individual Defendant.

- 1.3. "County Roadway Land" means any streets in a WPOA Section or a WSCA Section that are dedicated or quitclaimed by any Party to Hays County, Texas and accepted as a public street by Hays County.
- 1.4. "Declaratory Judgment Lawsuit" means Cause No. 12-0921; *Wimberley Springs Partners, Ltd. v. Woodcreek Property Owners Association of Hays County, Inc., Sally Caldwell, Sue Csejka, Janelle Delaney, Merry Merian, Diane Susan Purcell, Michael Regan, Glynn Schanen, Liz Sumter and Karen L. Williams*; In the 428th Judicial District of Hays County, Texas.
- 1.5. "Foreclosure Lawsuit" means Cause No. 12-0638; *In RE: Order for Foreclosure Concerning: Wimberley Springs Partners, Ltd. and Western National Bank (In REM Only) and the Property described as: 238 Woodcreek Drive, et al*; In the 428th Judicial District of Hays County, Texas; which lawsuit was dismissed without prejudice in August 2012.
- 1.6. "Individual Release Date" means the date on which Wimberley Springs and the WSCA have received individual releases from each of the WPOA Individual Defendants, in a form reasonably acceptable to Wimberley Springs and the WSCA, of the WPOA Individual Defendant Claims.
- 1.7. "Lawsuits" means, collectively, the Declaratory Judgment Lawsuit and the Section 11 Lawsuit.
- 1.8. "Park Lots" means Lots 117 and 118 of Section 9-A of Woodcreek.
- 1.9. "Party" means, individually, any of Wimberley Springs, WSCA, and WPOA, and "Parties" means all of them collectively.
- 1.10. "Section" as the context demands means either i) a section within the Woodcreek subdivision governed by a distinct set of deed restrictions, or ii) the owners of lots comprising such section. In some instances, more than one Section may be burdened by a single set of deed restrictions.
- 1.11. "Section 11 Lawsuit" means Cause No. 12-0860; *Woodcreek Property Owners Association of Hays County, Inc. v. Wimberley Springs Partners, Ltd., Wimberley Springs Community Association, Inc.*; In the 428th Judicial District of Hays County, Texas.
- 1.12. "Settlement Date" means the date that this Final Settlement is filed with the court clerk by the Parties, as described further in Section 6.2.
- 1.13. "Wimberley Springs" means Wimberley Springs Partners, Ltd., a Texas limited partnership and its past or present partners, governing persons, agents, attorneys,

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representatives, officers, employees, assigns, administrators, parent entities, subsidiary entities, affiliate entities, and successors in interest as to any of the matters contained herein.

- 1.14. "Withdrawn Sections" means Sections 11, 12, 13, 14, 16, 17, 19, 22, 23 and 25 of Woodcreek, each of which previously has held an election and has voted affirmatively by the margin required by their respective deed restrictions to amend their deed restrictions to withdraw from the WPOA and to join the WSCA.
- 1.15. "Woodcreek" means the subdivision known as Woodcreek North in Hays County, Texas.
- 1.16. "WPOA" means Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation and its past or present members, governing persons, agents, attorneys, representatives, officers, employees, assigns, administrators, parent entities, subsidiary entities, affiliate entities, and successors in interest as to any of the matters contained herein. Notwithstanding the foregoing, "WPOA" does not mean or include the WPOA Individual Defendants nor David Junkin.
- 1.17. "WPOA Individual Defendant Claims" means any and all claims, counterclaims, causes of action, losses, costs and expenses, obligations, express or implied warranties, liabilities, damages, and demands of any kind or character, known or unknown, in contract, tort, or arising under statutory law or common law, that the WPOA Individual Defendants may have against Wimberley Springs, the WSCA or any WSCA Individual Defendant, in each case, including without limitation those which have or might have been raised in the Lawsuits.
- 1.18. "WPOA Individual Defendants" means Sue Csejka, Janelle Delaney, Merry Merian, Diane Susan Purcell, Glynn Schanen and Liz Sumter.
- 1.19. "WPOA Section" means a section in which restrictive covenants require an owner of a lot in that section to be a member of the WPOA.
- 1.20. "WSCA Section" means a section in which restrictive covenants require an owner of a lot in that section to be a member of the WSCA.
- 1.21. "WSCA" means Wimberley Springs Community Association, Inc., a Texas nonprofit corporation and its past or present members, governing persons, agents, attorneys, representatives, officers, employees, assigns, administrators, parent entities, subsidiary entities, affiliate entities, and successors in interest as to any of the matters contained herein. Notwithstanding the foregoing, "WSCA" does not mean or include the WSCA Individual Defendants.
- 1.22. "WSCA Individual Defendants" means, collectively, Julee Sanders, Dorothy Sweeton, Richard Sullivan and Chris Scudder, and each of their respective agents, attorneys, representatives, trustees, assigns, beneficiaries, executors, administrators, servants, heirs, and employees; and successors to interest as to any of the matters contained herein.

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- 1.23. “WSP Affiliates” means Wimberley Quicksand Partners, Asset Management Trust and any other entity that is controlled by, controls or under common control with Wimberley Springs Partners. For purposes of this Agreement “control” means ownership of fifty percent or more of the voting shares or interests of an entity.

2. RECITALS

- 2.1. Wimberley Springs is a developer and owner of real property in Woodcreek.
- 2.2. On February 14, 2006, Wimberley Springs and the WPOA reached a settlement agreement about managing Sections within Woodcreek that vote to amend deed restrictions to join a different property owners’ association.
- 2.3. On October 17, 2008, following an election and the vote of a majority of lot owners in Section 12 of Woodcreek to leave the WPOA and to join the WSCA, the WPOA sued Wimberley Springs, claiming that Wimberley Springs was not authorized to conduct the election and alleging various issues regarding ownership of roads and amounts of assessments due.
- 2.4. On December 11, 2008, Wimberley Springs and the WPOA entered into a Settlement Agreement, which resolved the October 17, 2008 lawsuit and provides among other things that (a) other Sections in Woodcreek would be permitted to vote to withdraw and join the WSCA in the future, on a “one lot one vote” basis, (b) the WPOA would not object to future elections in Sections voting to amend their deed restrictions to withdraw from the WPOA and join the WSCA, (c) Wimberley Springs would pay \$202,000 and convey real property to the WPOA and absorb its own legal fees in order to resolve all claims and forever eliminate litigation with the WPOA, (d) Wimberley Springs would pay certain assessments provided that it received a credit against such assessments for amounts spent improving local roads.
- 2.5. Throughout 2011, Wimberley Springs made numerous efforts to reach additional required agreements on roads to be improved and dedicated to Hays County, specifically regarding the amount of credit to be provided against assessments for amounts previously spent or to be spent on improving roads. Wimberley Springs and the WPOA never reached such an agreement.
- 2.6. On March 27, 2012, following the failure of Wimberley Springs and the WPOA to reach an agreement on roads and assessments, the WPOA filed the Foreclosure Lawsuit against Wimberley Springs and moved to foreclose on all property owned by Wimberley Springs within Sections controlled by the WPOA—over \$1 million of property—for an assessment debt of approximately \$33,000.00.
- 2.7. On April 30, 2012, following an election and affirmative vote of 65-5 on a one lot-one vote basis, a set of amended deed restrictions was filed for Section 11 of Woodcreek, The amended deed restrictions implemented the vote of the owners of Section 11 to leave the WPOA and to join the WSCA.

