



**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF THE
MOONLIGHT PARK SUBDIVISION, PHASE ONE**

Basic Information

Declarant: TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company

Declarant Address: 8416 Old McGregor Road, Waco, Texas 76712

Property: Lots 1-18, Block 1; Lots 1-9, Block 2; Lots 1-15, Block 3; Lots 1-20, Block 4; Lots 1-17, Block 5; Lots 9-10, Block 7; Lots 9-10, Block 8; Lots 9-10, Block 9; Lots 1-2, Block 10; and Lot 1, Block 12, of the MOONLIGHT PARK Addition, Phase One, to the City of Hewitt, Texas, as per the FINAL PLAT OF MOONLIGHT PARK, PHASE ONE, recorded under County Clerk's Instrument No. 2019016638, Official Public Records of McLennan County, Texas.

Definitions

"Applicable Law" means applicable federal, state, or local laws, statutes, regulations, ordinances, building codes, or other applicable legal requirements of governmental authorities with jurisdiction.

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

"Declarant" means TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Easements" means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or otherwise recorded.

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

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

"Plat" means the Final Plat of the Property recorded under County Clerk's Instrument No. 2019016638, Official Public Records of McLennan County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

"Property" means the Property identified above.

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

"Single Family" means a group of individuals related by blood, adoption, or marriage, or a

number of unrelated roommates not exceeding the number of bedrooms in a Residence.

“**Structure**” means any improvement on a Lot (other than a Residence), including an outbuilding, fence, wall, tennis court, swimming pool, swing set, jungle gym, playground equipment, or recreational equipment.

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

“**Vehicle**” means any automobile, truck, motorcycle, ATV, UTV, boat, trailer, recreational vehicle, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants

1. Declarant, as the owner of the Property, hereby declares and imposes the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that they and the Subdivision are subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

3. Each Owner and occupant of a Lot agrees to comply with this Declaration and agrees that failure to comply may subject him to a fine, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

2. Subject to the Plat and Applicable Law, an Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

3. Neither Declarant nor any Easement holder is liable for damage to landscaping or any Structures located within an Easement.

4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

C. Use and Activities

1. *Permitted Use.* A Lot may be used only for an approved Residence and approved Structures for use by a Single Family.

2. *Prohibited Activities.* Prohibited activities are—

- a. any activity that is otherwise prohibited by this Declaration;
- b. any illegal activity;
- c. any nuisance or noxious or offensive activity;
- d. any dumping or burning of rubbish (all rubbish and waste shall be placed and kept in suitable closed containers, and the Lot shall be kept in a clean and sanitary condition);
- e. any storage of—
 - i. building materials except during the construction or renovation of a Residence or a Structure;
 - ii. Vehicles, except Vehicles in a garage or Structure or operable automobiles (not to exceed two automobiles) on a driveway;
 - iii. unsightly objects, equipment, or machinery, unless completely shielded by a Structure; or
 - iv. garbage containers visible from the street (except placement of garbage containers on or near the curb on designated garbage collection days only);
- f. any dismantling or assembling of Vehicles in any front yard, driveway, or within view of any adjacent street;
- g. parking, or permitting to be parked, any trucks larger than a one-half ton, recreational vehicle, camper, trailer, boat, or any other Vehicle (excluding passenger automobiles) in front of any Residence for a period in excess of twenty-four (24) consecutive hours.
- h. any exploration for or extraction of minerals;
- i. any keeping, raising, or breeding of animals, livestock, or poultry, except for common domesticated household pets, such as dogs and cats, subject to Applicable Law, and confined to a fenced yard or within the Residence; and provided that such domesticated household pets are not kept, raised, or bred for commercial purposes and provided they are not of such nature or number as to be judged a public nuisance or menace;
- j. any commercial or professional activity except reasonable home office use;
- k. the renting of a portion (only) of a Residence or Structure;
- l. the drying of clothes in a manner that is visible from any street;

- m. the display of any sign except—
 - i. one sign of not more than five square feet, advertising the Lot for sale or rent, or advertising a garage or yard sale;
 - ii. political signage not prohibited by Applicable Law; and
 - iii. signs used by Declarant or builders to advertise the Property during the development, construction, and sales period thereof, as approved by Declarant.
- n. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
- o. moving a previously constructed house or building onto a Lot;
- p. interfering with a drainage pattern or the natural flow of surface water;
- q. hunting or shooting firearms; and
- r. occupying, temporarily or permanently, a Structure that does not comply with the construction standards of a Residence (however, this shall not prevent Declarant, its representatives, agents, or contractors from erecting a temporary field office for use as an office only for a reasonable period of time for development of the Subdivision, or additional phases thereof, and the sale of Lots) or a shack, tent, mobile home, or Vehicle on the Lot.

D. Construction and Maintenance Standards

- 1. *Lots*
 - a. *Consolidation of Lots.* An Owner of adjoining Lots may consolidate those Lots into one site for the construction of a Residence, subject to Applicable Law (including, without limitation, any local ordinances requiring replatting of the Lots).
 - b. *Subdivision Prohibited.* No Lot may be further subdivided; subject to Declarant's reserved rights herein.
 - c. *Easements.* No additional easements on a Lot may be granted without Declarant's written approval.
 - d. *Maintenance.* Each Owner must keep the Lot, all landscaping, the Residence, and all Structures in a neat, well-maintained, and attractive condition. Each Owner must keep grass, weeds, and vegetation mowed at regular intervals. And landscaping trees, shrubs, or plants that die shall be promptly removed from the Lot and replaced.

2. *Residences and Structures*

- a. *Aesthetic Compatibility.* All Residences, Structures, and landscaping must be aesthetically compatible with the Subdivision.
- b. *Maximum Height.* The maximum height of a Residence is two (2) stories. Structures may not exceed the height of the Residence on the same Lot, unless approved in writing by the Architectural Control Committee.
- c. *Required Area.* The total living area of a Residence must contain a minimum of **one thousand eight hundred square feet (1,800 SF)**, exclusive of porches, garages, carports, terraces, breezeways, and unfinished rooms.
- d. *Location on Lot.* No Residence or Structure may be located in violation of the setback lines shown on the Plat. Each Residence must face the front Lot line, unless otherwise approved in writing by the Architectural Control Committee. All Structures must be located behind the front wall of the Residence. All outbuildings, except garages, must not be visible from any street.
- e. *Garages.* Each Residence must have at least a two-car garage accessed by a driveway. The garage may be a separate structure. The doors of any garage shall not front a street but shall open from the rear or side of the Residence on all Lots, except where otherwise approved in writing by the Architectural Control Committee. The garage doors of one Residence will not open or face the garage doors of another Residence on an adjacent Lot, and no driveway on one Lot shall abut or be located adjacent to the driveway on another Lot, unless otherwise approved in writing by the Architectural Control Committee. No garage may be enclosed or otherwise converted to create additional living space within a Residence, and no garage may be used as dwelling space or quarters.
- f. *Damaged or Destroyed Residences and Structures.* Any Residence or Structure that is damaged must be repaired within one hundred eighty (180) days and the Lot restored to a clean, orderly, and attractive condition. Any Residence or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within sixty (60) days and the Lot restored to a clean and attractive condition.
- g. *Fences, Walls, and Hedges.* No fence, wall, or hedge may be located forward of the front wall line of the Residence, unless otherwise approved in writing by the Architectural Control Committee.
- h. *Antennae.* No antenna, satellite dish, or associated wires may be visible from the street or be located behind the back setback line of any Lot, unless otherwise approved in writing by the Architectural Control Committee. No radio operator antennae or aerials will be allowed; only those typically used

for residential radio and television reception are allowed.

