



**DECLARATION  
OF  
COVENANTS, CONDITIONS, EASEMENTS & RESTRICTIONS  
FOR WILLOW CREEK RANCHES**

STATE OF TEXAS                   §  
   §  
COUNTY OF VICTORIA         §

*Recitals*

WHEREAS, NINE MILE INVESTMENTS, LTD., a Texas limited partnership, (hereinafter the "Declarant"), is the Owner of the legal and equitable title in and to the following described real property lying and being situated in the County of Victoria and the State of Texas and being more particularly described as follows, to wit:

193.267 acres located in Victoria County, Texas, as more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes (the "Property").

WHEREAS, Declarant intends to develop and divide the Property into thirty-five (35) separate tracts of land (each a "Tract" and collectively, the "Tracts"), in a subdivision to be known as Willow Creek Ranches, as designated on the drawing which is attached as Exhibit "B" attached hereto and made a part hereof for all purposes; and

WHEREAS, Declarant desires to hold and from time to time convey the Property, or any portion thereof, subject to certain protective covenants, conditions, restrictions, liens, and charges hereinafter set forth in order to enhance the value, attractiveness and desirability of the Property;

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development, and sale of the Property for the benefit of the present and future owners of the Property; and

WHEREAS, Declarant has previously entered into that certain Joint Access and Utility Easement Agreement (the "JAUEA"), regarding the construction of a private drive and utilities for the benefit of the Property and land adjacent thereto and now desires that the Association (created hereby) be responsible for fulfilling Declarant's duties and obligations under the JAUEA with respect to the Property.

## ***Declaration***

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT Declarant does hereby does hereby declare and impose upon the Property the following covenants, conditions, easements, and restrictions for the purpose of carrying out a uniform plan for the development of a quality residential neighborhood. The covenants, conditions, easements, and restrictions of this declaration (this "Declaration") shall apply to and become a part of all legal instruments whereby title or possession to any Tract or Tracts within the Property are hereafter conveyed or transferred, such covenants, conditions, easements, restrictions, and limitations to run with the Property and to be binding upon and inure to the benefit of all parties, now or hereafter, owning or using the above described property or any portion thereof, their heirs, executors, administrators, successors, and assigns, and that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

### **ARTICLE I DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

1.01. Articles. "Articles" shall mean the Articles of Incorporation of Willow Creek Ranches Homeowners Association, Inc., which shall be filed in the office of the Secretary of State of the State of Texas, as the same are from time to time amended.

1.02. Assessment. "Assessment" or "Assessments" shall mean such sum levied by the Association in the manner and against the Property under the terms and provisions of this Declaration.

1.03. Association. "Association" shall mean and refer to the Victoria Willow Creek Ranches Homeowners Association, Inc., a Texas nonprofit corporation created or to be created pursuant to the Articles, its successors and assigns.

1.04. Association Rules. "Association Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.05. Board. "Board" shall mean the Board of Directors of the Association.

1.06. Bylaws. "Bylaws" shall mean the Bylaws of the Association to be adopted by the Board, as the same are from time to time amended.

1.07. Declarant. "Declarant" shall mean Nine Mile Investments, Ltd., a Texas limited partnership, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Nine Mile Investments, Ltd. as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder. The exercise of any rights or privileges of Declarant and the performance of any obligations or duties on the part of the Declarant shall be vested solely in Nine Mile Investments, Ltd. All decisions and actions of the Declarant shall be made and taken as set forth herein.

1.08. Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.

1.09. Design Guidelines. "Design Guidelines" shall mean those certain Design Guidelines set forth below in this Declaration in Sections 3.01 through 3.04, as the same may be amended from time to time.

1.10. Developed Tract. "Developed Tract" shall mean any Tract which has been prepared for marketing and sale to a third party, with electric service and a gravel street; and is readily transferable with a sufficient field notes description.

1.11. Improvement. "Improvement" or "Improvements" shall mean every structure and all appurtenances thereto of every type and kind located on the Property, including, but not limited to, buildings, outbuildings, storage sheds, patios, swimming pools and fencing, basketball goals, playscapes, garages, storage buildings, fences, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, septic, electric, telephone, regular or cable television, or other utilities.

1.12. JAUEA. The "JAUEA" shall mean that certain Joint Access and Utility Easement Agreement recorded at Document No. 201111774, Official Public Records of Victoria County, Texas, a true and correct copy of which is attached hereto as Exhibit "D".

1.13. Tract. "Tract" or "Tracts" shall mean any parcel or parcels of land within the Property shown as a separate, marketable parcel on the General Plan attached hereto as Exhibit "B", together with all Improvements located thereon.

1.14. Member. "Member" or "Members" shall mean any person(s), entity or entities holding membership rights in the Association.

1.15. Mortgage. "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering all or any portion of the Property given to secure the payment of a debt.

1.16. Mortgagee. “Mortgagee” or “Mortgagees” shall mean the holder or holders of any Mortgage or Mortgages.

1.17. Non-Residential Tract. “Non-Residential Tract” shall mean any portion of the land to be added to the Property and designated as a Non-Residential Tract by Declarant by a Supplemental Declaration or other permitted amendment to this Declaration.

1.18. Owner. “Owner” or “Owners” shall mean and refer to a person(s), entity or entities, including Declarant, holding a fee simple interest in all or any portion of the Property, but shall not include a Mortgagee.

1.19. Person. “Person” or “Persons” shall mean any individual(s), entity or entities having the legal right to hold title to real property.

1.20. Plans and Specifications. “Plans and Specifications” shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, signage, lighting, elevation drawings, floor plans, specifications on all building products and construction techniques, plans for utility services, all other documentation or information relevant to such Improvement, and any and all additional documentation or information called for by the Design Guidelines.

1.21. Property. “Property” shall mean that real property which is subject to the terms of this Declaration, plus any additional land added thereto in accordance with the procedures set forth in this Declaration, less any property that is withdrawn from this Declaration in accordance with the procedures set forth herein.

1.22. Subdivision. “Subdivision” shall mean the proposed Willow Creek Ranches Subdivision and shall refer to the property within the area described in Exhibit “A” (or later added thereto in accordance with the terms of this Declaration).

1.23. Supplemental Declaration. “Supplemental Declaration” shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add land to the Property, (ii) to subject any area of the Property to further covenants, conditions or restrictions, (iii) or to withdraw land from the Property.

1.24. Willow Creek Ranches Restrictions. “Willow Creek Ranches Restrictions” shall mean, collectively, (i) this Declaration, which includes the Design Guidelines, together with any and all Declarations, as the same may be amended from time to time, (ii) the Association Rules, and (iii) the Articles and Bylaws from time to time in effect, as the same may be amended from time to time.

## **ARTICLE II DEVELOPMENT OF AND ADDITION TO THE PROPERTY**

2.01. Development by Declarant. Declarant may divide or subdivide the Property into several areas, develop some of the Property, and, at Declarant's option, sell any portion of the Property free of these restrictions.

2.02. Addition of Land. Declarant, its successors and assigns, shall have the right, at any time and from time to time, to add land to the Property, so long as such land is within the area described on Exhibit "C" attached hereto and incorporated herein, without the consent or approval of Owners of any Tracts (other than Declarant). Furthermore, additional land may be annexed into the Property at any time by Declarant if such land is adjacent to and contiguous with the Property. For so long as Declarant owns any portion of the Property, Declarant may annex additional land into the Property. Finally, once Declarant no longer owns any portion of the Property, additional land may be annexed into the Property with the consent of two-thirds (2/3) of the Members of the Association. Such additions/annexations may be accomplished by recording a Supplemental Declaration annexing the property in the Official Public Records of Victoria County, Texas. Upon such additions/annexations, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein shall apply to the added land and the rights, privileges, duties, and liabilities of the Persons subject to this Declaration shall be the same with respect to the added land as with respect to the Property originally covered by this Declaration. As additional lands are annexed hereto, Declarant shall, with respect to said properties, record Supplemental Declarations which may incorporate this Declaration therein by reference, and which may supplement or modify this Declaration with such additional covenants, restrictions and conditions which may be appropriate for those lands.