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- 2.8. Two days later, on May 2, 2012, the WPOA filed the Section 11 Lawsuit, claiming that under Texas Property Code Section 209.0041 a vote of all property owners in all Sections that are in the WPOA (rather than only the property owners in Section 11) must be taken in order for the Section to be permitted to withdraw.
- 2.9. On May 11, 2012, Wimberley Springs filed the Declaratory Judgment Lawsuit in order to defend itself against the expedited foreclosure proceedings instituted by the Foreclosure Lawsuit. Among other claims made by Wimberley Springs were that the WPOA should have continued the course of dealing set by the December 11, 2008 settlement agreement in applying assessments due from Wimberley Springs toward the improvement of roads in Sections governed by the WPOA, which roads would then be accepted by Hays County.
- 2.10. On May 16, 2012, counsel for Wimberley Springs and then counsel for the WPOA entered into a Rule 11 Agreement that the Declaratory Judgment Lawsuit and the Section 11 Lawsuit would not be consolidated, and setting the Section 11 Lawsuit for a bench trial on October 30, 2012.
- 2.11. The Foreclosure Lawsuit was dismissed with prejudice in August 2012 as required by law following the institution by Wimberley Springs of the Declaratory Judgment Lawsuit.
- 2.12. On September 13, 2012, Wimberley Springs and the WPOA attended a mediation conference before Judge Joe Hart. Judge Hart invited the Parties to brief him on the interpretation of the Texas Property Code Section 209.0041 and verbally informed the parties that he believed the WPOA's interpretation of the Texas Property Code was unconstitutional while the interpretation of Wimberley Springs was correct and that only the votes of the property owners within the individual Section were required for a Section to withdraw.
- 2.13. On October 5, 2012, in violation of the prior Rule 11 Agreement, the WPOA filed a Motion to Consolidate the Section 11 Lawsuit with the Declaratory Judgment Lawsuit, and filed a demand for a jury trial in the Section 11 Lawsuit. As a direct consequence, the Section 11 Lawsuit could not proceed to a bench trial on October 30, 2012 as previously had been agreed under the prior Rule 11 Agreement.
- 2.14. On December 11, 2012, Judge Paul Davis, after receiving briefs from the Parties, issued a written advisory opinion upholding the position of Wimberley Springs regarding the proper interpretation of Texas Property Code Section 209.0041 and rejecting arguments and theories presented by the WPOA in the Section 11 Lawsuit.
- 2.15. On November 27, 2013, the WPOA filed an amended petition in the Section 11 Lawsuit, adding the 2011 election of Section 22 to leave the WPOA and join the WSCA to the Section 11 Lawsuit. Section 22 property owners voted in 2011 to amend their deed restrictions and withdraw from the WPOA by a vote of 134-1 on a one lot-one vote basis.

- 2.16. In order to effectuate an efficient, effective, final resolution of any and all disputes, and so as to prevent any continuing or future litigation between them, the Parties have agreed to settle and release all disputes related to the Claims and the Lawsuits.
- 2.17. The Parties agree that resolving and settling any and all actual or currently existing potential disputes between them relating to the Claims as set forth herein is in their respective best interest after consulting with counsel of their choosing.

NOW, THEREFORE, in consideration of payments, mutual covenants and other good and valuable consideration set forth in this Final Settlement, the Parties agree as follows:

3. SETTLEMENT TERMS AND CONSIDERATION

- 3.1. Definitions and Recitals. The foregoing Definitions (Section 1) and Recitals (Section 2) are made part of this Final Settlement as if fully set forth herein.
- 3.2. Dismissals. Upon the Settlement Date:
 - 3.2.1. The WPOA will, and hereby does, dismiss the Section 11 Lawsuit with prejudice as to all defendants, including without limitation Wimberley Springs, the WSCA and the WSCA Individual Defendants.
 - 3.2.2. Wimberley Springs will, and hereby does, nonsuit with prejudice the WPOA from the Declaratory Judgment Lawsuit. The foregoing does not prohibit the WPOA from filing or pursuing claims against the WPOA Individual Defendants in the Declaratory Judgment Lawsuit or otherwise.
- 3.3. Payment to Wimberley Springs. The WPOA shall pay to Wimberley Springs in good and available funds Two Hundred Thousand and No/100 Dollars (\$200,000.00), as follows:
 - 3.3.1. One payment of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) shall be due and payable within fourteen (14) days of the Settlement Date.
 - 3.3.2. Fifty Thousand and No/100 Dollars (\$50,000.00) shall be payable in a single payment within twelve (12) months of the Settlement Date, with such payment obligation evidenced by a non-negotiable promissory note in a form approved by Wimberley Springs and executed by the WPOA within fourteen (14) days of the Settlement Date. The promissory note shall provide for no interest if all monthly installments are paid timely and a default interest rate of eighteen percent (18%). The form of the promissory note is attached as **Exhibit "G"**.
- 3.4. Past and Future Assessments for existing lots. With respect to all lots owned by Wimberley Springs or the WSP Affiliates as of the Settlement Date in WPOA Sections:
 - 3.4.1. The obligation of Wimberley Springs to pay assessments to WPOA during the years 2011, 2012, 2013 and 2014 is hereby forgiven and waived. The WPOA forever releases Wimberley Springs and the WSP Affiliates from any obligation to pay assessments during the years 2011, 2012, 2013 and 2014 and covenants not

to sue Wimberley Springs in relation to assessments due in 2011, 2012, 2013 and 2014.

- 3.4.2. The WPOA hereby releases all liens securing the obligation of Wimberley Springs or the WSP Affiliates to pay assessments in 2011, 2012, 2013 and 2014 and agrees to file a release of affidavits of lien, if any, in the Hays County Real Property Records within fourteen (14) days after the Settlement Date.
- 3.4.3. Wimberley Springs and the WSP Affiliates shall have no obligation to pay any assessments of any kind on lots owned by Wimberley Springs or the WSP Affiliates until January 1, 2020. The WPOA forever releases Wimberley Springs and the WSP Affiliates from any obligation to pay assessments during the years 2015, 2016, 2017, 2018 and 2019 and covenants not to sue Wimberley Springs in relation to assessments due in 2015, 2016, 2017, 2018 and 2019. This waiver of future assessments is personal to Wimberley Springs and the WSP Affiliates and is not transferrable to the purchaser of a lot from Wimberley Springs or a WSP Affiliate, except for a purchaser that is a WSP Affiliate or that purchases all or substantially all of the lots then owned by WSP and the WSP Affiliates.
- 3.4.4. In 2020 and thereafter, Wimberley Springs and the WSP Affiliates shall pay regular assessments on lots they own within WPOA Sections in the same manner as any other property owner in such Sections, provided that Wimberley Springs or the WSP Affiliates shall have no obligation to pay assessments on any lots owned by Wimberley Springs that are used, in whole or in part, as part of a parks or trails system, for so long as such lot or portion of a lot is used as part of a parks or trails system.
- 3.4.5. For the avoidance of doubt, "lots owned by Wimberley Springs as of the Settlement Date" includes lots contemplated to be transferred pursuant to this Final Settlement (Exhibit B).
- 3.5. Future Assessments for lots acquired. With respect to all lots acquired by Wimberley Springs or the WSP Affiliates after the Settlement Date in WPOA Sections:
 - 3.5.1. Wimberley Springs or the applicable WSP Affiliate shall pay regular assessments on lots it owns within WPOA Sections in the same manner as any other property owner in such Sections, provided that Wimberley Springs or the WSP Affiliates shall have no obligation to pay assessments on any lots owned by Wimberley Springs or the WSP Affiliates that are used, in whole or in part, as part of a parks or trails system, for so long as such lot or portion of a lot is used as part of a parks or trails system.
- 3.6. Deeds for County Roadway Land. If Wimberley Springs or WSCA seeks to dedicate to Hays County a street within a WSCA Section and Hays County agrees to accept such dedication, then upon request from Wimberley Springs or the WSCA, the WPOA agrees to execute quit claim deeds for the County Roadway Land in the form required by Hays County in order to dedicate the County Roadway Land to Hays County. If the WPOA

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fails to deliver such required deeds to Hays County within thirty (30) days of a written request by Wimberley Springs or the WSCA, then WPOA shall pay to Wimberley Springs the sum One Hundred Dollars (\$100.00) per day for each day of delay before the deed is delivered as liquidated damages for the breach. If the WPOA seeks to dedicate to Hays County a street within a WPOA Section and Hays County agrees to accept such dedication, then upon request from the WPOA, Wimberley Springs or the WSCA, as applicable, agree to execute quit claim deeds for the County Roadway Land in the form required by Hays County in order to dedicate the County Roadway Land to Hays County. If the WSCA or Wimberley Springs fails to deliver such required deeds to Hays County within thirty (30) days of a written request by the WPOA, then Wimberley Springs or the WSCA, as applicable, shall pay to the WPOA the sum One Hundred Dollars (\$100.00) per day for each day of delay before the deed is delivered as liquidated damages for the breach. Wimberley Springs, the WSCA and the WPOA agree that the harm caused by a breach of this Section 3.6 is of a kind that is difficult or incapable of estimation and that the amount provided in this Section 3.6 is not in the nature of a penalty but rather is a reasonable forecast of just compensation for such a breach. The liquidated damages for a breach of this Section 3.6 shall not be offset against any other payment obligation arising under this Final Settlement.