- i. *Traffic Sight Lines.* No landscaping that obstructs traffic sight lines may be placed or maintained on any Lot.
- j. *Sidewalks.* When the Residence is constructed, the Lot must be improved with concrete sidewalks connecting with the sidewalks on adjacent Lots. Sidewalks must be four (4) feet in width and must comply with all applicable local ordinances and other governmental requirements. All sidewalks must be concrete, plain gray in color, and have medium broom finish.
- k. *Landscaping.* Landscaping must be installed within thirty (30) days after occupancy of any Residence. A minimum of two (2) trees which measure at least three inches (3") caliper measured twenty-four inches (24") above ground and at least six feet (6') in height must be planted in the front yard of each Lot. Each Lot shall be completely sodded with St. Augustine, Common Bermuda, or other grass variety approved in writing by the Architectural Control Committee. Seeding, hydro-mulching, and/or sprigging are prohibited.
- l. *Irrigation.* All landscaping must be irrigated by an automatic irrigation system, with in-ground lines and pop-up heads. All pressure mains should be Schedule 40 PVC with slip joint connections, or suitable equivalent.
- m. *Swimming Pools.* Above-ground swimming pools are prohibited within the Subdivision; all swimming pools shall be permanent in-ground Structures.
- n. *Propane Tanks.* Above-ground propane tanks for gas service to a Residence (excluding small portable tanks customarily used for gas grills) are prohibited; all propane tanks for gas service to a Residence must be located in-ground.
- o. *Mailboxes.* Community or cluster mailbox stations for the delivery and receipt of mail for the residents of the Subdivision shall be placed throughout the Subdivision in designated locations approved by the United States Postal Service and the Architectural Control Committee. No other mail receptacle shall be located on any Lot.
- p. *Lighting.* Except for traditional holiday decorative lights, which may be displayed for two (2) months before and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved by the Architectural Control Committee.
- q. *Compliance with Applicable Law.* No Residence or Structure shall be erected or situated on any Lot except in compliance with all Applicable Laws, including, without limitation, all applicable building codes and zoning ordinances.

- r. *Construction Completion.* Exterior and interior construction of all Residences and Structures must be completed within twelve (12) months after the date of written approval of plans by the Architectural Control Committee, unless a written extension is granted by the Committee.

3. *Building Materials for Residences and Structures*

- a. *Roofs.* Only Weathered Wood or black, minimum 30-year warranty, composition shingled roofs may be used on Residences and Structures, unless otherwise approved in writing by the Architectural Control Committee. All roof stacks must be painted to match the roof color.
- b. *Air Conditioning.* Window or wall-type air conditioners may not be used in a Residence. Air conditioning compressor units shall be located or screened so as not to be visible from the street, unless otherwise approved in writing by the Architectural Control Committee.
- c. *Exterior Walls.* The exterior walls (excluding windows, doors, and other building openings) of all Residences shall consist of not less than seventy-five percent (75%) masonry construction, unless otherwise approved in writing by the Architectural Control Committee. As used herein, "masonry construction" includes, without limitation, stone, brick, hardie board siding, and similar masonry products.
- d. *Driveways.* All driveways, from the street to the garage, either attached or detached, shall be constructed of concrete or concrete with washed aggregate finish, or other materials as approved by the Architectural Control Committee.

4. *Architectural Control Committee.* Declarant shall designate and appoint an initial Architectural Control Committee consisting of two (2) persons, which Committee shall serve at the pleasure of the Declarant. Declarant hereby designates SHANE R. TURNER and CODY R. TURNER as the initial Architectural Control Committee. No Residence or Structure shall be erected, placed, or materially altered on any Lot until the construction plans and specifications, and a plan showing the location of the Residence or Structure on the Lot, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be the sole authority for determining whether the external design of proposed Residences or Structures are in harmony with existing Residences and Structures and the overall plan of development of the Subdivision. The Committee's objective is to prevent unusual, uncommon, radical, extraordinary, bizarre, peculiar, irregular, unsightly, or unaesthetic designs or appearances from being built within the Subdivision, and to the extent possible, insure the harmonious development of the Subdivision. Without limitation of the powers herein granted, the Committee will have the right to specify requirements for each Lot as follows: minimum-setbacks; the location, height, and extent of fences, walls, or other screening devices; and the orientation of Residences and Structures with respect to garage access and major entry and frontage. The Committee also will have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or architectural design requirements or that might not be compatible, in the

sole and final discretion of the Committee, with the design or overall character and aesthetics of the Property. In the event of the death or resignation of any member of the Committee, the remaining member shall have full authority to designate a successor. Neither the members of the Committee nor their successors shall be entitled to any compensation for services performed. The Committee's approval or disapproval as required in this Declaration shall be in writing or endorsed on the plans. In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Committee shall fail either to approve or reject such plans and specifications within a period of thirty (30) days following such submission, or, in any event, if a lawsuit to enjoin the construction of such improvements has not been commenced prior to the completion of such improvements, then approval by the Committee shall not be required under this Section, and full compliance with this Section shall be deemed to have been met.

E. Declarant's Development Rights.

Notwithstanding anything herein to the contrary, Declarant reserves the following rights in connection with the development of the Subdivision and any additional phases thereof:

1. Declarant shall have the right to develop the Property in accordance with the Plat of the Property and applicable governmental requirements, including the right, without limitation, to excavate, grade, and construct streets, utilities, drainage, detention, and water quality facilities and other facilities or improvements required for the development of the Subdivision.
2. Declarant may re-subdivide or replat any Lots owned by Declarant.
3. Declarant may unilaterally amend this Declaration as provided below.
4. Declarant may subject additional property to this Declaration by recording a written instrument signed by Declarant that imposes this Declaration and the Covenants on that property. Alternatively, Declarant may record a unique, separate declaration for each phase of the Subdivision.
5. During development, Declarant, its representatives, employees, contractors, and lessees may continue to use the Property, and any adjoining property owned by Declarant, for agricultural purposes or other similar or existing uses.
6. Declarant reserves the right to develop property owned by Declarant, now or hereafter, located outside of the Subdivision (including, without limitation, properties located on Hewitt Drive or Old Temple Highway) for commercial purposes.
7. Declarant reserves the right to make changes in and additions to the Easements on or with respect to any of the Property owned by Declarant for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person, to grant, dedicate, reserve, or otherwise create, at any time, or from time to time, easements for public utility purposes (including without limitation, gas, water, electricity, telephone, and drainage) in favor of any person on any portion of the Property owned by Declarant.

F. General Provisions

1. *Term.* This Declaration runs with the land and is binding for a term of thirty (30) years after the Effective Date of this Declaration. Thereafter this Declaration automatically continues for successive terms of ten (10) years each, unless, within six (6) months before the end of a term, an instrument agreeing not to extend the term is signed by the Owners of at least sixty-seven percent (67%) of the Lots and recorded in the real property records of McLennan County, Texas.

2. *Enforcement and Nonwaiver.* Declarant and any Owner (at her own expense) shall have the right to enforce the Covenants. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any Covenants. The prevailing party in any action to enforce these Covenants shall be entitled to recover reasonable attorney's fees and expenses. Failure to enforce any provision of this Declaration, at any time, shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

3. *Amendment.*

a. *By Declarant.* Declarant may unilaterally amend this Declaration if such amendment is necessary: (i) to correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any such correction must not materially impair or affect a vested property right of any Owner; (ii) to enable any reputable title insurance company to issue title insurance coverage on any portion of the Property; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Lots; (iv) to bring any provision into compliance with any conflicting Applicable Law; or (v) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this subsection shall not materially and adversely affect the title to any Lot, unless the Owner of such Lot shall consent in writing.

b. *By Owners.* This Declaration may be amended at any time by the approval of the Owners of at least sixty-seven percent (67%) of the Lots in a written instrument recorded in the real property records of McLennan County, Texas; provided, however, that any such amendment that purports to amend any rights reserved by Declarant in this Declaration must be approved by Declarant in writing.

4. *Assignment by Declarant.* Notwithstanding any provision in this Declaration to the contrary, Declarant may, in writing filed of record referring to this Declaration by county clerk's instrument number, expressly assign, in whole or in part, any of Declarant's privileges, exemptions, rights, and duties under this Declaration to any other person or entity, and may permit the participation, in whole or in part, by any other person or entity of any of its privileges, exemptions, rights, and duties hereunder. Upon assignment by Declarant of any or all of Declarant's rights, the Declarant shall no longer be liable for performance of such assigned rights, provided that the assignee expressly assumes in the recorded assignment the obligations of Declarant that are assigned.

5. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the

unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.

6. *Notices.* Any notice required or permitted by this Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.

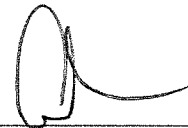
[Signature Page Follows This Page]

EXECUTED on the date of the acknowledgement set forth below, to be EFFECTIVE as of May 23, 2019 (the "Effective Date").