2.03. Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw areas from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property hereunder, Declarant shall be required only to record a notice of withdrawal of land in the Real Property Records of Victoria County, Texas containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the book and page numbers of the Victoria County Real Property Records wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- (C) A legal description of the withdrawn land.

2.04. Merger or Consolidation. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or,

alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the Property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided.

### **ARTICLE III RESTRICTIONS**

All of the Property, save and except any Non-Residential Tracts, shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

#### Design Guidelines

##### 3.01. Size and Specifications.

- (A) A residence may not be lived in or occupied until the residence is 100% complete.
- (B) On all Tracts within the Property, each residence shall not contain less than 1,000 square feet of heated and air-conditioned space, exclusive of basements, garages, and porches, and built out of new materials. Residences shall not exceed two stories in height. All residences shall be either site built, modular, or a mobile home that is a 2007 model year home or newer verified by its serial number. Any mobile homes moved on to a Tract must be installed according to regulations issued by the State of Texas and set on concrete foundations. All mobile homes must be skirted within thirty (30) days of delivery to the Tract. Skirting material must be new and a masonry product, plaster, or similar material that matches the exterior of the home. Wood or metal lattice is not acceptable. All wheels and trailer tongues must be removed from mobile homes within thirty (30) days of delivery to the Tract. Move-on homes are allowed only with the Declarant's approval. Photos, plans, specifications and a construction timeline will be reviewed by the Declarant to determine if the home is approved.
- (C) Building permits must be acquired from Victoria County, as required, prior to commencement of construction and be built and installed according to all regulations of Victoria County.

##### 3.02. Setback Requirements and Front and Rear Building Lines.

- (A) Setback Requirements: The single-family residence, garage, carport, or other residential building of any kind on each Tract within the Property shall have a building setback line of thirty (30') feet from the front property line. The single-family residence, garage, carport, or other residential building of any kind shall not be located nearer than twenty-five (25') feet to any side property line or within fifty (50') feet from any rear property line. All storage buildings, outbuildings, sheds, pens, and any other enclosures must be behind the residence. Variations from these setback requirements may be granted in individual cases where Tract size or topography make these requirements impractical, but any such variation must have the prior written approval of the Declarant.
- (B) Front Building Line: The front building line is that line parallel to the front property line, which intersects the most forward projection of the actual residence constructed on each Tract within the Property, including roofs, decks, porches and garages. Detached garages and carports must be located behind the Front Building Line.
- (C) Rear Building Line: The rear building line is that line parallel to the front property line, which intersects the rear-most projection of the actual residence constructed on any Tract, including roofs, decks, porches, and garages. All storage sheds, portable buildings, animal pens, animal houses, and any other such structures shall be located behind the rear building line.

Notwithstanding anything in this Declaration to the contrary, improvements situated on the Property as of the date of this Declaration may remain in place and maintained. In the event any said existing improvement is demolished or removed from the Property, new construction must fully comply with this Declaration.

3.03. Driveways. All driveways must be surfaced, at a minimum, with crushed limestone or gravel of at least four (4) inches of material. The driveway must be completed before occupying the residence. All required permits must be obtained from appropriate governmental agencies before any driveway is constructed. Drainage culverts are required to be used on all Tracts.

3.04. Quality Workmanship. All improvements and structures including but not limited to homes, garages, fences, storage buildings, and other improvements shall be constructed of quality new material and in a workmanlike manner. Such improvements shall be maintained and situated so that their appearance will not be detrimental to the Property. All improvements shall be kept weatherproofed by painting or such other method as may be necessary and appropriate, and none of the improvements shall be allowed to deteriorate to the detriment of the neighborhood as a whole. Declarant shall have absolute discretion to determine whether any Improvement or proposed

Improvement violates the terms of this Section 3.04. Declarant may assign its rights under this Section 3.04 to the Association.

#### General Restrictions

3.05. Subdivision of the Property - Residential Use: All Tracts within the Property are hereby restricted exclusively to single-family residential use unless expressly designated otherwise in this Declaration, an amendment thereto, or any Supplemental Declaration. No Tract shall ever be used for a business or commercial purpose, except that home offices that do not receive vehicular traffic which is offensive to other Tract owners, from business invitees are permitted. No structures shall be constructed on any Tract other than a single-family residence with such allowed accessory structures and buildings such as a storage buildings, barns, stalls, workshops and a garage. No more than one (1) single-family residence may be constructed on a Tract. If the Tract is over ten (10) acres in size, the Tract is allowed to have no more than two (2) single-family residences constructed on it.

3.06. Storage of Materials and Personal Belongings. No materials or personal belongings of any kind shall be placed upon any Tract except within a garage, storage building or other comparable enclosed structure. Any construction building must be removed, and any construction materials must be properly stored in an enclosed structure, within fifteen (15) days of completion of the structure.

3.07. Easements. Easements are hereby reserved to Declarant and dedicated over and across a ten foot (10') strip along front, side and rear Tract lines for the purpose of installing, maintaining and repairing, electric power, telephone, water, cable, community mailbox station, drainage and/or any other similar utility lines, facilities, and services for the Tracts in the Property. The easements reserved and dedicated hereby shall be for the general benefit of the Property. These easements shall inure to the benefit of, and may be used by, any public or private utility company entering into and upon the Property for such purposes, without the necessity of any further grant of such easement rights to such utility companies. Any Tract owner installing a fence or other improvement within the area encumbered by the easement does so at his own risk. If two or more Tracts are consolidated into a building site in conformity with the provisions of Section 3.08, these easement provisions in this Section 3.07 and the setback provisions in Section 3.02 shall be applied to such resulting Tract as if it were a single Tract.

3.08. Restriction on Further Dividing of Tracts Within The Property. There shall be no dividing, subdividing, or re-subdividing allowed of any of the Tracts in the Property into smaller Tracts without the express prior written consent of the Declarant. Any person owning two or more adjoining Tracts may consolidate such Tracts into a single building site.

3.09. Water. The sole source of potable water for this Property is the use of private water wells. Each Owner will be responsible for permitting and drilling its own water well. The Declarant is not providing community water for the Property. Water



well permits can be obtained from the Victoria County Groundwater Conservation District.

3.10. Sewage. No means of sewage disposal may be installed, used or maintained except a septic tank, or a similar or improved means of sanitary sewage disposal, which meets the requirements of and is approved by all governmental authorities having jurisdiction thereof, including, but not limited to Victoria County Health Department. No residence placed upon a Tract shall be used or occupied until sanitary sewage disposal facilities complying with this paragraph have been completely built and approved by the appropriate governmental authority.

3.11. Draining Structures, Ditches, and Stock Tanks. Drainage structures under private driveways shall be constructed to applicable governmental specifications and shall be constructed so as not to block the flow of water and must be constructed before house construction or placement begins. Such structures, where needed, are to be installed at the expense of Tract owner. Natural drainage and stock tanks shall not be altered, constructed, or changed without prior written approval from the Declarant and appropriate government agencies, if applicable.

3.12. Trash Disposal. No Tract shall ever be used for outside, unenclosed storage of any items or materials whatsoever, nor shall any Tract or part hereof be used or maintained as a dumping ground for rubbish or debris or junk. Each homeowner must have trash removal service and trash, garbage or other wastes shall not be permitted except in sanitary containers. All incinerators or cans or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition beside or behind the residence. Cut or trimmed brush on occupied or non-occupied Tracts must be disposed of within 30 days of cutting. No construction of a house may begin until an enclosed trash receptacle is available on-site for construction debris. It is the owner's responsibility to see that construction debris is contained.