- 3.7. Section 9 Parkland. Within fourteen (14) days of the Settlement Date, Wimberley Springs shall donate the Park Lots to the WPOA for use as parks, with a right of reverter in favor of Wimberley Springs in the event that such lots fail to be used as parks. Wimberley Springs shall donate such lots by way of a "as-is" special warranty deed in the form attached as Exhibit A containing the park use limitation as a restrictive covenant and including a right of reverter in favor of Wimberley Springs in the event the restrictive covenant is breached.
- 3.8. Trails and Walkways. Wimberley Springs and the WPOA agree to reasonably cooperate with each other regarding future plans for trails and walkways throughout Woodcreek and in all Sections governed by the WPOA or the WSCA.
- 3.9. Wimberley Springs Lots. Within fourteen (14) days after the Settlement Date the WPOA shall convey to Wimberley Springs or the WSCA (as designated by Wimberley Springs) those lots described on Exhibit B (which for purposes of clarity do not include the Park Lots) by way of an "as-is" special warranty deed in the form attached as Exhibit C.
- 3.10. Entrance Property. Within fourteen (14) days of the Settlement Date, the WPOA shall convey to Wimberley Springs or the WSCA (as designated by Wimberley Springs) by way by way of an "as-is" special warranty deed in the form attached as Exhibit "D" the entrance property at Woodacre & Jacobs Well that is known as Reserve Lot "A", Woodcreek Section 22, being approximately 0.104 acres, as shown in that certain plat of Woodcreek Section 22, recorded on January 21, 1977 in Book 1, Page 341 of the Plat Records of Hays County, Texas. Within twelve (12) months of the effective date of such conveyance, Wimberley Springs shall build a rock entry of a character and quality consistent with the theme of the rock entry at the entrance of the community, but smaller, as reasonably determined by Wimberley Springs.

- 3.11. Ratification of Prior Elections. The WPOA hereby accepts as valid the elections previously conducted in the Withdrawn Sections, and acknowledges and agrees that each of the Withdrawn Sections is now a WSCA Section and is no longer subject to the WPOA in any way. The WPOA covenants not to sue Wimberley Springs or the WSCA in relation to i) the elections previously held in the Withdrawn Sections, or ii) the amended deed restrictions previously adopted by each of the Withdrawn Sections. The WPOA hereby expressly approves and ratifies the recording of the amended deed restrictions for each of the Withdrawn Sections, the recording information for such amended deed restrictions being described further on Exhibit E.
- 3.12. Future Elections. The WPOA acknowledges and agrees that its prior interpretation of the Texas Property Code Section 209.0041 that would require all WPOA Sections to vote and approve the withdrawal of any individual Section was incorrect, and further acknowledges and agrees that it will not challenge any future election of a WPOA Section on the basis that the vote of any property owner other than those in the relevant Section is required.
- 3.13. Elections of Directors. The WPOA acknowledges and agrees that there may exist provisions in its bylaws that effectively would, or that purport to, overturn the "one lot, one vote" rule for the election of directors of the WPOA. The WPOA hereby waives the application of any such provision, agrees not to enforce any such provision, and agrees that all director and other elections of or by the WPOA shall be conducted on a "one lot, one vote" basis such that the owner of multiple lots may cast as many votes as lots owned so long as such allocation of voting rights is not inconsistent or contrary to restrictive covenants burdening lots within WPOA Sections.
- 3.14. Architectural Control Committee.
- 3.14.1. Execution. The Architectural Control Committee of the WPOA agrees to execute a counterpart of this Final Settlement to ratify and approve all terms of this Final Settlement.
- 3.14.2. Approval of Prior Amendments to Deed Restrictions. To the extent the Architectural Committee is not otherwise bound by the ratification of the WPOA as set forth in Section 3.11, by its execution of a counterpart of this Final Settlement, the Architectural Control Committee of the WPOA hereby expressly approves and ratifies the recording of the amended deed restrictions for each of the Withdrawn Sections, the recording information for such amended deed restrictions being described further on Exhibit E.
- 3.15. Future Approval Not Required. The WPOA and the Architectural Control Committee of the WPOA each agrees that it shall not enforce, and forever waives, any requirement for approval by the Architectural Control Committee of amendments to deed restrictions if those amendments seek to amend the deed restrictions of a Section in order to withdraw from the WPOA and to join the WSCA, regardless of whether such requirement arises from the current deed restrictions, a prior agreement between Wimberley Springs, or otherwise. The WPOA and the Architectural Control Committee of the WPOA each

covenants not to sue Wimberley Springs or the WSCA in relation to the amendments to deed restrictions adopted by the Withdrawn Sections. So long as contemplated deed restriction amendments do not purport to i) impose a liability on the WPOA or the WPOA Architectural Control Committee, or ii) waive an existing accrued liability to the WPOA, the WPOA and the Architectural Control Committee of the WPOA each forever promises not to sue Wimberley Springs or the WSCA, on any basis whatsoever or on any grounds, in relation to one or more Sections in the future electing to amend its deed restrictions in order to withdraw from the WPOA and join the WSCA, even if no approval of such amended deed restrictions is provided by the WPOA or the Architectural Control Committee of the WPOA. This promise not to sue is a material inducement to Wimberley Springs entering into this Settlement Agreement. If the WPOA breaches this Section 3.15, then the WPOA shall pay to Wimberley Springs the sum One Hundred Dollars (\$100.00) per day for each day that the WPOA or remains in breach of Section 3.15 as liquidated damages for the breach. If the ACC breaches Sections 3.15, then the ACC shall pay to Wimberley Springs the sum One Hundred Dollars (\$100.00) per day for each day that the ACC remains in breach of Section 3.15 as liquidated damages for the breach. Wimberley Springs, the WSCA, the WPOA, and the Architectural Control Committee of the WPOA agree that the harm caused by a breach of Section 3.15 is of a kind that is difficult or incapable of estimation and that the amount provided in this Section 3.15 is not in the nature of a penalty but rather is a reasonable forecast of just compensation for such a breach. The liquidated damages for a breach of Sections 3.15 shall not be offset against any other payment obligation arising under this Final Settlement.

3.15.1. Provision of Approval. In the event that evidence of such approval by the WPOA or Architectural Control Committee of the WPOA nevertheless is required by any person, or Wimberley Springs desires to have evidence of such approval, the Architectural Control Committee of the WPOA agrees to provide such approval within thirty (30) days of a written request from Wimberley Springs or the WSCA. If the Architectural Control Committee of the WPOA fails to provide such approval within thirty (30) days after it receives written request from Wimberley Springs or the WSCA, then the Architectural Control Committee of the WPOA shall pay to Wimberley Springs the sum of One Hundred Dollars (\$100.00) per day of delay until such approval is provided by the Architectural Control Committee of the WPOA as liquidated damages for the breach. Wimberley Springs, WSCA, WPOA, and the Architectural Control Committee of the WPOA agree that the harm caused by a breach of this Section 3.15.1 is of a kind that is difficult or incapable of estimation and that the amount provided in this Section 3.15.1 is not in the nature of a penalty but rather is a reasonable forecast of just compensation for such a breach. The liquidated damages for a breach of this Section 3.15.1 shall not be offset against any other payment obligation arising under this Final Settlement.

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3.19. No Release of WPOA Individual Defendants. Notwithstanding anything to the contrary in this Final Settlement, no provision of this Final Settlement shall be construed as releasing the WPOA Individual Defendants or their counsel from any claims that may be asserted by the WPOA, Wimberley Springs, or the WSCA.

4. **MUTUAL RELEASE AND COVENANT NOT TO SUE**

4.1. Release by the WPOA. Except as to the rights, liabilities, and obligations arising out of this Final Settlement, by execution of this Final Settlement, in exchange for the payments, conveyances, and consideration described herein, the receipt and sufficiency of which hereby is acknowledged, the WPOA hereby expressly releases, acquits, and forever discharges each of (a) Wimberley Springs, (b) the WSCA, and (c) the WSCA Individual Defendants from all Claims. This release is intended to release all claims of the WPOA, including without limitation those pertaining to the Claims and the Lawsuits.