DECLARANT:

TURNER BEHRINGER DEVELOPMENT LLC

By: _____

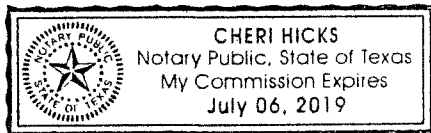


Cody R. Turner, President

STATE OF TEXAS)

COUNTY OF McLENNAN)

The foregoing instrument was acknowledged before me this 23 day of May, 2019, by Cody R. Turner, President of TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, on behalf of said limited liability company.



Notary Public, in and for State of Texas

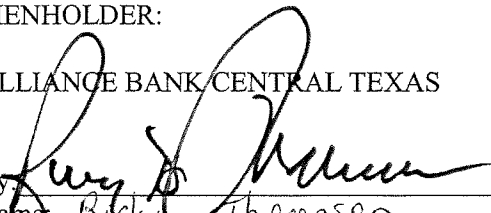
AFTER RECORDING RETURN TO:
Scanes & Routh, LLP
P. O. Box 20965
Waco, Texas 76702-0965

LIENHOLDER'S CONSENT

The undersigned financial institution, being the owner and holder of an existing mortgage lien upon and against the land and property described as the Property in the foregoing Declaration of Covenants, Conditions, and Restrictions of the MOONLIGHT PARK SUBDIVISION, PHASE ONE (the "**Declaration**"), hereby consents to the Declaration and to the recording of same, and hereby subordinates said mortgage or liens to the terms and conditions of the Declaration. This consent shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof.

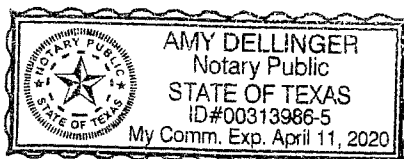
LIENHOLDER:

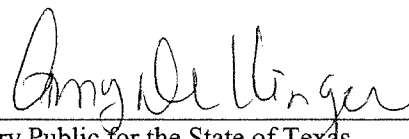
ALLIANCE BANK CENTRAL TEXAS

By: 
Name: Ricky Thompson
Title: Executive Vice President

THE STATE OF TEXAS §
 §
COUNTY OF McLennan §

This instrument was acknowledged before me, on May 23, 2019, by Ricky Thompson, as Executive Vice President of Alliance Bank Central Texas, a State banking association, on behalf of said bank.




Notary Public for the State of Texas

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

A handwritten signature in black ink, appearing to read "J. A. 'Andy' Harwell". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

J. A. "Andy" Harwell, County Clerk
05/28/2019 09:03 AM

Fee: \$50.00

2019017256 RESTRICT
McLennan County, Texas

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF THE
MOONLIGHT PARK SUBDIVISION, PHASE ONE**

This First Amendment to the Declaration of Covenants, Conditions, and Restrictions of The Moonlight Park Subdivision, Phase Two (this “**Amendment**”), is executed by Turner Behringer Development LLC, a Texas limited liability company (“**Declarant**”), as of the Effective Date set forth below.

RECITALS

WHEREAS, Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions of The Moonlight Park Subdivision, Phase Two (the “**Declaration**”), dated May 23, 2019, and recorded under County Clerk’s Instrument No. 2019017256, Official Public Records of McLennan County, Texas, related to the Property and the Subdivision described therein;

WHEREAS, under the terms of the Declaration, the Declarant may unilaterally amend the Declaration if such amendment is necessary (i) to bring any provision into compliance with any conflicting Applicable Law; or (ii) to satisfy the requirements of any local, state, or federal governmental agency, provided that any such amendment does not materially and adversely affect the title to any Lot, unless the Owner of such Lot consents in writing;

WHEREAS, under the Declaration, sidewalks in the Subdivision must be four (4) feet in width and must comply with all applicable local ordinances and other governmental requirements;

WHEREAS, Declarant has been informed by the City of Hewitt, Texas, that the City of Hewitt will require all sidewalks in the Subdivision to be five (5) feet in width, instead of four (4) feet in width, pursuant to applicable City of Hewitt Construction Standards;

WHEREAS, Declarant is hereby amending the Declaration to modify the applicable sidewalk provisions in order to bring such provisions into compliance with the City of Hewitt Construction Standards and to otherwise satisfy the sidewalk requirements of the City of Hewitt.

NOW, THEREFORE, BE IT RESOLVED, that the Declaration hereby is amended as follows:

AMENDMENT

1. **Section D.2.j** of the Declaration is hereby amended and restated in its entirety as follows:
 - j. *Sidewalks.* When the Residence is constructed, the Lot must be improved with concrete sidewalks connecting with the sidewalks on adjacent Lots. Sidewalks must comply with all Applicable Law, including, without limitation, all applicable local ordinances and other governmental requirements, and must be five (5) feet in width, unless otherwise required by Applicable Law. All sidewalks must be concrete, plain gray in color, and have medium broom finish.

2. Capitalized terms used herein shall have the meanings ascribed to them in the Declaration, unless otherwise defined herein. All terms and provisions of the Declaration shall, except as expressly amended and modified by this Amendment, remain in full force and effect.

3. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Page Follows This Page]

EXECUTED on the date of the acknowledgement set forth below, to be EFFECTIVE as of November ____, 2019 (the "Effective Date").

DECLARANT:

TURNER BEHRINGER DEVELOPMENT LLC

By: _____
Cody R. Turner, President

STATE OF TEXAS)

COUNTY OF McLENNAN)

The foregoing instrument was acknowledged before me this ____ day of November, 2019, by Cody R. Turner, President of TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, on behalf of said limited liability company.

Notary Public, in and for State of Texas

AFTER RECORDING RETURN TO:
Scanes & Routh, LLP
P. O. Box 20965
Waco, Texas 76702-0965

LIENHOLDER'S CONSENT

The undersigned financial institution, being the owner and holder of an existing mortgage lien upon and against the land and property described as the Property in the Declaration of Covenants, Conditions, and Restrictions of the MOONLIGHT PARK SUBDIVISION, PHASE ONE (as amended, the "**Declaration**"), hereby consents to the foregoing First Amendment to the Declaration and to the recording of same, and hereby subordinates said mortgage or liens to the terms and conditions of the Declaration. This consent shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof.

LIENHOLDER:

ALLIANCE BANK CENTRAL TEXAS

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2019, by _____, as _____ of Alliance Bank Central Texas, a state banking association, on behalf of said bank.

Notary Public for the State of Texas



**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF THE
MOONLIGHT PARK SUBDIVISION, PHASE TWO**

Basic Information

Declarant: TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company

Declarant Address: 1224 Austin Avenue, Suite 300, Waco, Texas 76701

Property Owner: SMALLEY HOMES, LLC, a Texas limited liability company

Property Owner Address: 707 N. Highway 36 Bypass, Gatesville, Texas 76528

Property: Lots 11, 12, 13, 14, 15, 16, 17, and 18, Block 8; Lots 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, and 18, Block 9; Lots 3, 4, and 5, Block 10; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, Block 11; Lots 2, 3, 4, 5, 6, and 7, Block 12; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Block 13; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block 14; Lots 1, 2, 3, and 4, Block 15; and Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 16 of the MOONLIGHT PARK Addition, Phase Two, to the City of Hewitt, Texas, as per the FINAL PLAT OF MOONLIGHT PARK, PHASE TWO, recorded under County Clerk's Instrument No. 2020043222, Official Public Records of McLennan County, Texas.

Definitions

"Applicable Law" means applicable federal, state, or local laws, statutes, regulations, ordinances, building codes, or other applicable legal requirements of governmental authorities with jurisdiction.

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"Property" means the Property identified above.

"Property Owner" means SMALLEY HOMES, LLC, a Texas limited liability company, who has acquired the Property from Declarant as of the Effective Date of this Declaration and who joins Declarant in signing this Declaration for purposes of imposing on the Property the Covenants.

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

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

"Structure" means any improvement on a Lot (other than a Residence), including an outbuilding, fence, wall, tennis court, swimming pool, swing set, jungle gym, playground equipment, or recreational equipment.