3.13. Nuisances. No noxious, offensive, undesirable, unlawful or immoral activity shall be conducted on any Tract, nor shall anything be done or permitted to be done thereon which may be or become a nuisance or annoyance to the owners of adjacent Tracts or to the Property as a whole. Any determination by the Committee that an activity is noxious, offensive, undesirable or immoral shall be final and binding on all parties.

3.14. Unused Vehicles. The placement of junked, abandoned, wrecked, or non-operating items of any kind such as motor vehicles, boats, recreational vehicles or other equipment or materials shall not be permitted on any Tract within the Property. No car, boat or other vehicle or equipment not in running condition and regularly used by the Tract owner shall be allowed on any Tract in the Property, unless in enclosed storage. All vehicles located on any Tract shall have current registration and shall be operated regularly by the Owner.

3.15. Boats and Trailers. No boats, boat trailers, trailers of any kind, travel trailers, campers, recreational vehicles, motor homes, tractors, vehicles, and other equipment or other similar property shall be allowed on the Tract unless such items are

regularly and frequently used by the Tract owner, neat in appearance, well-maintained, and stored behind or beside the residence and screened from view. None of the above mentioned items are allowed on the Tract until the residence is completed and occupied.

3.16. Temporary Residence. No structure or improvement of a temporary character nor any recreational vehicle, travel trailer, trailer, tent, camper, shack, garage, barn or other outbuilding shall at any time be used as a residence or dwelling.

3.17. Animals. Household pets, such as dogs, cats or other similar animals shall not exceed a total of three (3) in number (exclusive of unweaned offspring) may be kept on any Tract so long as they are not kept, bred or maintained for any commercial purpose. Livestock may be kept on any Tract in numbers consistent with the intensity levels and class recommended by Victoria County in the County's Agricultural Land Qualification Guidelines. The intent of this paragraph is to allow each Tract owner the option to maintain or establish an agricultural valuation for their Tract if they so desire to apply to the County for such an exemption and seek approval. Declarant is not guaranteeing Owner that any of this Property will qualify for agricultural valuation.

However, in no event shall pigs, hogs, swine, or dangerous animals be allowed under any condition. No pets or animals may be kept if they become offensive or a nuisance by virtue of their numbers, sight, odor or noise. A Tract owner may temporarily raise, keep and breed animals for showing at 4H events, FFA events or other similar events. All animals must be maintained and confined on each Owner's Tract.

3.18. Animal Containment. All animals shall be contained within the Tract lines either by fence, leash, or other comparable device. Animals shall not be allowed outside an owner's Tract. Any pen, corral, hutch, structure or enclosure of any kind must be constructed of new material, must be attractive in appearance in keeping with the general standard of improvement in the Property, and must be at all times kept neat and clean in appearance, consistent with the requirements herein specified for other improvements in the Property.

3.19. Fences. Five-wire barbed wire fences with metal T-Bar posts, wood posts, pipe, chain link, and wood privacy fences are allowed, save and except that wood privacy fences shall not be allowed along the front property line of any Tract. All fence lines must be mowed and kept clean of weeds, trash and garbage at all times. All fences must be well maintained to prevent sagging and deterioration and not block any natural drainage on the Property.

3.20. Signs. Except for one sign of not more than six square feet advertising the property for sale or for rent, no signs of any kind shall be displayed to the public view from any Tract. The terms of this Section 3.20 shall not apply to any Non-Residential Tract.

3.21. Antennae. No exterior radio, television or any other type of antenna shall be higher than 30' as measured from the ground. All satellite dish receivers larger than six feet (6') in diameter must receive prior written approval of the Declarant as to size and

location. No cellular telephone antenna towers shall be constructed within the Property. The terms of this Section 3.21 shall not apply to any Non-Residential Tract.

3.22. Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth, or for any mineral development or production activities at any time without the prior written approval of Declarant.

3.23. Nuisances. No noise, light pollution or other nuisance shall be permitted to exist or operate upon any of the Tracts so as to be offensive or detrimental to any other of the Tracts or to its occupants (other than security devices used exclusively for security purposes).

3.24. Compliance with the Restrictions. Each Owner shall comply strictly with the provisions of the Willow Creek Ranches Restrictions as the same may be amended from time to time. Failure to comply with any of the Willow Creek Ranches Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

3.25. No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any Owner acquiring a Tract in reliance on one or more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Tract, agrees to hold Declarant harmless therefrom.

3.26. No Heavy Equipment. No portion of the Property shall be used for the storage of tractor trailers, dump trucks, heavy machinery, construction equipment, "18-wheelers" or similar large trucks or machinery.

#### **ARTICLE IV**

#### **VICTORIA WILLOW CREEK RANCHES HOMEOWNERS ASSOCIATION, INC.**

4.01. Organization. The Declarant shall, at such time as Declarant deems appropriate, cause the formation and incorporation of the Association as a nonprofit corporation under the laws of the State of Texas. The Association shall be created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.02. Membership. Every Person who is a record Owner of a fee or undivided fee interest in any Tract which is subject, by covenants of record, to assessment by the

Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Tract which is subject to assessment by the Association. Ownership of such Tract shall be the sole qualification for membership. Any Mortgagee or Lienholder who acquires title to any Tract which is a part of the Property through judicial or nonjudicial foreclosure shall be a Member of the Association. Every Member shall have the right at all reasonable times during business hours to inspect the books and records of the Association.

4.03. Voting Rights. The Association shall have two (2) classes of voting memberships:

- (A) Class A. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Tract owned. When more than one (1) person holds such interest in any Tract, all such persons shall be Members. The vote for such Tract shall be exercised as they, among themselves, determine as provided by the Bylaws, but in no event shall more than one (1) vote be cast with respect to any Tract.
- (B) Class B. The Class B Member(s) shall be the Declarant, and its successors and assigns, and shall be entitled to thirty-five (35) votes for each Tract owned by it, provided that the Class B membership shall cease and be converted to Class A membership (subject to reversion back to Class B membership upon the annexation of additional land) on the happening of any of the following events, whichever occurs earlier:
  - (1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership (subject to reversion back to Class B membership upon annexation of additional land); or
  - (2) Thirty (30) years from the filing date hereof in the Official Public Records of Victoria County, Texas.

4.04. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two (2) preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

- (A) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact such Association Rules and Bylaws, as it deems proper, covering any and all aspects of its functions. The content of the Association Rules and Bylaws may be established by the Board, provided the same are not in conflict with this Declaration.
- (B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.
- (C) Records. To keep books and records of the Association's affairs, and to make all such books and records available for inspection by any Owner upon request and at reasonable times and intervals.
- (D) Assessments. To levy Assessments as provided in Article VI below, in order to raise the total amount for which the levy in question is being made. The Association's right to levy Assessments shall include the right to assess the Tracts for costs and expenses related to the Property's obligations under the JAUEA.
- (E) Right of Entry and Enforcement. To enter at any time in an emergency or in the case of a non-emergency, after written notice, by certified mail return receipt requested, without being liable to any Owner, upon any Tract and into any Improvement thereon, for the purpose of enforcing the Willow Creek Ranches Restrictions or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Willow Creek Ranches Restrictions. The expense incurred by the Association in connection with the entry upon any Tract and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Tract entered upon. The expenses incurred shall be secured by the lien on such Owner's Tract and the Improvements thereon, created by the recording of this Declaration, such lien to secure the payment of Assessments as further detailed in Article VI hereof. . The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Willow Creek Ranches Restrictions. The Association is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Willow Creek Ranches Restrictions; provided, however, that the Board shall never be authorized to expend any

Association funds for the purpose of bringing suit against Declarant, its successors, or assigns.