4.2. Release by Wimberley Springs and the WSCA. Except as to the rights, liabilities, and obligations arising out of this Final Settlement, by execution of this Final Settlement, in exchange for the payments, conveyances, and consideration described herein, the receipt and sufficiency of which hereby is acknowledged, Wimberley Springs and the WSCA each hereby expressly releases, acquits, and forever discharge the WPOA from all Claims. This release is intended to release all claims of Wimberley Springs and the WSCA against the WPOA, including without limitation those pertaining to the Claims and the Lawsuits.

4.3. Final Resolution. The Parties intend that this Final Settlement shall fully, finally, and completely settle and resolve all claims and disputes between the Parties, such that all payment, warranty, or other financial or legal obligations that existed between them on the Claims made or that could have been made in the Lawsuits are fully satisfied by this Final Settlement. Notwithstanding the foregoing, nothing in this Final Settlement shall be construed to waive, alter, or modify any claims any of the Parties may have against the WPOA Individual Defendants.

4.4. Preservation/Conservation of Rights. Notwithstanding the above, nothing in this agreement shall preclude any of the Parties from filing suit against any other of them for the purpose of i) preserving a claim that has not been waived under this Agreement that might otherwise be avoided or barred by a statute of limitations or statute of repose, or ii) when a necessary party that is not a signatory to this agreement and not under the control of such party must be joined.

4.5. Confirmation of Arbitrator's Decision. Notwithstanding the above, nothing in this Final Settlement shall preclude any of the Parties from initiating an action or continuing an action previously referred to arbitration for the purpose of obtaining judicial confirmation of an arbitration decision.

4.6. RESERVED

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- 4.7. Whenever in this Final Settlement there is a promise or covenant not to sue in Sections 3.15, 3.4.1, 3.4.3 and 3.11, that promise or covenant includes a promise or covenant not to commence arbitration proceedings.

5. REPRESENTATIONS AND WARRANTIES

The Parties represent and warrant to each other that:

- 5.1. No Unasserted Claims/Release. The Parties represent to each other that none of them has unasserted claims against any other Party relating to any issue of performance or contract described in the Lawsuits, and to the extent unasserted claims exist between the Parties relating to any issue of performance or contract, the Parties hereby release, acquit, and forever discharge any such unasserted claims against each other.
- 5.2. No Assignments. Each Party fully and completely owns and controls the Claims asserted by such Party in the Lawsuits. No part of the Claims asserted by any of the Parties that are the subject of this Final Settlement have been conveyed, assigned, or transferred to any third party. For purposes of Section 5.2, a right of subrogation by an insurer or indemnitor is not deemed an assignment or part of any of Claim.
- 5.3. Only Consideration. The Parties understand that the amounts, releases, conveyances, and mutual obligations stated herein are the sole consideration passing between them on any and all claims, demands, rights, interest, penalties or other remedies or damages of any kind that were or are in any way related to the allegations made in the Lawsuits or for signing this Final Settlement.
- 5.4. Full Knowledge. This Final Settlement is signed with each signing Party's full knowledge and understanding of its terms and meaning.
- 5.5. Own Judgment; Independent Legal Advice. Each of the Parties makes this Final Settlement on its own judgment and advice of its own counsel. Each of the Parties has received independent legal advice from its own attorneys regarding the advisability of this Final Settlement. Each Party, after investigation and consultation with its attorneys, agrees that this Final Settlement is fair, reasonable, and supported by good, valid and adequate consideration.
- 5.6. Competence and Authority. The undersigned representatives for each of the Parties are competent and fully authorized to sign this Final Settlement in the capacities in which they act. This Final Settlement is binding upon each of the Parties in accordance with its terms. Each of the WSCA, the WPOA and Architectural Control Committee of the WPOA acknowledges and agrees that this Final Settlement is, and shall be, binding on future boards of the WPOA and WSCA and future Architectural Control Committee of the WPOA and forever waives any right to assert that this Final Settlement is not binding on a future board of the WPOA or WSCA or a future Architectural Control Committee of the WPOA. Each of the WSCA, the WPOA, and Architectural Control Committee of the WPOA promises not to sue any Party on the grounds that, or claim in any pleading that, this Final Settlement is not binding on a future board of the WSCA or WPOA or a future Architectural Control Committee of the WPOA.

- 5.7. No Other Representation. In making this Final Settlement, each Party has relied solely on the statements expressly set forth herein. No Party has placed any reliance whatsoever on any statement, representation, or promise by any other Party or by any other person or entity that is not expressly set forth or referenced in this Final Settlement, nor has any Party made this Final Settlement in reliance upon the failure of the other or any other person or entity to make any statement, representation, or disclosure of anything whatsoever. The Parties have included this clause: (a) to preclude any claim that any of the Parties was in any way fraudulently induced to sign this Final Settlement; and (b) to preclude the introduction of parole evidence to vary, interpret, supplement, or contradict the terms of this Final Settlement.

6. **CONFIDENTIALITY AND FILING OF FINAL SETTLEMENT**

6.1. Confidentiality.

This Final Settlement is not a confidential document.

- 6.2. Filing of Settlement Agreement. The Parties agree to file this Final Settlement with the clerk of the Hays County District Court and the Official Public Records of Hays County no later than fourteen (14) days after it is signed by all Parties.

7. **MISCELLANEOUS**

- 7.1. Fees and Costs. Notwithstanding anything to the contrary in this Final Settlement, except as may be effectively included within payments required in Section 3, each of the Parties shall bear its own attorneys' fees, expenses, and costs incurred in connection with the Lawsuit. In the event an action is brought arising out of an alleged breach of this Final Settlement, the prevailing party in said action will be entitled to recover from the breaching party, in addition to any other relief provided by law, such costs and expenses as may be incurred by the prevailing party, including, without limitation, court costs and attorneys' fees and disbursements and other costs and expenses incurred to enforce this Final Settlement. Whenever a Party is entitled to liquidated damages under this Final Settlement those damages are in addition to any other relief the Party may be entitled to under law and are not the exclusive remedy afforded that Party.
- 7.2. Full Integration. This Final Settlement is the final written expression and the complete and exclusive statement of all of the agreements, conditions, promises, representations, and covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, including negotiations, representations, understandings, and discussions between and among the Parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby unless expressly set forth or referenced in this Final Settlement. Any amendment to this Final Settlement must be in writing, must specifically refer to this Final Settlement, and must be signed by duly authorized representatives of each of the Parties.

- 7.3. Governing Law. The validity, interpretation, and legal effect of this Final Settlement shall be governed by the laws of the State of Texas without regard to the principles of conflicts of law.
- 7.4. Alternative Dispute Resolution. Any future dispute or controversy between the WPOA, on the one hand, and either Wimberley Springs or the WSCA (or both), on the other hand, whether arising under this Final Settlement or in relation to any other agreement, document or issue, shall be resolved exclusively by means of the Mediation and Arbitration Agreement attached hereto as Exhibit F. The WPOA forever agrees not to sue Wimberley Springs or the WSCA in the state or federal courts of Texas and agrees to resolve all future disputes with Wimberley Springs or the WSCA exclusively by means of the Mediation and Arbitration Agreement attached hereto as Exhibit F. The WSCA and Wimberley Springs each forever agrees not to sue the WPOA in the state or federal courts of Texas and agrees to resolve all future disputes with the WPOA exclusively by means of the Mediation and Arbitration Agreement attached hereto as Exhibit F.
- 7.5. Further Instruments. The Parties shall execute and deliver such further instruments, documents, or papers and perform all such acts necessary or proper to carry out and effectuate the terms of this Final Settlement as may be reasonably requested by any party hereto.
- 7.6. Cooperation. All Parties agree to cooperate with and to otherwise not interfere with any other Party's performance of any of the obligations set forth in this Final Settlement.
- 7.7. No Presumption from Drafting. Because both of the Parties have had the opportunity to draft, review, and edit the language of this Final Settlement, no presumption for or against either of the Parties arising out of drafting all or any part of this Final Settlement will be applied in any action relating to, connected to, or involving this Final Settlement.
- 7.8. Benefits to Successors. This Final Settlement shall be binding upon, and shall inure to the benefit of, each of the Parties and their respective successors, legal representatives, and permitted assignees.
- 7.9. Headings. The headings to the sections of this Final Settlement are inserted for convenience only and will not be deemed a part hereof nor affect the construction or interpretation of the provisions hereof.
- 7.10. Multiple Originals. This Final Settlement may be signed in multiple originals, each of which shall have full force and effect.
- 7.11. Notices. All notices that may or must be given under or in connection with this Agreement shall be sent by facsimile transmission, United States mail, e-mail, or by courier delivery (e.g., Federal Express, DHL, or some other courier that can make delivery within two business days from the date of sending) to the respective facsimile numbers and addresses listed below, or to such other respective facsimile number or address as any Party may subsequently designate for himself or itself, by written notice to the other Parties, in accordance herewith.