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

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

Clauses and Covenants

A. Imposition of Covenants

1. Declarant and Property Owner, as the owner of the Property, hereby declare and impose the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that they and the Subdivision are subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

3. Each Owner and occupant of a Lot agrees to comply with this Declaration and agrees that failure to comply may subject him to a fine, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

2. Subject to the Plat and Applicable Law, an Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

3. Neither Declarant nor any Easement holder is liable for damage to landscaping or any Structures located within an Easement.

4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

C. Use and Activities

1. *Permitted Use.* A Lot may be used only for an approved Residence and approved Structures for use by a Single Family.

2. *Prohibited Activities.* Prohibited activities are—

- a. any activity that is otherwise prohibited by this Declaration;
- b. any illegal activity;
- c. any nuisance or noxious or offensive activity;
- d. any dumping or burning of rubbish (all rubbish and waste shall be placed and kept in suitable closed containers, and the Lot shall be kept in a clean and sanitary condition);
- e. any storage of—
 - i. building materials except during the construction or renovation of a Residence or a Structure;
 - ii. Vehicles, except Vehicles in a garage or Structure or operable automobiles (not to exceed two automobiles) on a driveway;
 - iii. unsightly objects, equipment, or machinery, unless completely shielded by a Structure; or
 - iv. garbage containers visible from the street (except placement of garbage containers on or near the curb on designated garbage collection days only);
- f. any dismantling or assembling of Vehicles in any front yard, driveway, or within view of any adjacent street;
- g. parking, or permitting to be parked, any trucks larger than a one-half ton, recreational vehicle, camper, trailer, boat, or any other Vehicle (excluding passenger automobiles) in front of any Residence for a period in excess of twenty-four (24) consecutive hours.
- h. any exploration for or extraction of minerals;
- i. any keeping, raising, or breeding of animals, livestock, or poultry, except for

common domesticated household pets, such as dogs and cats, subject to Applicable Law, and confined to a fenced yard or within the Residence; and provided that such domesticated household pets are not kept, raised, or bred for commercial purposes and provided they are not of such nature or number as to be judged a public nuisance or menace;

- j. any commercial or professional activity except reasonable home office use;
- k. the renting of a portion (only) of a Residence or Structure;
- l. the drying of clothes in a manner that is visible from any street;
- m. the display of any sign except—
 - i. one sign of not more than five square feet, advertising the Lot for sale or rent, or advertising a garage or yard sale;
 - ii. political signage not prohibited by Applicable Law; and
 - iii. signs used by Declarant or builders to advertise the Property during the development, construction, and sales period thereof, as approved by Declarant.
- n. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
- o. moving a previously constructed house or building onto a Lot;
- p. interfering with a drainage pattern or the natural flow of surface water;
- q. hunting or shooting firearms; and
- r. occupying, temporarily or permanently, a Structure that does not comply with the construction standards of a Residence (however, this shall not prevent Declarant, its representatives, agents, or contractors from erecting a temporary field office for use as an office only for a reasonable period of time for development of the Subdivision, or additional phases thereof, and the sale of Lots) or a shack, tent, mobile home, or Vehicle on the Lot.

D. Construction and Maintenance Standards

1. Lots

- a. *Consolidation of Lots.* An Owner of adjoining Lots may consolidate those Lots into one site for the construction of a Residence, subject to Applicable Law (including, without limitation, any local ordinances requiring replatting of the Lots).
- b. *Subdivision Prohibited.* No Lot may be further subdivided; subject to

Declarant's reserved rights herein.

- c. *Easements.* No additional easements on a Lot may be granted without Declarant's written approval.
- d. *Maintenance.* Each Owner must keep the Lot, all landscaping, the Residence, and all Structures in a neat, well-maintained, and attractive condition. Each Owner must keep grass, weeds, and vegetation mowed at regular intervals. And landscaping trees, shrubs, or plants that die shall be promptly removed from the Lot and replaced.

2. *Residences and Structures*

- a. *Aesthetic Compatibility.* All Residences, Structures, and landscaping must be aesthetically compatible with the Subdivision.
- b. *Maximum Height.* The maximum height of a Residence is two (2) stories. Structures may not exceed the height of the Residence on the same Lot, unless approved in writing by the Architectural Control Committee.
- c. *Required Area.* The total living area of a Residence must contain a minimum of **one thousand eight hundred square feet (1,800 SF)**, exclusive of porches, garages, carports, terraces, breezeways, and unfinished rooms.
- d. *Location on Lot.* No Residence or Structure may be located in violation of the setback lines shown on the Plat. Each Residence must face the front Lot line, unless otherwise approved in writing by the Architectural Control Committee. All Structures must be located behind the front wall of the Residence. All outbuildings, except garages, must not be visible from any street.
- e. *Garages.* Each Residence must have at least a two-car garage accessed by a driveway. The garage may be a separate structure. No garage may be enclosed or otherwise converted to create additional living space within a Residence, and no garage may be used as dwelling space or quarters.
- f. *Damaged or Destroyed Residences and Structures.* Any Residence or Structure that is damaged must be repaired within one hundred eighty (180) days and the Lot restored to a clean, orderly, and attractive condition. Any Residence or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within sixty (60) days and the Lot restored to a clean and attractive condition.
- g. *Fences, Walls, and Hedges.* No fence, wall, or hedge may be located forward of the front wall line of the Residence, unless otherwise approved in writing by the Architectural Control Committee.
- h. *Antennae.* No antenna, satellite dish, or associated wires may be visible from the street or be located behind the back setback line of any Lot, unless

otherwise approved in writing by the Architectural Control Committee. No radio operator antennae or aerials will be allowed; only those typically used for residential radio and television reception are allowed.

- i. *Traffic Sight Lines.* No landscaping that obstructs traffic sight lines may be placed or maintained on any Lot.
- j. *Sidewalks.* When the Residence is constructed, the Lot must be improved with concrete sidewalks connecting with the sidewalks on adjacent Lots. Sidewalks must comply with all Applicable Law, including, without limitation, all applicable local ordinances and other governmental requirements, and must be four (4) feet in width, unless otherwise required by Applicable Law. All sidewalks must be concrete, plain gray in color, and have medium broom finish.
- k. *Landscaping.* Landscaping must be installed within thirty (30) days after occupancy of any Residence. A minimum of two (2) trees which measure at least three inches (3") caliper measured twenty-four inches (24") above ground and at least six feet (6') in height must be planted in the front yard of each Lot. Each Lot shall be completely sodded with St. Augustine, Common Bermuda, or other grass variety approved in writing by the Architectural Control Committee. Seeding, hydro-mulching, and/or sprigging are prohibited.
- l. *Irrigation.* All landscaping must be irrigated by an automatic irrigation system, with in-ground lines and pop-up heads. All pressure mains should be Schedule 40 PVC with slip joint connections, or suitable equivalent.
- m. *Swimming Pools.* Above-ground swimming pools are prohibited within the Subdivision; all swimming pools shall be permanent in-ground Structures.
- n. *Propane Tanks.* Above-ground propane tanks for gas service to a Residence (excluding small portable tanks customarily used for gas grills) are prohibited; all propane tanks for gas service to a Residence must be located in-ground.
- o. *Mailboxes.* Community or cluster mailbox stations for the delivery and receipt of mail for the residents of the Subdivision shall be placed throughout the Subdivision in designated locations approved by the United States Postal Service and the Architectural Control Committee. No other mail receptacle shall be located on any Lot.
- p. *Lighting.* Except for traditional holiday decorative lights, which may be displayed for two (2) months before and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved by the Architectural Control Committee.
- q. *Compliance with Applicable Law.* No Residence or Structure shall be erected or situated on any Lot except in compliance with all Applicable Laws, including, without limitation, all applicable building codes and zoning

ordinances.

- r. *Construction Completion.* Exterior and interior construction of all Residences and Structures must be completed within twelve (12) months after the date of written approval of plans by the Architectural Control Committee, unless a written extension is granted by the Committee.

3. *Building Materials for Residences and Structures*

- a. *Roofs.* Only Weathered Wood or black, minimum 30-year warranty, composition shingled roofs may be used on Residences and Structures, unless otherwise approved in writing by the Architectural Control Committee. All roof stacks must be painted to match the roof color.
- b. *Air Conditioning.* Window or wall-type air conditioners may not be used in a Residence. Air conditioning compressor units shall be located or screened so as not to be visible from the street, unless otherwise approved in writing by the Architectural Control Committee.
- c. *Exterior Walls.* The exterior walls (excluding windows, doors, and other building openings) of all Residences shall consist of not less than seventy-five percent (75%) masonry construction, unless otherwise approved in writing by the Architectural Control Committee. As used herein, "masonry construction" includes, without limitation, stone, brick, hardie board siding, and similar masonry products.
- d. *Driveways.* All driveways, from the street to the garage, either attached or detached, shall be constructed of concrete or concrete with washed aggregate finish, or other materials as approved by the Architectural Control Committee.