- (F) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.
- (G) Manager. To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its Property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The Members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

4.05. Intentionally Deleted.

4.06. Indemnification. The Association shall indemnify any person who was, is or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, and (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

4.07. Records Production and Copying Policy. Members of the Association are entitled to access the Association's Books and Records. Member of the Association must submit written requests via certified mail describing the books and records requested in sufficient detail to the mailing address of the Association or representative listed on the management certificate filed under Section 209.004 of the Texas Property Code. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records.

Within ten (10) business days from a written request, the Association must either (1) provide the copies to the Owner; (2) provide available inspection dates; or (3) provide written notice that the documents cannot be produced within 10 days along with a date within an additional 15 days on which the records can be copied or inspected. Owners must pay for cost of copies and materials, which is set at \$0.10 per copy. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If estimated costs are different than the actual costs, the Association will submit a final invoice within 30 business days after delivery of the information showing additional amounts due or owed from the Owner. If amounts due are not reimbursed to the Association before the 30th business day after the invoice is sent to the Owner, such costs may be added to the Owner's account as an Assessment.

## **ARTICLE V FUNDS AND ASSESSMENTS**

### **5.01. Assessments.**

- (A) The Association may from time to time levy Assessments against each Tract whether or not improved. The level of Assessments shall be equal and uniform between all Tracts, except that no Assessments hereunder shall be levied against Declarant.
- (B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.
- (C) Each unpaid Assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Tract against which the Assessment fell due, and shall become a vendor's lien against each such Tract and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article VI.

5.02. Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

5.03. Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Willow Creek Ranches Restrictions, including, but not limited to, the cost of all maintenance, the cost of all roadway and right-of-way

maintenance, the cost of maintaining non-standard street signs, the cost of enforcing the Willow Creek Ranches Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion. The initial annual assessment will be \$200 per Tract per year paid in advance.

5.04. Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the Willow Creek Ranches Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board.

Further, upon an assignment or partial assignment of Declarant's rights under the JUAEA to the Association, the Board may levy such assessments as are permitted and/or required under the JUAEA for the Property's proportionate Access Maintenance Obligations as defined in the JUAEA.

5.05. Owner's Personal Obligation for Payment of Assessments. The regular, special and initial Assessments provided for herein shall be the personal and individual debt of the Owner of the Tract covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Tract shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of two percent (2%) per month), together with all costs and expenses of collection, including reasonable attorney's fees. Failure to pay any such Assessments does not constitute a default under an insured mortgage.

5.06. Assessments Payment Plan. The Association will authorize payment of Assessments by an alternative payment schedule by which Owners may make partial payments to the Association for delinquent regular or special Assessments or other amounts owed to the Association without accruing additional monetary penalties, not including reasonable costs to administer the payment plan or interest. The payment plan offered by the Association will have a term of three (3) months. Payment plans will not be offered to Owners who failed to honor the terms of a previous payment plan during the two years following the Owner's default under the previous payment plan. In the event an Owner would like to enter into a payment plan with the Association, the Owner shall deliver written notice to the Board. The payment plan should be in writing and signed by the Owner and a representative of the Board of Directors of the Association.



5.07. Priority of Payments. Payments received by the Association from an Owner shall be applied to an owner's debt in the following order: (1) delinquent assessments; (2) current assessments; (3) any attorney's fees or third party collection costs associated solely with the assessment; (4) other attorney's fees; (5) any fines assessed by the Association; (6) any other amounts. Notwithstanding the foregoing, if at the time the Association receives a payment from the Owner, the Owner is in default under a payment plan entered into with the Association, the Association is not required to apply the payment in the order of priority specified above. However, a fine assessed by the Association may not be given priority over any other amount owed to the Association.

5.08. Exemptions. Notwithstanding any provision herein to the contrary, all Property owned by Declarant shall be exempt from the payment of any Assessments, whether regular, special or initial.

5.09. Assessment Lien and Foreclosure. By the recording of this Declaration, a lien to secure the payment of Assessments is hereby created. All sums assessed in the manner provided in this article, together with interest as provided in Section 5.05 hereof and the cost of collection, including attorney's fees as herein provided, are secured by a lien hereby created against the Tract covered by such Assessment, which shall bind such Tract in the hands of the Owner. The aforesaid lien shall be superior to all other liens and charges against the said Tract, except only for:

- (A) All liens for taxes or special assessments levied by the applicable city, county or state government, or any political subdivision or special district thereof;
- (B) All liens secured by amounts due or to become due under any first mortgage vendor's lien or deed of trust filed for record securing, in either instance, sums borrowed for improvements of the Tract; and
- (C) All liens, including but not limited to vendor's liens, deeds of trust and other security agreements which secure any loan made by any lender to a Member for any part of the purchase price of any Tract when the same is purchased from a builder, or for any part of the cost of constructing, repairing, adding to or remodeling any Improvements utilized for residential purposes.

The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. The assessment lien shall be evidenced by the recordation of this Declaration alone, and there is no requirement of the Association to record additional documentation or notices in the Official Public Records to establish or perfect this lien. Notwithstanding the foregoing, a the Association may have an attorney prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Tract covered by such lien and a description of the Tract, such notice to of assessment lien be filed in the

Official Public Records of Victoria County, Texas. Such notice shall be signed by one of the officers of the Association. The lien created hereby may be enforced by either the Association instituting suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien. The Association shall follow the procedures set forth in Chapter 209 of the Texas Property Code. In any foreclosure proceeding, whether judicially or expedited through expedited foreclosure, the Owner shall be required to pay the costs, expenses and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to such Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due. Mortgagees are not required to collect Assessments.

## **ARTICLE VI PROPERTY RIGHTS AND EASEMENTS**

6.01. Reserved Easements. All dedications, limitations, restrictions, and reservations in any recorded instrument executed by Declarant affecting the Property, and all grants and dedications of easements, rights-of-way, restrictions, and related rights, made prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Nothing in this Section 6.01 shall negate or minimize any of the terms or provisions of Section 3.07.

6.02. Easements for Utilities, Installation and Maintenance. There is hereby created an easement upon, across, over, and under all of the easement areas affecting the Property, including, without limitation an area 10' wide along each inside boundary of each Tract for the installation of, and for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, lines, improvements and facilities in connection therewith, including, but not limited to, water, septic, cable television, telephones, and electricity lines and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no electrical lines, water lines, or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant. The utility companies and other entities furnishing service shall have the right to remove all trees situated within the utility easements provided for herein or otherwise created, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

6.03. Drainage Easements.

(A) Description of Drainage Easement. Declarant hereby reserves for itself, its successors and assigns, including the future Owners and Occupants, a non-exclusive above-ground stormwater drainage easement (the "Drainage Easement"), under, over, upon and across portions of Tracts 16, 17, 31 and 32 shown on Exhibit "B" in the area depicted on Exhibit "F" attached hereto, and such additional portions of such Tracts reasonably required to permit the maintenance of any improvements or facilities constructed by Declarant within the Drainage Easement.

(B) Usage of Drainage Easement. The Drainage Easement shall be interpreted to permit usage thereof for the drainage of surface waters in common with others on a non-exclusive basis by all Owners of Tracts within the Subdivision, their successors and assigns. The Drainage Easement is not intended to exclusively serve Tracts 16, 17, 31 and 32. The Drainage Easement, as located upon Tracts 16, 17, 31 and 32, shall not serve as an ingress and egress or access easement, and shall not be considered a Private Roadway.

(C) No Obstruction; Compliance with Laws. The Owners shall not permit any structure to obstruct the drainage provided by the Drainage Easement. In using the Drainage Easement, each Owner shall comply with all applicable laws, codes, ordinances and governmental regulations.

(D) Construction and Maintenance.

(i) Declarant has or shall complete construction of the drainage improvements with respect to the Drainage Easement located within Tracts 16, 17, 31 and 32, in accordance with all applicable rules and codes.