S WP

If to Wimberley Springs or the WSCA: Phillip Schmandt
McGinnis Lochridge
600 Congress Avenue, Suite 2100
Austin, Texas 78701
(512) 495-6000 (tel)
(512) 505-6387 (fax)
pschmandt@mcginnislaw.com

If to the WPOA: William Davis
Davis & Associates
P.O. Box 1093
Dripping Springs, TX 78620
(512) 858-9910 (tel)
(512) 858-2357 (fax)
bdavis@capital-ip.com

In the event communication of notices to the persons designated above or as replaced by subsequent designations is returned or otherwise unsuccessful, the Parties may alternately send such notices to the registered agent of the intended recipient. If such communications are likewise unsuccessful the Parties may alternately send such notices to a director or officer of the intended recipient, or the general partner, managing member, or managing agent of the intended recipient.

- 7.12. Survival. All representations, warranties, covenants, and other obligations of the Parties that appear in this Final Settlement, or in any exhibit or attachment to this Final Settlement, shall survive the execution and performance of this Final Settlement and any other settlement documents between the Parties (except as expressly released herein).

List of Exhibits

- Exhibit A Form of Special Warranty Deed for Donation of Park Lots
- Exhibit B Description of Lots to Be Transferred to Wimberley Springs or the WSCA Pursuant to Section 3.9
- Exhibit C Form of Special Warranty Deed for Lots to Be Transferred to Wimberley Springs or the WSCA Pursuant to Section 3.9
- Exhibit D Form of Special Warranty Deed for Entrance Property
- Exhibit E Listing of Amended Deed Restrictions for Withdrawn Sections
- Exhibit F Mediation and Arbitration Agreement
- Exhibit G Form of Promissory Note

[SIGNATURE PAGES FOLLOW]

S wp

Executed to be effective on this 23 day of June, 2014.

AGREED TO AND ACCEPTED BY:

Wimberley Springs Partners, Ltd.

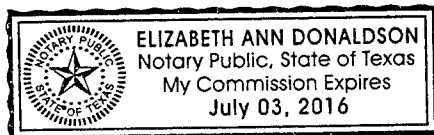
By: **Quicksand Operating, Inc.,**
its General Partner

By: [Signature]
Winton Porterfield, Vice President

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June 23, 2014 by Winton Porterfield, Vice President of Quicksand Operating, Inc., a Texas corporation serving as general partner of Wimberley Springs Partners, Ltd., a Texas limited partnership, on behalf of said limited partnership.

[Signature]
Notary Public, State of Texas



SP WP

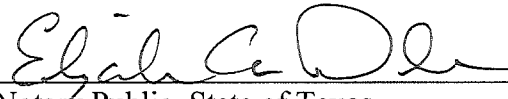
AGREED TO AND ACCEPTED BY:

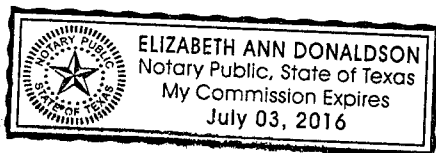
Wimberley Springs Community Association, Inc.

By: 
Winton Porterfield, President

STATE OF TEXAS §
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COUNTY OF HAYS §

This instrument was acknowledged before me on June 23, 2014 by Winton Porterfield, President of Wimberley Springs Community Association, Inc., a Texas nonprofit corporation, on behalf of said corporation.


Notary Public, State of Texas




S WP

Following a 7-0 Unanimous Vote of its Board of Directors on May 13, 2014

AGREED TO AND ACCEPTED BY:

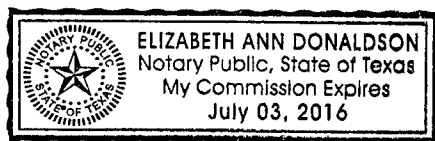
Woodcreek Property Owners Association of Hays County, Inc.

By: 
Chris Scudder, President

STATE OF TEXAS §
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COUNTY OF HAYS §

This instrument was acknowledged before me on June 23, 2014 by Chris Scudder, President of Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation, on behalf of said corporation.


Notary Public, State of Texas

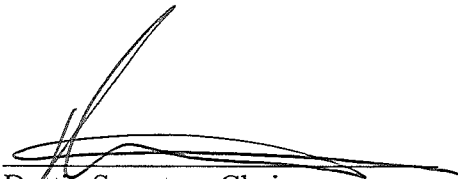




AGREED TO AND ACCEPTED BY:

**Architectural Control Committee of
Woodcreek Property Owners Association of Hays County, Inc.**

By:


Dottie Sweeton, Chairperson

STATE OF TEXAS


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COUNTY OF HAYS

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This instrument was acknowledged before me on June 23, 2014 by Dottie Sweeton, the Chairperson of the Architectural Control Committee of Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation, on behalf of said committee and corporation.


Notary Public, State of Texas

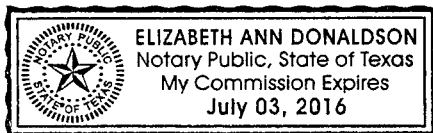




EXHIBIT A

**FORM OF SPECIAL WARRANTY DEED FOR
DONATION OF PARK LOTS**



S wp

Special Warranty Deed

Date: June __, 2014

Grantor: Wimberley Springs Partners, Ltd., a Texas limited partnership

Grantor's Mailing Address: 2500 FM 2325
Wimberley, Hays County, Texas 78676

Grantee: Woodcreek Property Owners Association of Hays County, Inc.

Grantee's Mailing Address: P.O. Box 618
Wimberley, Hays County, Texas 78676

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements): Lots 117 and 118 of Woodcreek, Section 9-A, as shown in that certain plat of Woodcreek Section 9-A, recorded on January 8, 1973 in Volume 1, Pages 199-200 of the Map Records of Hays County, Texas

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty: All existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2014, which Grantee assumes and agrees to pay.

Use Restrictions: The Property must be used at all times for public park purposes.

Grantor, for the Consideration and subject to the Reservations from Conveyance, the Exceptions to Conveyance and Warranty and the Use Restrictions, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance, the Exceptions to Conveyance and Warranty and the Use Restrictions.

In the event that any portion of the Property at any time in the future is not used for public park purposes, all right, title and interest to the Property immediately shall revert to Grantor, without the need for any further action by Grantor or Grantee. Notwithstanding the foregoing, following such reversion, Grantee shall on written demand execute a special warranty deed conveying the Property to Grantor.

When the context requires, singular nouns and pronouns include the plural.

S wp

GRANTOR

Wimberley Springs Partners, Ltd.

By: **Quicksand Operating, Inc.,**
its General Partner

GRANTEE

**Woodcreek Property Owners Association
of Hays County, Inc.**

By: _____
Winton Porterfield
Vice President

By: _____
Chris Scudder, President

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June ___, 2014 by Winton Porterfield, Vice President of Quicksand Operating, Inc., a Texas corporation, general partner of Wimberley Springs Partners, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June ___, 2014 by Chris Scudder, President of Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation, on behalf of said corporation.