4. *Architectural Control Committee.* Declarant shall designate and appoint an initial Architectural Control Committee consisting of two (2) persons, which Committee shall serve at the pleasure of the Declarant. Declarant hereby designates SHANE R. TURNER and CODY R. TURNER as the initial Architectural Control Committee. No Residence or Structure shall be erected, placed, or materially altered on any Lot until the construction plans and specifications, and a plan showing the location of the Residence or Structure on the Lot, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be the sole authority for determining whether the external design of proposed Residences or Structures are in harmony with existing Residences and Structures and the overall plan of development of the Subdivision. The Committee's objective is to prevent unusual, uncommon, radical, extraordinary, bizarre, peculiar, irregular, unsightly, or unaesthetic designs or appearances from being built within the Subdivision, and to the extent possible, insure the harmonious development of the Subdivision. Without limitation of the powers herein granted, the Committee will have the right to specify requirements for each Lot as follows: minimum-setbacks; the location, height, and extent of fences, walls, or other screening devices; and the orientation of Residences and Structures with respect to garage access and major entry and frontage. The Committee also will have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or

architectural design requirements or that might not be compatible, in the sole and final discretion of the Committee, with the design or overall character and aesthetics of the Property. In the event of the death or resignation of any member of the Committee, the Declarant may appoint a successor. If the Declarant does not appoint a successor within ninety (90) days after the death or resignation of such member of the Committee, the remaining member shall have full authority to designate a successor. Neither the members of the Committee nor their successors shall be entitled to any compensation for services performed. The Committee's approval or disapproval as required in this Declaration shall be in writing or endorsed on the plans. In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Committee shall fail either to approve or reject such plans and specifications within a period of thirty (30) days following such submission, or, in any event, if a lawsuit to enjoin the construction of such improvements has not been commenced prior to the completion of such improvements, then approval by the Committee shall not be required under this Section, and full compliance with this Section shall be deemed to have been met.

E. Declarant's Development Rights.

Notwithstanding anything herein to the contrary, Declarant reserves the following rights in connection with the development of the Subdivision and any additional phases thereof:

1. Declarant shall have the right to develop the Property in accordance with the Plat of the Property and applicable governmental requirements, including the right, without limitation, to excavate, grade, and construct streets, utilities, drainage, detention, and water quality facilities and other facilities or improvements required for the development of the Subdivision.
2. Declarant may re-subdivide or replat any Lots owned by Declarant.
3. Declarant may unilaterally amend this Declaration as provided below.
4. Declarant may subject additional property to this Declaration by recording a written instrument signed by Declarant that imposes this Declaration and the Covenants on that property. Alternatively, Declarant may record a unique, separate declaration for each phase of the Subdivision.
5. During development, Declarant, its representatives, employees, contractors, and lessees may continue to use any property owned by Declarant for agricultural purposes or other similar or existing uses.
6. Declarant reserves the right to develop property owned by Declarant, now or hereafter, located outside of the Subdivision (including, without limitation, properties located on Hewitt Drive or Old Temple Highway) for commercial purposes.
7. Declarant reserves the right to make changes in and additions to the Easements on or with respect to any of the Property owned by Declarant for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person, to grant, dedicate, reserve, or otherwise create, at any time, or from time to time, easements for public utility purposes (including without limitation, gas, water, electricity, telephone, and drainage) in favor of any person on any portion of the Property owned by Declarant.

F. General Provisions

1. *Term.* This Declaration runs with the land and is binding for a term of thirty (30) years after the Effective Date of this Declaration. Thereafter this Declaration automatically continues for successive terms of ten (10) years each, unless, within six (6) months before the end of a term, an instrument agreeing not to extend the term is signed by the Owners of at least sixty-seven percent (67%) of the Lots and recorded in the real property records of McLennan County, Texas.

2. *Enforcement and Nonwaiver.* Declarant and any Owner (at her own expense) shall have the right to enforce the Covenants. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any Covenants. The prevailing party in any action to enforce these Covenants shall be entitled to recover reasonable attorney's fees and expenses. Failure to enforce any provision of this Declaration, at any time, shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

3. *Amendment.*

a. *By Declarant.* Declarant may unilaterally amend this Declaration if such amendment is necessary: (i) to correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any such correction must not materially impair or affect a vested property right of any Owner; (ii) to enable any reputable title insurance company to issue title insurance coverage on any portion of the Property; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Lots; (iv) to bring any provision into compliance with any conflicting Applicable Law; or (v) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this subsection shall not materially and adversely affect the title to any Lot, unless the Owner of such Lot shall consent in writing.

b. *By Owners.* This Declaration may be amended at any time by the approval of the Owners of at least sixty-seven percent (67%) of the Lots in a written instrument recorded in the real property records of McLennan County, Texas; provided, however, that any such amendment that purports to amend any rights reserved by Declarant in this Declaration must be approved by Declarant in writing.

4. *Assignment by Declarant.* Notwithstanding any provision in this Declaration to the contrary, Declarant may, in writing filed of record expressly referring to this Declaration by county clerk's instrument number, assign, in whole or in part, any of Declarant's privileges, exemptions, rights, and duties under this Declaration to any other person or entity, and may permit the participation, in whole or in part, by any other person or entity of any of its privileges, exemptions, rights, and duties hereunder. Unless Declarant expressly assigns in writing Declarant's privileges, exemptions, rights, and duties as provided herein, Declarant retains all such privileges, exemptions, rights, and duties. Upon assignment by Declarant of any or all of Declarant's rights and duties as provided herein, Declarant shall no longer be liable for performance of such assigned rights or duties, provided that the assignee expressly assumes in the recorded assignment the obligations of Declarant that are assigned.

5. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the

unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.

6. *Notices.* Any notice required or permitted by this Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.

[Signature Page Follows This Page]

EXECUTED on the dates of the acknowledgements set forth below, to be EFFECTIVE as of December 15, 2020 (the "Effective Date").

DECLARANT:

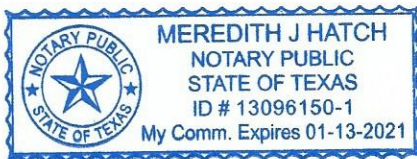
TURNER BEHRINGER DEVELOPMENT LLC

By:  _____
Cody R. Turner, President

STATE OF TEXAS)

COUNTY OF McLENNAN)

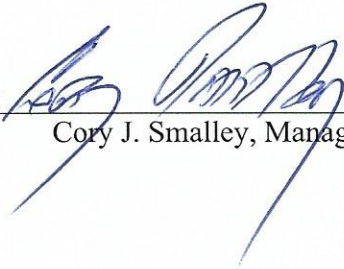
The foregoing instrument was acknowledged before me this 30th day of December, 2020, by Cody R. Turner, President of TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, on behalf of said limited liability company.




Notary Public, in and for State of Texas

PROPERTY OWNER:

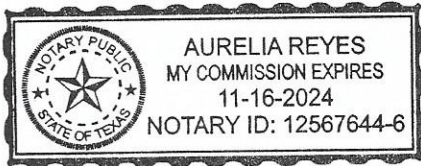
SMALLEY HOMES, LLC

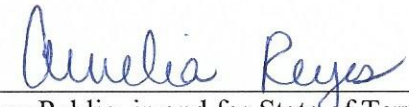
By: 
Cory J. Smalley, Managing Member

STATE OF TEXAS)

COUNTY OF Beell)

The foregoing instrument was acknowledged before me this 6th day of January, 2021, by Cory J. Smalley, Managing Member of SMALLEY HOMES, LLC, a Texas limited liability company, on behalf of said limited liability company.