(ii) Following such completion of the improvements, the Owners of Tracts 16, 17, 31 and 32 shall maintain all such improvements constructed within the portion of the Drainage Easement located on their respective Tract, including the mowing of any grass located within the Drainage Easement area on their respective Tract(s).

(ii) All maintenance and repair performed pursuant to this Section 6.03 shall be done in a good workmanlike manner and in compliance with all applicable laws, statutes, ordinances, codes, rules and regulations of applicable governmental authorities. If the Owner of any Tract (the "Defaulting Tract Owner") shall fail to maintain any Drainage Easement improvements, if any, located on such Owner's Tract as required under this Section 6.03, the Association shall have the right, but not the obligation, to enter the Defaulting Parcel Owner's Tract following thirty (30) days prior written notice to the Defaulting Parcel Owner and perform such maintenance, the reasonable, out-of-pocket cost of which shall be reimbursed by the Defaulting Tract Owner to the Association upon demand. Any such unpaid amounts, together with

interest thereon and the costs of collection (if any), shall be charged as a continuing lien against the Defaulting Parcel Owner's Parcel as set forth in Article V.

(E) Each Owner covenants to maintain any existing easements over their respective Tracts for drainage and water flow, as contours of land and the arrangement of Improvements approved by Declarant thereon, require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements either as defined in this Declaration or created separately. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as approved in writing by the Declarant. There shall be no impairment by any Owner of any drainage easement whether in the natural contour of land, a channel or ditch, or any roadway area serving as a drainage easement.

(F) Further, any area shown as a Private Roadway (defined herein) shall also serve as a Drainage Easement for the purpose of this Section 6.03 and no portion of any such Drainage Easement, including any Private Roadway, shall be altered in any way by any Owner without the prior, express written consent of Declarant.

6.04. Surface Areas. Each Owner shall maintain the surface area of all easements located within his Tract and all Improvements located therein, except for such Improvements for which a public authority or utility company is responsible. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

6.05. Title to Easements and Appurtenances Not Conveyed. Title to any Tract conveyed by Declarant by contract, deed or other conveyance shall not be held or construed in any event to include the title to any electrical light, electrical power, telegraph or telephone way, or any pipes, lines, poles or conduits on or in any utility facility, or appurtenances thereto, constructed by or under Declarant or its agents, through, along or upon any Tract, or any part thereof, to serve said Tract or any other portion of the Property; and the right to maintain, repair, sell, or lease such appurtenances to any governmental agency, or to any public service corporation or to any other party, is hereby expressly reserved in Declarant.

6.06. Roadways. Each Owner shall have an easement of use and enjoyment in and to the Private Drive as such easement is established in the JAUEA. Each owner shall also have an easement of use and enjoyment in and to any such "Private Roadway" that (i) directly touches such Owner's Tract, and (ii) that is required to access such Owner's Tract from the Private Drive. The Private Roadways within the Property are more particularly described in Exhibit "E" attached hereto. Any Tracts touched or affected by the Private Drive or any Private Roadway shall be considered the servient estate with respect to the Private Drive or Private Roadway. The Private Drive and the Private Roads shall be maintained by the Association which shall have the right to (i) assess each Tract

equally for the maintenance of the Private Drive and all Private Roads within the Subdivision, (ii) access any portion of the Private Drive or Private Roadways for the upkeep, maintenance, repair or renovation of same, and (iii) access such portion of any Tract as is reasonably necessary for the upkeep, maintenance, repair or renovation of the Private Drive or any Private Roadway.

## **ARTICLE VII MISCELLANEOUS**

7.01. Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2042, unless amended as herein provided. After December 31, 2042, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least seventy-five percent (75%) of the Tracts within the Property then subject to this Declaration.

7.02. Property Code. The provisions of this Declaration are also subject to the Texas Residential Property Owners Protection Act, Chapter 209 of the Texas Property Code, as amended from time to time.

7.03. Nonliability of Board Members. Neither the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Board's duties under this Declaration unless due to the willful misconduct or bad faith of the Board or its member, as the case may be.

7.04. Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant so long as Declarant owns or controls any of the Property or any land that has been annexed into the Property in accordance with Section 2.02 of this Declaration. The period during which Declarant owns or controls any of the Property constitutes the "development period" for the purpose of Section 209.0041 of the Texas Property Code. No amendment by Declarant shall be effective until there has been recorded in the Official Public Records of Victoria County, Texas an instrument executed and acknowledged by Declarant and setting forth the amendment. Notwithstanding the foregoing, Declarant may amend this Declaration at any time to correct typographical and grammatical errors.

(B) By Owners. In addition to the method in Section 8.04(A), this Declaration may be amended by the recording in the Official Public Records of Victoria County of an instrument executed and acknowledged by the President and Secretary of the Association,

setting forth the amendment and certifying that such amendment has been approved by at least sixty-seven percent (67%) of the voting interest described in Section 4.03.

7.05. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3<sup>rd</sup>) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

7.06. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

7.07. Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or approval by any non-Declarant Owners. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct any and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales, and leasing anywhere within the Property.

7.08. Mergers and Consolidations. The Association may participate in mergers and consolidations with other nonprofit operations organized for the same purposes, provided that any such merger, consolidation or annexation shall have the consent (in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than two-thirds of the votes of the Association.

7.09. Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any other Person in any of its privileges, exemptions, rights, and duties hereunder.

7.10. Enforcement and Nonwaiver.

- (A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Willow Creek Ranches Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

- (B) Nonwaiver. The failure to enforce any provision of the Willow Creek Ranches Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.
- (C) Liens. By the recording of this Declaration, a lien to secure the payment of Assessments is hereby created against all of the Property and each of the Tracts subject hereto. Notwithstanding the foregoing, the Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Tract or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

7.11. Construction.

- (A) Restrictions Severable. The provisions of the Willow Creek Ranches Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
- (C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles hereof.

7.12. Rights of Declarant. The Declarant or its agents shall have the right to use any unsold Tract for the location of a temporary sales office structure. Furthermore, notwithstanding any provision in this Declaration to the contrary, Declarant may assign in whole or in part, any of their 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 in any of its privileges, exemptions, rights and duties hereunder.

7.13. Enforcement. The Declarant and any person owning any interest in any of the Tracts within the Property, including mortgage interest, may enforce these restrictions through a proceeding at law or in equity against the person or persons violating or attempting to violate any covenant, condition, restriction, or limitation, either to prevent or to correct such violation, or to recover damages, or to obtain other relief for such violation. All expenses, including a reasonable attorney fee, shall be recovered from anyone violating these restrictions by the party bringing the suit.

7.14. Partial Invalidity. If any portion of this Declaration is declared illegal, invalid, or unenforceable by law or court order, such action shall not affect the validity of any other provision hereof. Failure to enforce any one or more provisions hereof shall not constitute a waiver thereof as to future enforcement and shall not serve to invalidate any other provision of this Declaration.

7.15. Duration. These covenants, conditions, easements and restrictions shall run with the land and shall be binding upon and against the Property for a period of thirty (30) years from the date of recordation, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of seventy-five percent (75%) or more of the Property (by Tract) has been recorded agreeing to change said covenants in whole or in part. No such agreement to change shall be effective unless made and recorded within three months immediately prior to the date the covenants otherwise would be automatically extended.

7.16. Variances. The Declarant may exercise a limited right to approve minor variances from the provisions hereof without an actual amendment of the Declaration, when, such variances will be beneficial to other owners of Tracts in the Property.

7.17. Laws and Regulations. All owners of any Tracts within the Property shall at all times comply with all applicable laws, regulations and ordinances of municipal, county, state, federal or other governmental authorities.