Notary Public, State of Texas

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EXHIBIT B

**DESCRIPTION OF LOTS TO BE TRANSFERRED TO WIMBERLEY SPRINGS
OR THE WSCA PURSUANT TO SECTION 3.8**

Section	Lot	Address	Property ID	Plat Recording Information
1	11	Woodcreek Village 11	R52918	Volume 1, Page 135- 136 of Hays County Map Records
	12	Woodcreek Village 11	R52919	
8	44		R49450	Volume 1, Page 185 Section Eight (8) of Hays County Map Records
8	255		R49656	
9A	17		R49678	Volume 1, pages 199-200 of Hays County Map Records and "Extension 9-A" Vol. 1, Page 343 of Hays County Map Records
9A	18		R49679	
9A	21	75 E Valley Springs Rd	R49682	
9A	26		R49687	
9a	28		R49689	
9A	29		R49690	
9A	30		R49691	
9A	34		R49695	
9A	41		R49702	
9A	42		R49703	
9A	43	29 E Valley Springs Rd	R49704	
9A	44		R72385	
9A	46		R49706	
9A	47		R49707	
9A	55		R49714	
9A	74		R49733	

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9A	77	5 E Valley Springs Rd	R49736	
9A	78	3 E Valley Springs Rd	R49737	
9A	79	1 E Valley Springs Rd	R49738	
9A	86		R49745	
9A	91		R49750	
9A	109		R49768	
9A	154	10 Happy Hollow Ct	R49813	
9A	219		R49878	
9A	234		R49893	
9A	237		R49896	
9A	238		R49897	
9A	240		R49899	
9A	242		R49901	
9A	70		R52847	
9A	107		R52884	
9A	121		R52898	
12	100		R50442	As referenced in Deed Restrictions originally filed in Volume 263, Page 458 of the Deed Records of Hays County
13	152		R50616	Volume 1, pages 261-262 of Hays County Map Records
15	16		R50888	Volume 1, Page 294 of Hays County Map Records
18	31		R51361	Volume 1, Page 295, Section 18 of Hays County Map Records
19	183		R51640	Volume 1, Pages 289-290 of the Hays County Plat Records
19	202		R51659	
19	206		R51663	

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19	255		R51712	
19	272		R51729	
23	50		R52376	Volume 1, Page 383 of the Hays County Plat Records

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EXHIBIT C

**FORM OF SPECIAL WARRANTY DEED FOR LOTS TO BE TRANSFERRED TO
WIMBERLEY SPRINGS OR THE WSCA PURSUANT TO SECTION 3.8**

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WP

Special Warranty Deed

Date: June __, 2014

Grantor: Woodcreek Property Owners Association of Hays County, Inc.

Grantor's Mailing Address: P.O. Box 618
Wimberley, Hays County, Texas 78676

Grantee: Wimberley Springs Partners, Ltd., a Texas limited partnership

Grantee's Mailing Address: 2500 FM 2325
Wimberley, Hays County, Texas 78676

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements): As described on Exhibit A.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty: All existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2014, which Grantee assumes and agrees to pay.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

[SIGNATURE PAGE FOLLOWS]

S WP

GRANTOR

GRANTEE

**Woodcreek Property Owners Association
of Hays County, Inc.**

Wimberley Springs Partners, Ltd.

By: **Quicksand Operating, Inc.,**
its General Partner

By: _____
Chris Scudder, President

By: _____
Winton Porterfield
Vice President

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June ___, 2014 by Chris Scudder, President of Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June ___, 2014 by Winton Porterfield, Vice President of Quicksand Operating, Inc., a Texas corporation, general partner of Wimberley Springs Partners, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

Notary Public, State of Texas

§ wp

Exhibit A to Special Warranty Deed

Description of Property

Section	Lot	Address	Property ID	Plat Recording Information
1	11	Woodcreek Village 11	R52918	Volume 1, Page 135-136 of Hays County Map Records
	12	Woodcreek Village 11	R52919	
8	44		R49450	Volume 1, Page 185 Section Eight (8) of Hays County Map Records
8	255		R49656	
9A	17		R49678	Volume 1, pages 199-200 of Hays County Map Records and "Extension 9-A" Vol. 1, Page 343 of Hays County Map Records
9A	18		R49679	
9A	21	75 E Valley Springs Rd	R49682	
9A	26		R49687	
9a	28		R49689	
9A	29		R49690	
9A	30		R49691	
9A	34		R49695	
9A	41		R49702	
9A	42		R49703	
9A	43	29 E Valley Springs Rd	R49704	
9A	44		R72385	
9A	46		R49706	
9A	47		R49707	
9A	55		R49714	
9A	74		R49733	

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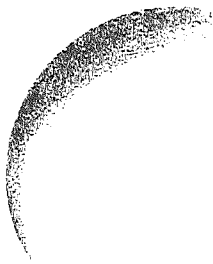
9A	77	5 E Valley Springs Rd	R49736	
9A	78	3 E Valley Springs Rd	R49737	
9A	79	1 E Valley Springs Rd	R49738	
9A	86		R49745	
9A	91		R49750	
9A	109		R49768	
9A	154	10 Happy Hollow Ct	R49813	
9A	219		R49878	
9A	234		R49893	
9A	237		R49896	
9A	238		R49897	
9A	240		R49899	
9A	242		R49901	
9A	70		R52847	
9A	107		R52884	
9A	121		R52898	
12	100		R50442	As referenced in Deed Restrictions originally filed in Volume 263, Page 458 of the Deed Records of Hays County
13	152		R50616	Volume 1, pages 261-262 of Hays County Map Records
15	16		R50888	Volume 1, Page 294 of Hays County Map Records
18	31		R51361	Volume 1, Page 295, Section 18 of Hays County Map Records
19	183		R51640	Volume 1, Pages 289-290 of the Hays County Plat Records
19	202		R51659	
19	206		R51663	

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19	255		R51712	
19	272		R51729	
23	50		R52376	Volume 1, Page 383 of the Hays County Plat Records

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EXHIBIT D
FORM OF SPECIAL WARRANTY DEED FOR ENTRANCE PROPERTY



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WP

Special Warranty Deed

Date: June __, 2014

Grantor: Woodcreek Property Owners Association of Hays County, Inc.

Grantor's Mailing Address: P.O. Box 618
Wimberley, Hays County, Texas 78676

Grantee: Wimberley Springs Partners, Ltd., a Texas limited partnership

Grantee's Mailing Address: 2500 FM 2325
Wimberley, Hays County, Texas 78676

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements): Reserve Lot "A", Woodcreek Section 22, being approximately 0.104 acres, as shown in that certain plat of Woodcreek Section 22, recorded on January 21, 1977 in Book 1, Page 341 of the Plat Records of Hays County, Texas.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty: All existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2014, which Grantee assumes and agrees to pay.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

Grantor and Grantee acknowledge and agree that the Property previously was conveyed by Grantee to Grantor by way of a Special Warranty Deed dated January __, 2009 (the "Prior Deed"), and that the Prior Deed contained an underground utility easement in favor of Grantee (the "Prior Utility Easement"). As the Property is being reconveyed to Grantor by this instrument, the Prior Utility Easement hereby is terminated by merger of title. Grantor and Grantee further agree that any "Use Restrictions" previously applicable to the Property shall no longer apply.

S wp

When the context requires, singular nouns and pronouns include the plural.

GRANTOR

GRANTEE

**Woodcreek Property Owners Association
of Hays County, Inc.**

Wimberley Springs Partners, Ltd.

By: **Quicksand Operating, Inc.,**
its General Partner

By: _____
Chris Scudder, President

By: _____
Winton Porterfield
Vice President

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June __, 2014 by Chris Scudder, President of Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on June __, 2014 by Winton Porterfield, Vice President of Quicksand Operating, Inc., a Texas corporation, general partner of Wimberley Springs Partners, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

Notary Public, State of Texas

S WP

EXHIBIT E

LIST OF AMENDED DEED RESTRICTIONS FOR WITHDRAWN SECTIONS

Section 11	Certification of Ballots, Ballots and Supplemental CC&R's, dated April 30, 2012, Document No. 12010898, Hays County, Texas Public Records and Corrected Supplemental CC&R's, dated June 21, 2012, Document No. 12016431, Hays County, Texas Public Records
Section 12	Certification of Ballots, Ballots and Supplemental CC&R's, dated September 24, 2008, Document No. 80028250, Volume 3486, Page 686, Official Public Records of Hays County, Texas
Sections 13 – 14	Supplemental CC&R's, dated December 16, 2008, Document No. 80039492, Volume 3556, Page 138, Official Public Records of Hays County, Texas
Section 16	Certification of Ballots, Ballots and Supplemental CC&R's, dated March 8, 2007, Document No. 70006822, Volume 3123, Page 126, Official Public Records of Hays County, Texas
Section 17	Certification of Ballots, Ballots and Supplemental CC&R's, dated March 8, 2007, Document No. 70006823, Volume 3123, Page 138, Official Public Records of Hays County, Texas
Section 19	Certification of Ballots, Ballots and Supplemental CC&R's, dated December 13, 2010, Document No. 10034280, Volume 4028, Page 664, Official Public Records of Hays County, Texas
Section 22	Certification of Ballots, Ballots and Supplemental CC&R's, dated December 21, 2011, Document No. 11029626, Volume 4246, Page 455, Official Public Records of Hays County, Texas
Section 23	Certification of Ballots, Ballots and Supplemental CC&R's, dated March 8, 2007, Document No. 70006824, Volume 3123, Page 153, Official Public Records of Hays County, Texas
Section 25	Certification of Ballots, Ballots and Supplemental CC&R's, dated February 26, 2009, Document No. 90005471, Volume 3601, Page 512, Official Public Records of Hays County, Texas

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EXHIBIT F

MEDIATION AND ARBITRATION AGREEMENT



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MEDIATION AND ARBITRATION AGREEMENT

This Mediation and Arbitration Agreement (this “**Agreement**”) is made by and between Wimberley Springs Partners, Ltd., a Texas limited partnership (“**Wimberley Springs**”), and Wimberley Springs Community Association, Inc., a Texas nonprofit corporation (“**WSCA**”), on the one hand, and Woodcreek Property Owners Association of Hays County, Inc., a Texas nonprofit corporation (“**WPOA**”), on the other hand.