Notary Public, in and for State of Texas

AFTER RECORDING RETURN TO:

Turner Behringer Development LLC
1224 Austin Avenue, Suite 300
Waco, Texas 76701

LIENHOLDER'S CONSENT

The undersigned financial institution, being the owner and holder of an existing mortgage lien upon and against the land and property described as the Property in the foregoing Declaration of Covenants, Conditions, and Restrictions of the MOONLIGHT PARK SUBDIVISION, PHASE TWO (the "Declaration"), hereby consents to the Declaration and to the recording of same, and hereby subordinates said mortgage or liens to the terms and conditions of the Declaration. This consent shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof.

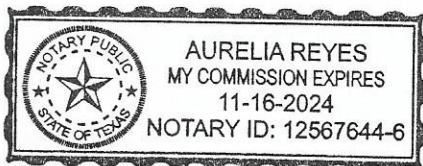
LIENHOLDER:

BANCORPSOUTH BANK

By: [Signature]
Name: Joel Berryman
Title: SVP

THE STATE OF Texas §
COUNTY OF Bell §

This instrument was acknowledged before me on January 5, 2021,
by Joel Berryman, as SVP of BancorpSouth
Bank, a Mississippi banking association, on behalf of said bank.



Aurelia Reyes
Notary Public for the State of Texas

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

[Signature]

J. A. "Andy" Harwell, County Clerk
01/06/2021 01:23 PM
Fee: \$64.00
2021000485 RESTRICT
McLennan County, Texas

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF THE
MOONLIGHT PARK SUBDIVISION, PHASE TWO**

This First Amendment to the Declaration of Covenants, Conditions, and Restrictions of The Moonlight Park Subdivision, Phase Two (this "**Amendment**"), is executed by Turner Behringer Development LLC, a Texas limited liability company ("**Declarant**"), as of the Effective Date set forth below.

RECITALS

WHEREAS, Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions of The Moonlight Park Subdivision, Phase Two (the "**Declaration**"), dated December 15, 2020, and recorded under County Clerk's Instrument No.2021000485, Official Public Records of McLennan County, Texas, related to the Property and the Subdivision described therein;

WHEREAS, under the terms of the Declaration, the Declarant may unilaterally amend the Declaration if such amendment is necessary (i) to bring any provision into compliance with any conflicting Applicable Law; or (ii) to satisfy the requirements of any local, state, or federal governmental agency, provided that any such amendment does not materially and adversely affect the title to any Lot, unless the Owner of such Lot consents in writing;

WHEREAS, under the Declaration, sidewalks in the Subdivision must be four (4) feet in width and must comply with all applicable local ordinances and other governmental requirements;

WHEREAS, Declarant has been informed by the City of Hewitt, Texas, that the City of Hewitt will require all sidewalks in the Subdivision to be five (5) feet in width, instead of four (4) feet in width, pursuant to applicable City of Hewitt Construction Standards;

WHEREAS, Declarant is hereby amending the Declaration to modify the applicable sidewalk provisions in order to bring such provisions into compliance with the City of Hewitt Construction Standards and to otherwise satisfy the sidewalk requirements of the City of Hewitt.

NOW, THEREFORE, BE IT RESOLVED, that the Declaration hereby is amended as follows:

AMENDMENT

1. **Section D.2.j** of the Declaration is hereby amended and restated in its entirety as follows:
 - j. *Sidewalks.* When the Residence is constructed, the Lot must be improved with concrete sidewalks connecting with the sidewalks on adjacent Lots. Sidewalks must comply with all Applicable Law, including, without limitation, all applicable local ordinances and other governmental requirements, and must be five (5) feet in width, unless otherwise required by Applicable Law. All sidewalks must be concrete, plain gray in color, and have medium broom finish.

2. Capitalized terms used herein shall have the meanings ascribed to them in the Declaration, unless otherwise defined herein. All terms and provisions of the Declaration shall, except as expressly amended and modified by this Amendment, remain in full force and effect.


3. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Page Follows This Page]

EXECUTED on the date of the acknowledgement set forth below, to be EFFECTIVE as of April 7, 2021 (the "Effective Date").

DECLARANT:

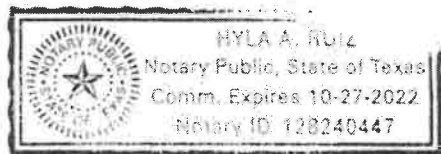
TURNER BEHRINGER DEVELOPMENT LLC

By: 
Cody R. Turner, President

STATE OF TEXAS)

COUNTY OF McLENNAN)

The foregoing instrument was acknowledged before me this 7 day of April, 2021, by Cody R. Turner, President of TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, on behalf of said limited liability company.




Notary Public for the State of Texas

AFTER RECORDING RETURN TO:
Turner Behringer Development, LLC
1224 Austin Avenue, Ste. 330
Waco, Texas 76701

LIENHOLDER'S CONSENT

The undersigned financial institution, being the owner and holder of an existing mortgage lien upon and against the land and property described as the Property in the Declaration of Covenants, Conditions, and Restrictions of the MOONLIGHT PARK SUBDIVISION, PHASE TWO (as amended, the "Declaration"), hereby consents to the foregoing First Amendment to the Declaration and to the recording of same, and hereby subordinates said mortgage or liens to the terms and conditions of the Declaration. This consent shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof.

LIENHOLDER:

BANCORPSOUTH BANK

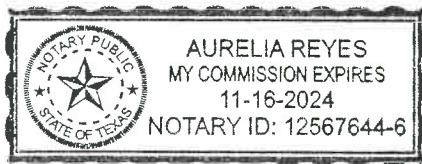
By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF Bell §

This instrument was acknowledged before me on June 15, 2021, by Joel Berryman, as SVP, BANCORPSOUTH BANK, a state banking association, on behalf of said bank.



Aurelia Reyes
Notary Public for the State of Texas

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF THE
MOONLIGHT PARK SUBDIVISION, PHASE THREE**

Basic Information

Declarant: TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company

Declarant Address: 1224 Austin Avenue, Suite 300, Waco, Texas 76701

Property: Lots 19-22, Block 1; Lots 1-5, Block 6; Lots 1-8 and 11-18, Block 7; Lots 1-8, Block 8; and Lots 10-14, Block 16, of the MOONLIGHT PARK ADDITION, PHASE THREE, to the City of Hewitt, Texas, as per the FINAL PLAT OF MOONLIGHT PARK, PHASE THREE, recorded under County Clerk's Instrument No. 2021045551, Official Public Records of McLennan County, Texas.

Definitions

"Applicable Law" means applicable federal, state, or local laws, statutes, regulations, ordinances, building codes, or other applicable legal requirements of governmental authorities with jurisdiction.

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

"Declarant" means TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Easements" means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or otherwise recorded.

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

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

"Plat" means the Final Plat of the Property recorded under County Clerk's Instrument No. 2021045551, Official Public Records of McLennan County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

"Property" means the Property identified above.

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

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

“Structure” means any improvement on a Lot (other than a Residence), including an outbuilding, fence, wall, tennis court, swimming pool, swing set, jungle gym, playground equipment, or recreational equipment.

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

“Vehicle” means any automobile, truck, motorcycle, ATV, UTV, boat, trailer, recreational vehicle, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants

1. Declarant, as the owner of the Property, hereby declares and imposes the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that they and the Subdivision are subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

3. Each Owner and occupant of a Lot agrees to comply with this Declaration and agrees that failure to comply may subject him to a fine, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

2. Subject to the Plat and Applicable Law, an Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

3. Neither Declarant nor any Easement holder is liable for damage to landscaping or any Structures located within an Easement.

4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

C. Use and Activities

1. *Permitted Use.* A Lot may be used only for an approved Residence and approved Structures for use by a Single Family.