7.18. Agricultural Lease. Currently, there is an agricultural lease in place on the Property and the Property has an agricultural exemption and is part of an operating cattle ranch. The lease will continue with the Lessee in order to try to maintain this exemption. If, for whatever reason, an Owner does not desire to participate in this program, the Owner will be required to fence his Tract(s) at his own expense to keep out livestock. Otherwise, livestock will be free to roam the entire Property. Any agricultural exemption that exists as of the date of this Declaration may or may not continue to be valid. The exemption is at the sole discretion of Victoria County and is not under the control of the Declarant. Each Owner shall be responsible for the payment of any "rollback" or agricultural exemption taxes and other taxes assessed against any Tract which are attributable to a change in land use, ownership or otherwise, if such rollback taxes are assessed subsequent to Owner's purchase of the Tract.

*[remainder of page to remain blank]*



IN WITNESS WHEREOF DECLARANT has caused this document to be executed by its duly authorized officer as of June 12, 2012.

**DECLARANT:**

NINE MILE INVESTMENTS, LTD.,  
a Texas limited partnership

By: 1185-MAVERICK, INC.,  
a Texas corporation,  
General Partner

By:   
Clay E. Morgan, President

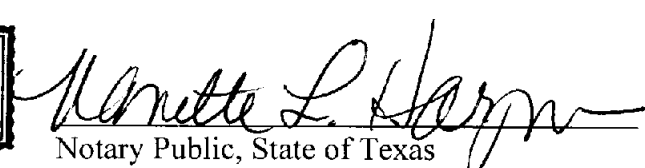
STATE OF TEXAS

COUNTY OF TRAVIS

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§  
§

This instrument was acknowledged before me on June 12, 2012 by Clay E. Morgan, President of 1185-Maverick, Inc., a Texas corporation, as General Partner of Nine Mile Investments, Ltd., a Texas limited partnership, on behalf of said partnership.



  
Notary Public, State of Texas

**CONSENT OF LIEN HOLDER**

**THE UNDERSIGNED** (the "Lender") owner and holder of certain liens in favor of Lender, executed by Nine Mile Investments, Ltd., a Texas limited partnership, recorded in the Official Public Records of Victoria County, Texas (the "Security Instrument"), hereby consents to this Declaration and to the recording of same and the imposition of this Declaration on the real property encumbered by the Security Instrument and confirms that from and after this date, the provisions of this Declaration shall be superior to all liens in favor of Lender and Lender's rights under the Security Instrument, except that the security interest created by the Security Instrument. The undersigned has the authority to execute and deliver this Consent of Lien Holder, and all necessary acts necessary to bind Lender have been taken.

**Lender:**

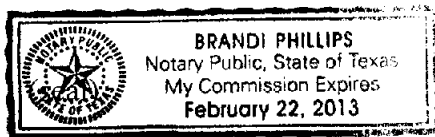
**PLAINSCAPITAL BANK, N.A.**

By: Wade Morgan  
Name: Wade Morgan  
Title: Senior Vice President  
Date: 6/11/12

STATE OF Texas  
COUNTY OF Texas

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§  
§

This instrument was acknowledged before me on the 11 day of June, 2012, by Wade Morgan (name), in the capacity of STP (title) of PlainsCapital Bank, N.A., a national banking association, on behalf of said entity.

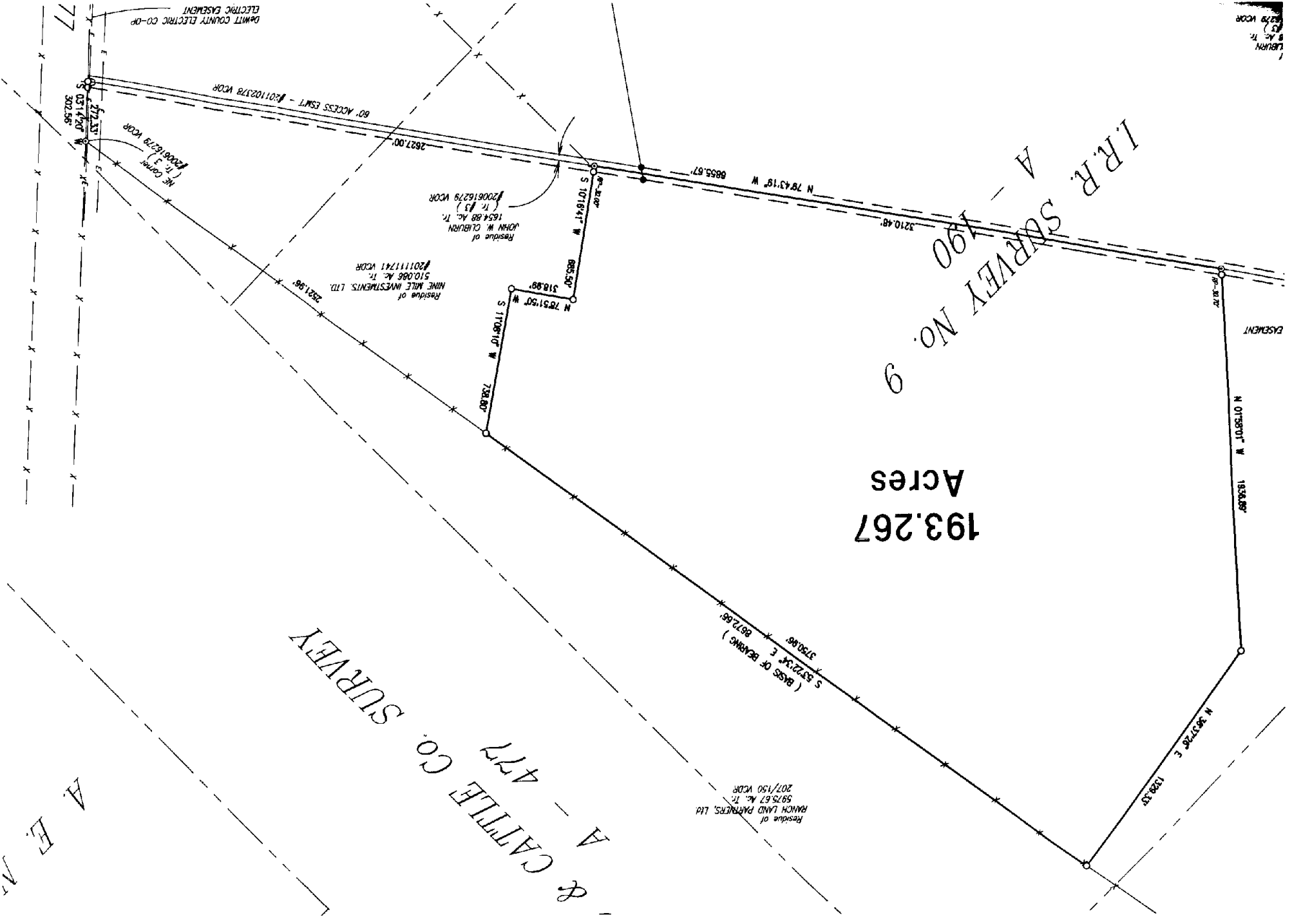


Brandi Phillips  
NOTARY PUBLIC  
STATE OF TEXAS

1/2 AC. TR.  
#2279 WCDR

Exhibit A

193.267 Acres  
I.R.R. SURVEY No. 9  
A - 190



A & CATTLE CO. SURVEY  
A - 477

A. E. A.

**DALE L. OLSON**

Registered Professional Land Surveyor  
 711 Water Street  
 Bastrop, TX 78602  
 Phone (512) 321-5476 \* Fax (512) 303-5476

FIELD NOTES FOR A 193.267 ACRE TRACT IN THE INDIANOLA RAILROAD CO. SURVEY NO. 9 IN VICTORIA COUNTY, TEXAS.