1. DEFINITIONS AND RECITALS

- 1.1. Capitalized terms used in this Agreement have the meanings provided in this Agreement, or if not provided in this Agreement, the meanings provided in the Final Settlement.
- 1.2. The Parties have, simultaneously herewith, entered into that certain “Final Settlement Agreement and Mutual Release” (the “**Final Settlement**”).
- 1.3. As part of the consideration for the Final Settlement, the Parties have agreed to resolve all future Disputes arising between Wimberley Springs and the WSCA, on the one hand (whether one or both), and the WPOA, on the other hand, pursuant to the procedures set forth in this Agreement, regardless of whether such Disputes arise from the Final Settlement, future activities or relationships between the Parties, or otherwise.
- 1.4. Each of Wimberley Springs, the WSCA and the WPOA are each sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**.”
- 1.5. For purposes of this Agreement, the terms “**Dispute**” or “**Disputes**” shall mean and refer to any and all actions, disputes, claims, disagreements or controversies of any kind with an amount in dispute in excess of \$5,000.00 (e.g., whether in contract or in tort, statutory or common law, legal or equitable) now existing or hereafter arising between or among the Parties, including but not limited to any dispute in any way arising out of or in connection with (a) the Final Settlement and/or any property in Woodcreek, (b) the sale or conveyance of any property within Woodcreek; (c) the design, construction, purchase, ownership, operation or sale of any project within Woodcreek; (d) any incidents, omissions, acts, practices, or occurrences arising out of or in connection with the ownership or operation of any property or project within Woodcreek; (e) the Withdrawn Sections, (f) the deed restrictions of the Sections of Woodcreek or amendments to deed restrictions by one or more Sections, including any elections to amend deed restrictions by one or more Sections, (g) the rights and obligations of Wimberley Springs as a member of the WPOA, (h) the obligation of Wimberley Springs to pay assessments or other sums to the WPOA, and (h) any incidents, omissions, acts, practices or occurrences arising out of the operations of either Wimberley Springs, the WPOA, or the WSCA. For purposes of clarity, a Dispute does not include an action by the WPOA to enforce deed restrictions in a WPOA Section not involving Wimberley Springs or an action by the WSCA enforcing deed restrictions in a WSCA Section not involving the WPOA.
- 1.6. For purposes of this Agreement, the term “**Rules**” shall mean and refer to the commercial arbitration rules of the American Arbitration Association.

2. **MEDIATION AND ARBITRATION**

- 2.1. Agreement to Mediate and to Arbitrate. The Parties recognize and agree that the failure to timely resolve any Dispute could have an adverse effect upon one or more of the Parties. For this reason and for other good and valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties agree to submit all Disputes first to nonbinding mediation, and then to binding arbitration, in accordance with the terms and provisions of this Agreement and the Rules.
- 2.2. Nonbinding Mediation. Upon the written request of any Party, whether made before or after the institution of any legal proceeding, any Dispute or Disputes between or among any one or more of the Parties may be resolved by nonbinding mediation administered by the American Arbitration Association's San Antonio Regional Office and conducted in Hays County, Texas or in Travis County, Texas, in accordance with the terms and provisions of the Rules.
- 2.3. Binding Arbitration. Upon the written request of any Party, whether made before or after the institution of any legal proceeding or any mediation, any Dispute or Disputes between or among any one or more of the Parties shall be finally resolved by binding arbitration administered by the American Arbitration Association's San Antonio Regional Office in accordance with the terms and provisions of this Agreement and the Rules. Any Party to this Agreement may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Disputes not referred to arbitration as required by this Agreement. It shall not be a requirement to seeking arbitration under this Agreement that the Parties have first unsuccessfully attempted to resolve the Dispute through nonbinding mediation. It shall not be deemed a breach of the Final Settlement for any Party to initiate or conclude a suit against another Party for any of the following reasons:
- i) to prevent a claim from being barred by a statute of limitations or statute of repose;
 - ii) for judicial confirmation of an arbitrator's decision;
 - iii) to enforce an arbitrator's decision; or
 - iv) because a person that is not a party to the Final Settlement is a necessary party.
- 2.4. Governing Rules. All Disputes between or among the Parties and/or any of their respective Affiliates shall be resolved either by nonbinding mediation or, on the written request of any party, by binding arbitration in accordance with the terms of this Agreement and the Rules. In the event of any inconsistency between this Agreement and the Rules, this Agreement shall control. Judgment upon the award rendered by the arbitrator shall be binding and may be entered in any court having jurisdiction. Except as otherwise expressly provided in this Agreement or otherwise specifically authorized by federal or state law, such judgment shall not be subject to appeal. The Parties expressly consent to permit appeal of the arbitrator's decision in accordance with the American Arbitration Association Optional Appellate Arbitration Rules which provide that the decision of the arbitrator may be appealed to an American Arbitration Association Appeal Tribunal which may review the decision(s) based upon alleged errors of law that are material and prejudicial to a Party, and determinations of fact that are "clearly

erroneous.” The Appeal Tribunal may affirm or reverse the underlying arbitration decision, and the decision of the Appeal Tribunal will then become the final decision in the case. The limitations on appeal do not prohibit a Party from initiating or continuing a suit in court to vacate an arbitrator’s decision on the basis of corruption, fraud, evident partiality, misconduct, misbehavior, an arbitrator exceeding his/her authority or making evident material miscalculations, or deciding matters not submitted to the arbitrator.

- 2.5. Statute of Limitations. All statutes of limitation and statutes of repose that would otherwise be applicable shall apply to any arbitration proceeding.
- 2.6. Scope of Award; Modification or Vacation of Award; Qualifications. Unless the Parties agree in writing to the contrary, all arbitration proceedings shall be arbitrated by a single arbitrator who is a licensed attorney with at least ten (5) years’ experience in residential real estate development in the Hays County, Travis County, or Bexar County, Texas markets. In the event that the Parties cannot agree on a qualified arbitrator within ten (10) days after a Party’s receipt of written request for arbitration from the other party (the “**Deadline**”), then a qualified arbitrator shall be appointed pursuant to the Rules within thirty (30) days after the expiration of the Deadline. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law. The arbitrator shall determine the scope of this Agreement and whether or not a matter or issue is to be resolved by arbitration. The arbitrator may grant only the remedy or relief requested by the prevailing Party and within the scope of this Agreement. The arbitrator may also grant such ancillary relief as is necessary to make effective the award. The arbitrator’s findings of fact and conclusions of law shall be binding on all Parties and shall not be subject to any appeal or further review, except as otherwise allowed by applicable law and this Agreement.
- 2.7. Other Matters and Discovery. The arbitration hearing hereunder shall be closed within two (2) months of the filing of the Dispute for arbitration by notice from either Party to the other. The arbitrator shall not have the power to extend or delay the two month deadline to conclude the arbitration hearing unless all Parties to the dispute consent in writing, which may consent may be withheld in the sole discretion of each Party. The arbitrator shall limit discovery as he or she deems necessary to meet such timeline and may order that the Parties’ discovery be limited to some or all of the following: (a) a specified number of depositions of a specified duration, or (b) a specified number of requests for production of documents or requests for production of documents that are limited in scope to the documents specifically identified in the request for production. The arbitrator’s decision on the scope of discovery will take into consideration the complexity and nature of the Dispute, the timing of the hearing, and will in all events be final. Arbitration proceedings hereunder shall be conducted in Travis County, Texas or Hays County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Texas Rules of Civil Procedure and applicable law. The provisions of this Agreement shall survive any termination, amendment or expiration of the Documents, unless the Parties otherwise expressly agree in writing. A Party’s failure or refusal to comply with the time deadlines in this Section 2.7 shall constitute a material default under this Agreement by the non-complying Party.