2. *Prohibited Activities.* Prohibited activities are—

a. any activity that is otherwise prohibited by this Declaration;

- b. any illegal activity;
- c. any nuisance or noxious or offensive activity;
- d. any dumping or burning of rubbish (all rubbish and waste shall be placed and kept in suitable closed containers, and the Lot shall be kept in a clean and sanitary condition);
- e. any storage of—
 - i. building materials except during the construction or renovation of a Residence or a Structure;
 - ii. Vehicles, except Vehicles in a garage or Structure or operable automobiles (not to exceed two automobiles) on a driveway;
 - iii. unsightly objects, equipment, or machinery, unless completely shielded by a Structure; or
 - iv. garbage containers visible from the street (except placement of garbage containers on or near the curb on designated garbage collection days only);
- f. any dismantling or assembling of Vehicles in any front yard, driveway, or within view of any adjacent street;
- g. parking, or permitting to be parked, any trucks larger than a one-half ton, recreational vehicle, camper, trailer, boat, or any other Vehicle (excluding passenger automobiles) in front of any Residence for a period in excess of twenty-four (24) consecutive hours.
- h. any exploration for or extraction of minerals;
- i. any keeping, raising, or breeding of animals, livestock, or poultry, except for common domesticated household pets, such as dogs and cats, subject to Applicable Law, and confined to a fenced yard or within the Residence; and provided that such domesticated household pets are not kept, raised, or bred for commercial purposes and provided they are not of such nature or number as to be judged a public nuisance or menace;
- j. any commercial or professional activity except reasonable home office use;
- k. the renting of a portion (only) of a Residence or Structure;
- l. the drying of clothes in a manner that is visible from any street;
- m. the display of any sign except—

- i. one sign of not more than five square feet, advertising the Lot for sale or rent, or advertising a garage or yard sale;
 - ii. political signage not prohibited by Applicable Law; and
 - iii. signs used by Declarant or builders to advertise the Property during the development, construction, and sales period thereof, as approved by Declarant.
- n. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
- o. moving a previously constructed house or building onto a Lot;
- p. interfering with a drainage pattern or the natural flow of surface water;
- q. hunting or shooting firearms; and
- r. occupying, temporarily or permanently, a Structure that does not comply with the construction standards of a Residence (however, this shall not prevent Declarant, its representatives, agents, or contractors from erecting a temporary field office for use as an office only for a reasonable period of time for development of the Subdivision, or additional phases thereof, and the sale of Lots) or a shack, tent, mobile home, or Vehicle on the Lot.

D. Construction and Maintenance Standards

1. *Lots*

- a. *Consolidation of Lots.* An Owner of adjoining Lots may consolidate those Lots into one site for the construction of a Residence, subject to Applicable Law (including, without limitation, any local ordinances requiring replatting of the Lots).
- b. *Subdivision Prohibited.* No Lot may be further subdivided; subject to Declarant's reserved rights herein.
- c. *Easements.* No additional easements on a Lot may be granted without Declarant's written approval.
- d. *Maintenance.* Each Owner must keep the Lot, all landscaping, the Residence, and all Structures in a neat, well-maintained, and attractive condition. Each Owner must keep grass, weeds, and vegetation mowed at regular intervals. And landscaping trees, shrubs, or plants that die shall be promptly removed from the Lot and replaced.

2. *Residences and Structures*

- a. *Aesthetic Compatibility.* All Residences, Structures, and landscaping must be aesthetically compatible with the Subdivision.
- b. *Maximum Height.* The maximum height of a Residence is two (2) stories. Structures may not exceed the height of the Residence on the same Lot, unless approved in writing by the Architectural Control Committee.
- c. *Required Area.* The total living area of a Residence must contain a minimum of **one thousand eight hundred square feet (1,800 SF)**, exclusive of porches, garages, carports, terraces, breezeways, and unfinished rooms.
- d. *Location on Lot.* No Residence or Structure may be located in violation of the setback lines shown on the Plat. Each Residence must face the front Lot line, unless otherwise approved in writing by the Architectural Control Committee. All Structures must be located behind the front wall of the Residence. All outbuildings, except garages, must not be visible from any street.
- e. *Garages.* Each Residence must have at least a two-car garage accessed by a driveway. The garage may be a separate structure. The doors of any garage shall not front a street but shall open from the rear or side of the Residence on all Lots, except where otherwise approved in writing by the Architectural Control Committee. Notwithstanding the foregoing, the garage doors of a Residence located on a corner Lot may front a street without approval by the Architectural Control Committee provided such doors open from the rear or side of such Residence. The garage doors of one Residence will not open or face the garage doors of another Residence on an adjacent Lot, and no driveway on one Lot shall abut or be located adjacent to the driveway on another Lot, unless otherwise approved in writing by the Architectural Control Committee. No garage may be enclosed or otherwise converted to create additional living space within a Residence, and no garage may be used as dwelling space or quarters.
- f. *Damaged or Destroyed Residences and Structures.* Any Residence or Structure that is damaged must be repaired within one hundred eighty (180) days and the Lot restored to a clean, orderly, and attractive condition. Any Residence or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within sixty (60) days and the Lot restored to a clean and attractive condition.
- g. *Fences, Walls, and Hedges.* No fence, wall, or hedge may be located forward of the front wall line of the Residence, unless otherwise approved in writing by the Architectural Control Committee. Any fence must be a cedar privacy fence six feet (6') in height, and no railings or posts may be visible from the street.

- h. *Antennae.* No antenna, satellite dish, or associated wires may be visible from the street or be located behind the back setback line of any Lot, unless otherwise approved in writing by the Architectural Control Committee. No radio operator antennae or aerials will be allowed; only those typically used for residential radio and television reception are allowed.
- i. *Traffic Sight Lines.* No landscaping that obstructs traffic sight lines may be placed or maintained on any Lot.
- j. *Sidewalks.* When the Residence is constructed, the Lot must be improved with concrete sidewalks on all street fronts connecting with the sidewalks on adjacent Lots. Sidewalks must comply with all Applicable Law, including, without limitation, all applicable local ordinances and other governmental requirements, and must be five (5) feet in width, unless otherwise required by Applicable Law. All sidewalks must be concrete, plain gray in color, and have medium broom finish.
- k. *Landscaping.* Landscaping must be installed within thirty (30) days after occupancy of any Residence. A minimum of two (2) trees which measure at least three inches (3") caliper measured twenty-four inches (24") above ground and at least six feet (6') in height must be planted in the front yard of each Lot. Each Lot shall be completely sodded with St. Augustine, Common Bermuda, or other grass variety approved in writing by the Architectural Control Committee. Seeding, hydro-mulching, and/or sprigging are prohibited.
- l. *Irrigation.* All landscaping must be irrigated by an automatic irrigation system, with in-ground lines and pop-up heads. All pressure mains should be Schedule 40 PVC with slip joint connections, or suitable equivalent.
- m. *Swimming Pools.* Above-ground swimming pools are prohibited within the Subdivision; all swimming pools shall be permanent in-ground Structures.
- n. *Propane Tanks.* Above-ground propane tanks for gas service to a Residence (excluding small portable tanks customarily used for gas grills) are prohibited; all propane tanks for gas service to a Residence must be located in-ground.
- o. *Mailboxes.* Community or cluster mailbox stations for the delivery and receipt of mail for the residents of the Subdivision shall be placed throughout the Subdivision in designated locations approved by the United States Postal Service and the Architectural Control Committee. No other mail receptacle shall be located on any Lot.
- p. *Lighting.* Except for traditional holiday decorative lights, which may be displayed for two (2) months before and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved by the Architectural Control Committee.

- q. *Compliance with Applicable Law.* No Residence or Structure shall be erected or situated on any Lot except in compliance with all Applicable Laws, including, without limitation, all applicable building codes and zoning ordinances.
- r. *Construction Completion.* Exterior and interior construction of all Residences and Structures must be completed within twelve (12) months after the date of written approval of plans by the Architectural Control Committee, unless a written extension is granted by the Committee.

3. *Building Materials for Residences and Structures*

- a. *Roofs.* Only Weathered Wood or black, minimum 30-year warranty, composition shingled roofs may be used on Residences and Structures, unless otherwise approved in writing by the Architectural Control Committee. All roof stacks must be painted to match the roof color.
- b. *Air Conditioning.* Window or wall-type air conditioners may not be used in a Residence. Air conditioning compressor units shall be located or screened so as not to be visible from the street, unless otherwise approved in writing by the Architectural Control Committee.
- c. *Exterior Walls.* The exterior walls (excluding windows, doors, and other building openings) of all Residences shall consist of not less than seventy-five percent (75%) masonry construction, unless otherwise approved in writing by the Architectural Control Committee. As used herein, "masonry construction" includes, without limitation, stone, brick, Hardie board siding, and similar masonry products.
- d. *Driveways.* All driveways, from the street to the garage, either attached or detached, shall be constructed of concrete or concrete with washed aggregate finish, or other materials as approved by the Architectural Control Committee.