BEING a 193.267 acre tract out of and being a part of the Indianola Railroad Co. Survey No. 9, A-190, in Victoria County, Texas, and being a part of that certain 510.086 acre tract in the Indianola Railroad Co. Surveys No. 5, 6, 9, and 11, and the Day Land and Cattle Co. Survey, described in a deed from Tracy Post Cliburns Independent Executrix and Trustee under the will of John Weldon Cliburn to Nine Mile Investments, LTD, dated Nov. 18, 2011, recorded in Instrument No. 201111741, Victoria County Official Records. Herein described tract or parcel of land being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the southeast corner of the said 510.086 acre tract, a 5/8 inch iron rod set at the intersection of a 60 foot access easement with the west line of US Hwy. No. 77 from which a 60d nail found at a fence corner at the northeast corner of the 510.086 acre tract bears N 03 deg. 14 min. 20 sec. E, 302.56 feet.

THENCE with the south line of the 510.086 acre tract and center of the said 60 foot access easement, N 79 deg. 43 min. 19 sec. W, 2627.00 feet to a 60d nail set for the POINT OF BEGINNING, for the southeast corner of this tract.

THENCE continuing with said line, N 79 deg. 43 min. 19 sec. W, 3210.48 feet to a 60d nail set for the southwest corner of this tract.

THENCE crossing the said 510.086 acre tract, N 01 deg. 58 min. 01 sec. W, at 30.70 feet pass a 5/8 inch iron rod set for reference in the north line of the before said 60 foot access easement, 1936.89 feet in all to a 5/8 inch iron rod set; N 36 deg. 37 min. 26 sec. E, 1329.33 feet to a 5/8 inch iron rod set in the north line of same, for the northwest corner of this tract.

THENCE with the north line of the 510.086 acre tract, S 53 deg. 22 min. 34 sec. E, 3750.96 feet to a 5/8 inch iron rod set for the northeast corner of this tract, from which the before said 60d nail found at a fence corner at the northeast corner of the 510.086 acre tract bears S 53 deg. 22 min. 34 sec. E, 2521.96 feet.

THENCE crossing the said 510.086 acre tract, S 11 deg. 08 min. 10 sec. W, 738.80 feet to a 5/8 inch iron rod set; N 78 deg. 51 min. 50 sec. W, 318.99 feet to a 5/8 inch iron rod set; S 10 deg. 16 min. 41 sec. W, at 655.50 feet pass a 5/8 inch iron rod set for reference in the north line of the before said 60 foot access easement, 685.50 feet in all, to the POINT OF BEGINNING, containing 193.267 acres of land.



Dale L. Olson  
 Reg. Pro. Land Surveyor 1753

OR

Michael D. Olson  
 Reg. Pro. Land Surveyor 5386

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Order #: 116211-ph2

Date Created: 05-23-12

This is a detailed topographic map of a coastal area, likely a beach or dune system. The map features numerous numbered plots, each containing specific data such as bearings, distances, and area measurements. The plots are arranged in a grid-like pattern, with some plots labeled with numbers like 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100. The map also includes contour lines, a grid system, and various labels indicating distances, bearings, and phase boundaries (PHASE 1, PHASE 2, PHASE 3). A scale bar is visible in the bottom right corner.

10' FUE ALL LINE  
25' BL ALONG ROAD...

US HWY 77

R. R. CO. N  
A-189

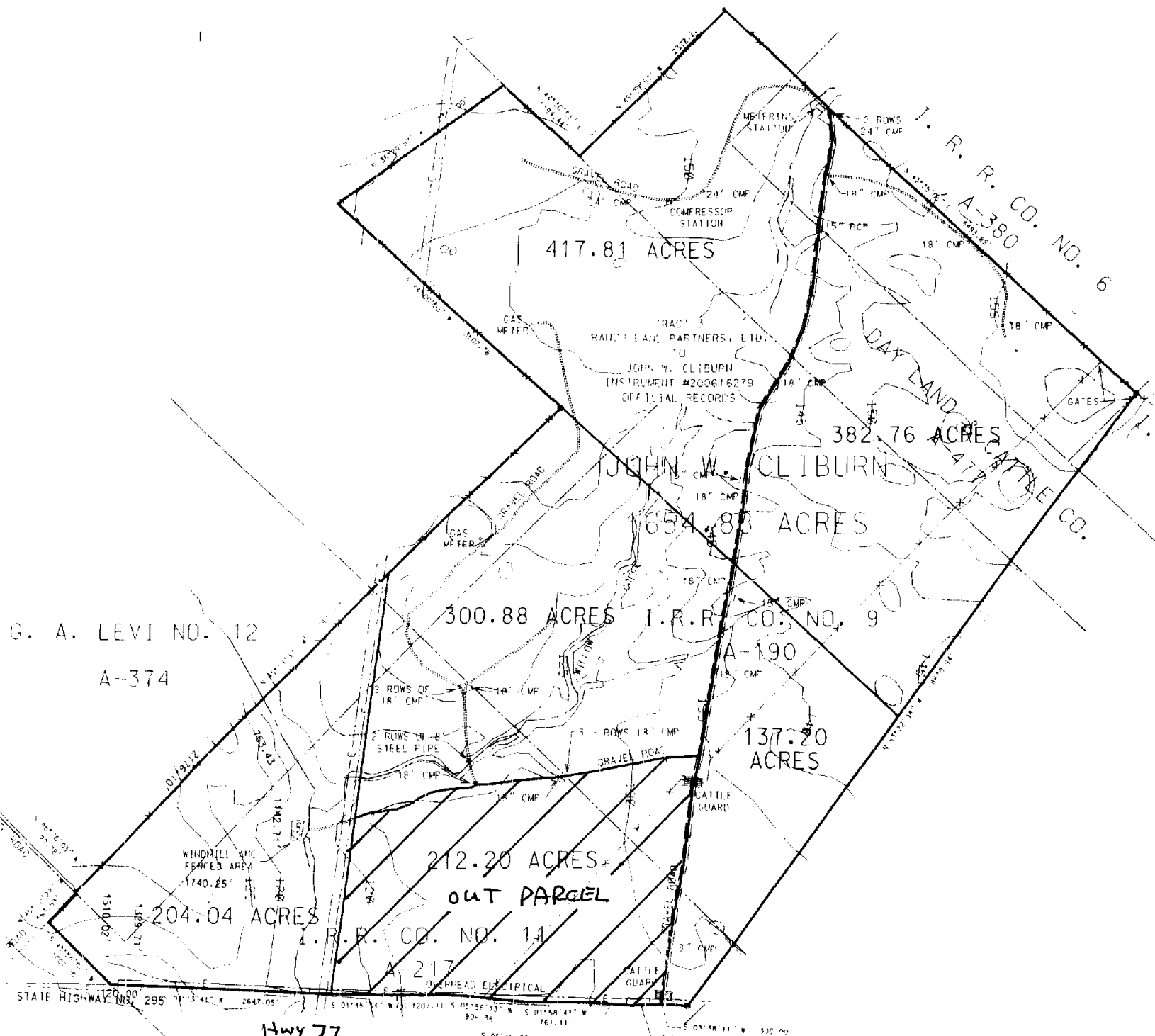


Exhibit D

## **JOINT ACCESS AND UTILITY EASEMENT AGREEMENT**

THIS JOINT ACCESS AND UTILITY EASEMENT AGREEMENT (this "Agreement") is executed and entered into to be effective as of the 18<sup>th</sup> day of November, 2011, by and between Tracy Post Cliburn, Independent Executrix and Trustee under the will of John W. Cliburn ("Cliburn") and Nine Mile Investments, Ltd., a Texas limited partnership ("NMI"). Cliburn and NMI are sometimes collectively referred to herein as the "Parties" or the "Owners," and individually as a "Party" or "Owner".

### **ARTICLE I**

#### **Recitals**

The following facts are correct and form the basis of this Agreement.