2.8. Arbitrator's Decision. The arbitrator shall issue a reasoned opinion within thirty (30) days of the closing of the arbitration hearing. The opinion shall be final and may not be appealed except as otherwise provided in this Agreement.

2.9. Release of Opinion. A member of the WPOA or the WSCA shall be entitled to receive a copy of the arbitrator's opinion within three (3) business days of written request submitted to the WPOA or WSCA, as applicable. If the WPOA or WSCA does not provide a copy of the opinion within three (3) business days, then the arbitrator shall release the opinion to such member upon receipt of a written request.

3. MISCELLANEOUS PROVISIONS

3.1. Authority. The Parties hereto represent, warrant and guarantee that: (a) they are authorized to enter into this Agreement on behalf of themselves and their Affiliates; (b) they are executing this Agreement and all documents referenced or described herein or related hereto and executed of even date herewith of their own free will and volition; (c) they are doing so having read and understood the same, upon their, and each of their, own decisions as to the merits thereof; (d) they have had the opportunity to review same with counsel of their own choosing; and (e) as executed and delivered, this Agreement is valid and binding upon the Parties hereto, according to its terms.

3.2. Terms Contractual. It is expressly understood and agreed that the terms hereof are contractual and not merely recitals, and that the agreements herein contained and the consideration transferred are to compromise doubtful and disputed claims and to avoid litigation.

3.3. Binding. It is expressly agreed and understood that this Agreement and the terms, covenants, and conditions herein contained shall inure to the benefit of, and be binding upon, the heirs, successors, and assigns of the Parties hereto. Further, this Agreement shall benefit each of the Parties, and may be enforced by each of them acting alone or together.

3.4. Entire Agreement. This Agreement and the Final Settlement contain the entire agreement between the Parties and supersede any and all prior agreements, arrangements, or understandings between the Parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement may only be amended by written agreement signed by the Parties.

3.5. Governing Law. It is understood and agreed that this Agreement shall be governed by, construed and enforced in accordance with, and subject to the laws of the state of Texas.

3.6. Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that, in lieu of each provision of this Agreement that is illegal, invalid or unenforceable, there be added, as a part of this Agreement, a

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provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible, legal, valid and enforceable.

- 3.7. Expenses. Subject to the reimbursement provisions set out hereinbelow, each of the Parties to any mediation or arbitration proceeding shall pay an equal share of the fees and any costs of the mediation or arbitration, as those fees and costs come due. Upon the conclusion of any arbitration proceeding under this Agreement, the prevailing Party in such arbitration proceeding shall be entitled to recover from the non-prevailing party all of the prevailing Party's costs and expenses in connection with such arbitration, including without limitation, expert witness fees, reasonable attorneys' fees and reimbursement of all of the arbitration fees and costs previously advanced by the prevailing Party. "**Prevailing Party**" shall mean and is hereby defined by the parties to mean that party which the arbitrator finds and/or declares is the prevailing party, whether or not that party obtains monetary, declaratory, injunctive, equitable or nominal relief. With respect to any monetary claim, no award of damages shall be necessary in order for a party to be found by the court to have prevailed. With respect to any non-monetary claim, no equitable relief shall be necessary in order for a party to be found by the court to have prevailed. In addition, a non-defaulting Party shall be entitled to recover from the defaulting Party under this Agreement all of the non-defaulting Party's costs and expenses in connection with such arbitration, including without limitation, expert witness fees, reasonable attorneys' fees and reimbursement of all of the arbitration fees and costs previously advanced by the non-defaulting Party.
- 3.8. Notices. All notices required or permitted to be sent under this Agreement shall be deemed given when: (a) actually hand delivered to a Party; (b) actually received (or delivery is refused) by the addressee if the notice is deposited in the United States mail, postage prepaid, in an envelope or other container addressed to the Party to be charged with such notice; or (c) actually received (or delivery is refused) by the addressee if the notice is deposited with a national overnight delivery service such as Federal Express in a prepaid delivery envelope addressed to the Party to be charged with such notice at the address for such Party set forth in the Final Settlement.
- 3.9. No Third Party Beneficiaries. This Agreement is for the benefit of the Parties and no other person or entity shall have the right to rely upon or to enforce this Agreement.
- 3.10. Counterparts. This Agreement may be signed in multiple counterpart originals and shall be binding between any Parties that have signed original counterparts even if all of the parties have not then delivered signed counterparts.

[SIGNATURE PAGE FOLLOWS]



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Executed to be effective as of the Settlement Date.

WIMBERLEY SPRINGS


Wimberley Springs Partners, Ltd.

By: **Quicksand Operating, Inc.,**
its General Partner

By: 
Winton Porterfield, Vice President

WPOA

**Woodcreek Property Owners Association of
Hays County, Inc.**

By: 
Chris Scudder, President

WSCA

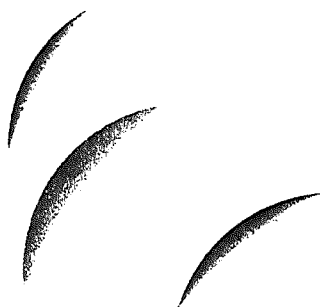
**Wimberley Springs Community
Association, Inc.**

By: 
Winton Porterfield, President



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EXHIBIT G
FORM OF PROMISSORY NOTE



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Promissory Note

Date: June __, 2014

Borrower: Woodcreek Property Owners Association of Hays County, Inc.

Borrower's Mailing Address: 501 Old Kyle Road, Suite 102
Wimberley, Hays County, Texas 78676

Lender: Wimberley Springs Partners, Ltd.

Place for Payment: P.O. Box 2854
Wimberley, Hays County, Texas 78676-7754

Principal Amount: Fifty Thousand and No/100 Dollars (\$50,000.00)

Annual Interest Rate: Zero percent (0.00%)

Maturity Date: June __, 2015

Annual Interest Rate on Matured, Unpaid Amounts: Eighteen percent (18.00%)

Terms of Payment (principal and interest): The Principal Amount and any accrued interest are due and payable on the Maturity Date. Payments will be applied first to accrued interest and the remainder to reduction of the Principal Amount.

Security for Payment: None

Borrower promises to pay to the order of Lender the Principal Amount plus interest at the Annual Interest Rate. This note is payable at the Place for Payment and according to the Terms of Payment. All unpaid amounts are due by the Maturity Date. After maturity, Borrower promises to pay any unpaid principal balance plus interest at the Annual Interest Rate on Matured, Unpaid Amounts.

If Borrower defaults in the payment of this note or in the performance of any obligation in any instrument securing or collateral to this note, Lender may declare the unpaid principal balance, earned interest, and any other amounts owed on the note immediately due. Borrower and each surety, endorser, and guarantor waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law.

Borrower also promises to pay reasonable attorneys' fees and court and other costs if this note is placed in the hands of an attorney to collect or enforce the note. These expenses will bear interest from the date of advance at the Annual Interest Rate on Matured, Unpaid Amounts. Borrower will pay Lender these expenses and interest on demand at the Place for Payment.

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These expenses and interest will become part of the debt evidenced by the note and will be secured by any security for payment.

Borrower may prepay this note in any amount at any time before the Maturity Date without penalty or premium.

Interest on the debt evidenced by this note will not exceed the maximum rate or amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the Principal Amount or, if the Principal Amount has been paid, refunded. On any acceleration or required or permitted prepayment, any excess interest will be canceled automatically as of the acceleration or prepayment or, if the excess interest has already been paid, credited on the Principal Amount or, if the Principal Amount has been paid, refunded. This provision overrides any conflicting provisions in this note and all other instruments concerning the debt.

Each Borrower is responsible for all obligations represented by this note.

When the context requires, singular nouns and pronouns include the plural.

This note is non-negotiable and may not be transferred or assigned to a third party without the written consent of Borrower.

**Woodcreek Property Owners Association
of Hays County, Inc.**

By: _____

Chris Scudder, President

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Following recordation please return to:

Woodcreek Property Owners Association
P.O. Box 1026
Wimberley, TX 78676