4. *Architectural Control Committee.* Declarant shall designate and appoint an initial Architectural Control Committee consisting of two (2) persons, which Committee shall serve at the pleasure of the Declarant. Declarant hereby designates SHANE R. TURNER and CODY R. TURNER as the initial Architectural Control Committee. No Residence or Structure shall be erected, placed, or materially altered on any Lot until the construction plans and specifications, and a plan showing the location of the Residence or Structure on the Lot, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be the sole authority for determining whether the external design of proposed Residences or Structures are in harmony with existing Residences and Structures and the overall plan of development of the Subdivision. The Committee's objective is to prevent unusual, uncommon, radical, extraordinary, bizarre, peculiar, irregular, unsightly, or unaesthetic designs or appearances from being built within the Subdivision, and to the extent possible, insure the harmonious development of the Subdivision. Without limitation of the powers herein granted, the Committee will have the right to specify requirements for each Lot as follows: minimum-setbacks; the location, height, and extent of fences, walls, or other screening devices; and the

orientation of Residences and Structures with respect to garage access and major entry and frontage. The Committee also will have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or architectural design requirements or that might not be compatible, in the sole and final discretion of the Committee, with the design or overall character and aesthetics of the Property. In the event of the death or resignation of any member of the Committee, the Declarant may appoint a successor. If the Declarant does not appoint a successor within ninety (90) days after the death or resignation of such member of the Committee, the remaining member shall have full authority to designate a successor. Neither the members of the Committee nor their successors shall be entitled to any compensation for services performed. The Committee's approval or disapproval as required in this Declaration shall be in writing or endorsed on the plans. In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Committee shall fail either to approve or reject such plans and specifications within a period of thirty (30) days following such submission, or, in any event, if a lawsuit to enjoin the construction of such improvements has not been commenced prior to the completion of such improvements, then approval by the Committee shall not be required under this Section, and full compliance with this Section shall be deemed to have been met.

E. Declarant's Development Rights.

Notwithstanding anything herein to the contrary, Declarant reserves the following rights in connection with the development of the Subdivision and any additional phases thereof:

1. Declarant shall have the right to develop the Property in accordance with the Plat of the Property and applicable governmental requirements, including the right, without limitation, to excavate, grade, and construct streets, utilities, drainage, detention, and water quality facilities and other facilities or improvements required for the development of the Subdivision.

2. Declarant may re-subdivide or replat any Lots owned by Declarant.

3. Declarant may unilaterally amend this Declaration as provided below.

4. Declarant may subject additional property to this Declaration by recording a written instrument signed by Declarant that imposes this Declaration and the Covenants on that property. Alternatively, Declarant may record a unique, separate declaration for each phase of the Subdivision.

5. During development, Declarant, its representatives, employees, contractors, and lessees may continue to use any property owned by Declarant for agricultural purposes or other similar or existing uses.

6. Declarant reserves the right to develop property owned by Declarant, now or hereafter, located outside of the Subdivision (including, without limitation, properties located on Hewitt Drive or Old Temple Highway) for commercial purposes.

7. Declarant reserves the right to make changes in and additions to the Easements on or with respect to any of the Property owned by Declarant for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person, to grant, dedicate, reserve, or otherwise create, at any time, or from time to time, easements for public utility purposes (including without limitation, gas, water,

electricity, telephone, and drainage) in favor of any person on any portion of the Property owned by Declarant.

F. General Provisions

1. *Term.* This Declaration runs with the land and is binding for a term of thirty (30) years after the Effective Date of this Declaration. Thereafter this Declaration automatically continues for successive terms of ten (10) years each, unless, within six (6) months before the end of a term, an instrument agreeing not to extend the term is signed by the Owners of at least sixty-seven percent (67%) of the Lots and recorded in the real property records of McLennan County, Texas.

2. *Enforcement and Nonwaiver.* Declarant and any Owner (at her own expense) shall have the right to enforce the Covenants. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any Covenants. The prevailing party in any action to enforce these Covenants shall be entitled to recover reasonable attorney's fees and expenses. Failure to enforce any provision of this Declaration, at any time, shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

3. *Amendment.*

a. *By Declarant.* Declarant may unilaterally amend this Declaration if such amendment is necessary: (i) to correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any such correction must not materially impair or affect a vested property right of any Owner; (ii) to enable any reputable title insurance company to issue title insurance coverage on any portion of the Property; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Lots; (iv) to bring any provision into compliance with any conflicting Applicable Law; or (v) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this subsection shall not materially and adversely affect the title to any Lot, unless the Owner of such Lot shall consent in writing.

b. *By Owners.* This Declaration may be amended at any time by the approval of the Owners of at least sixty-seven percent (67%) of the Lots in a written instrument recorded in the real property records of McLennan County, Texas; provided, however, that any such amendment that purports to amend any rights reserved by Declarant in this Declaration must be approved by Declarant in writing.

4. *Assignment by Declarant.* Notwithstanding any provision in this Declaration to the contrary, Declarant may, in writing filed of record expressly referring to this Declaration by county clerk's instrument number, assign, in whole or in part, any of Declarant's privileges, exemptions, rights, and duties under this Declaration to any other person or entity, and may permit the participation, in whole or in part, by any other person or entity of any of its privileges, exemptions, rights, and duties hereunder. Unless Declarant expressly assigns in writing Declarant's privileges, exemptions, rights, and duties as provided herein, Declarant retains all such privileges, exemptions, rights, and duties. Upon assignment by Declarant of any or all of Declarant's rights and duties as provided herein, Declarant shall no longer be liable for performance of such assigned rights or duties, provided that the assignee expressly assumes in the recorded assignment the obligations of Declarant that are assigned.

5. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.

6. *Notices.* Any notice required or permitted by this Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.

EXECUTED on the dates of the acknowledgements set forth below, to be EFFECTIVE as of November 22, 2021 (the "Effective Date").

DECLARANT:

TURNER BEHRINGER DEVELOPMENT LLC

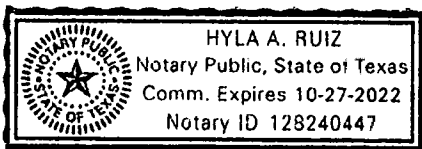
By: _____

Cody R. Turner, President

STATE OF TEXAS)

COUNTY OF MCLENNAN)

The foregoing instrument was acknowledged before me this 22nd day of November, 2021, by Cody R. Turner, President of TURNER BEHRINGER DEVELOPMENT LLC, a Texas limited liability company, on behalf of said limited liability company.



Notary Public, State of Texas

AFTER RECORDING RETURN TO:
Turner Behringer Development LLC
1224 Austin Avenue, Suite 300
Waco, Texas 76701

LIENHOLDER'S CONSENT

The undersigned financial institution, being the owner and holder of an existing mortgage lien upon and against the land and property described as the Property in the foregoing Declaration of Covenants, Conditions, and Restrictions of the MOONLIGHT PARK SUBDIVISION, PHASE THREE (the "**Declaration**"), hereby consents to the Declaration and to the recording of same, and hereby subordinates said mortgage or liens to the terms and conditions of the Declaration. This consent shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof.

LIENHOLDER:

ALLIANCE BANK CENTRAL TEXAS

By: 

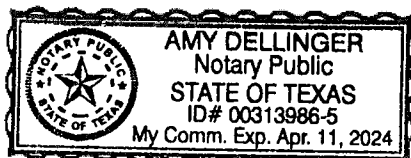
Name: Ricky Thompson

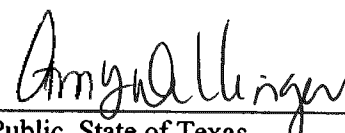
Title: President

STATE OF TEXAS)

COUNTY OF McLennan)

This instrument was acknowledged before me on November 23, 2021, by Ricky Thompson, as President of Alliance Bank Central Texas, a State banking association, on behalf of said bank.




Notary Public, State of Texas

FILED AND RECORDED

Instrument Number: 2021048223

Filing and Recording Date: 11/24/2021 01:28:07 PM Pages: 12 Recording Fee: \$56.00

I hereby certify that this instrument was FILED on the date and time stamped hereon
and RECORDED in the OFFICIAL PUBLIC RECORDS of McLennan County, Texas.



J. A. "Andy" Harwell, County Clerk
McLennan County, Texas

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