1.1 Tracy Post Cliburn is the independent executrix of the Estate of John W. Cliburn and received letters testamentary to act in such capacity on August 18, 2011, from County Court at Law # 2, Victoria County, Texas.

1.2 Cliburn is the owner of that certain 936.804 acre tract of real property more particularly described in Exhibit "1" attached hereto and incorporated herein (the "Cliburn Tract"), located in Victoria County, Texas.

1.3 NMI is the owner of that certain 510.086 acre tract of real property more particularly described in Exhibit "2" attached hereto and incorporated herein ("NMI Tract"), located in Victoria County, Texas. The Cliburn Tract and the NMI Tract are sometimes collectively referred to herein as the "Tracts", and individually as a "Tract".

1.4 Simultaneously herewith, NMI and Cliburn have entered into two (2) separate "Option Agreements" for the purchase of 418 and 301 acre portions of the Cliburn Tract, respectively.

1.5 The Parties desire to create (i) a joint access easement, and (ii) a utility easement on the Tracts related to the construction of a private drive and utilities for the benefit each of the Tracts and the Owners, which easement shall be subject to the terms hereinafter set forth.

NOW, THEREFORE, for and in consideration of mutual covenants set forth herein and other good and valuable consideration, the receipt of sufficiency of which is hereby acknowledged and confessed, the Parties hereby agree to the creation of a joint access easement and a utility easement upon, over and across the Tracts as more particularly set forth below.

### **ARTICLE II**

#### **Joint Access Easement**

2.1 Description of Joint Access Easement. The Parties agree as follows with respect to access across the Tracts:

(a) Cliburn hereby creates and grants to all of the Owners, their successors and assigns, agents, employees, customers, guests, patrons, invitees and tenants (including, without limitation, the employees, customers, agents, guests, patrons and invitees of such tenants) (collectively, the "Easement Beneficiaries"), for the limited purposes and uses set forth herein, a non-exclusive appurtenant right-of-way and easement (the "Cliburn Access Easement") for vehicular and pedestrian access over, upon and across the portion of the Cliburn Tract more particularly described on Exhibit "A" attached hereto (the "Cliburn Easement Area"). The Cliburn Easement Area may be used by the Easement Beneficiaries for the purpose of ingress and egress to (and from) any Tract from (and to) any other Tract and Hwy. 77. The Cliburn Access Easement is being conveyed and transferred in its present condition and state of repair, "AS-IS" and "WHERE-IS," WITH ALL FAULTS, and subject to any and all other restrictions, easements, utility lines, or other matters or easements affecting the Cliburn Tract.

(b) NMI, to the full extent of its interest in the NMI Tract, hereby creates and grants to the Easement Beneficiaries, for the limited purposes and uses set forth herein, a non-exclusive appurtenant right-of-way and easement (the "NMI Access Easement") for vehicular and pedestrian access over, upon and across the portion of the NMI Tract more particularly described on Exhibit "B" attached hereto (the "NMI Easement Area"). The NMI Easement Area may be used by the Easement Beneficiaries for the purpose of ingress and egress to (and from) any Tract from (and to) any other Tract and Hwy. 77. The NMI Access Easement is being conveyed and transferred in its present condition and state of repair, "AS-IS" and "WHERE-IS," WITH ALL FAULTS, and subject to any and all other restrictions, easements, utility lines, or other matters or easements affecting the NMI Tract.

2.2 Usage of Joint Access Easement. The Cliburn Access Easement and the NMI Access Easement are collectively referred to herein as the "Joint Access Easement". The Cliburn Easement Area and the NMI Easement Area are collectively referred to herein as the "Easement Tract". The Easement Tract is described in full by metes and bounds description attached hereto as Exhibit "C". The Joint Access Easement shall be interpreted to permit usage of the Easement Tract in common with the other Easement Beneficiaries on a non-exclusive basis by the Easement Beneficiaries; provided, however, that usage of the Joint Access Easement is limited to the construction, installation, maintenance, repair, replacement, upgrade, operation and use of a private driveway and related facilities within the Easement Tracts (the "Private Drive"). Further, no parking rights are conferred herein. Accordingly, each party, on behalf of itself, and its respective successors or assigns, hereby waives and releases any right to park on any portion of the other party's Tract by reason hereof.

2.3 No Obstructions: Compliance with Laws. The Owners shall not permit any structure or act to obstruct, prevent or hinder the ingress or egress provided by the Joint Access Easement, except such work as may be required from time to time for the maintenance and repair of the Private Drive or the construction, installation, maintenance and repair of the Utility Lines (as hereinafter defined). In using the Joint Access Easement, the Easement Beneficiaries shall comply with all applicable laws, codes, and governmental regulations.



**2.4 Construction of the Private Drive.** NMI shall be responsible for the construction of the Private Drive. NMI will not be obligated to construct the Private Drive within any specific period of time. NMI will indemnify and hold harmless Cliburn from and against any and all mechanics', materialmen's, or other liens or claims (and all costs and expenses associated therewith) arising out of any such work. NMI will not create or permit to be created or remain, and will discharge, at NMI's sole cost and expense, any and all liens, encumbrances, or charges levied on account of any builder's, supplier's, mechanic's, laborer's, materialmen's, or similar lien which might become a lien, encumbrance, or charge upon Option Tract One or Option Tract Two, including the Easement Tract, or any other property of Cliburn, or the income derived therefrom, with respect to any work or services performed or material furnished by or at the direction of NMI. If any such liens, encumbrances, or charges are at any time filed against the Cliburn Tract, the Easement Tract, or any other property of Cliburn, by reason of work or services performed or material furnished by or at the direction of NMI, NMI will, within 30 days after the filing thereof, cause the same to be fully discharged and released of record by payment, deposit, bond, order of a court of competent jurisdiction, or otherwise. In addition, during the construction of the Private Drive, NMI will not bring or allow to be brought any hazardous materials upon any portion of the Cliburn Tract.

No walls, fences or other barriers of any sort shall be constructed or erected by either party on the Private Drive which will prevent or impair the use of the Private Drive for vehicular and pedestrian ingress and egress between the tracts; provided, however, that (i) speed bumps and other reasonable traffic control devices (such as, by way of example only, and not by way of limitation, directional markers, curbs and striping) as may be reasonably necessary to guide and control the orderly flow of traffic may be installed, and (ii) fencing, signs, buildings, landscaping and other improvements may be installed along the boundary of a Tract so long as they are not installed within the actual Private Drive. NMI agrees and acknowledges that in the event of construction of the Private Drive, NMI will install "No Trespass" signs approximately 1,000 feet apart from one another along the Cliburn Tract side of the Private Drive at locations to be approved by Cliburn. The signs will be installed prior to such time as NMI allows guests and invitees onto the Easement Area. The signs will (i) be of a size that is typical for traffic signs in the area, (ii) be located within plain sight of travelers along the Private Drive, and (iii) include language to the effect of "Private Property. No trespassing. Violators will be prosecuted."

Notwithstanding the foregoing, each party shall have the right to close off any part of its Tract (including, but not limited to, the driveway improvements comprising the Easement Areas thereon) from time to time and for reasonable periods of time as may be legally necessary to prevent any public dedication thereof or the acquisition of any prescriptive rights by the public therein. In addition, either party may close off all or a portion of its Tract (including, but not limited to, the driveway improvements comprising the Easement Areas thereon) for a reasonable period of time in order to facilitate maintenance or repairs.

## **2.5 Maintenance Costs.**

(a) Each of the parties hereto acknowledges and agrees that:

(i) NMI shall be initially responsible for the maintenance, repair and replacement of the Private Drive (herein called the "Access Maintenance Obligations"); provided, however, that upon completion of such Private Drive, NMI, Cliburn and their respective successors in interest shall become responsible for the Access Maintenance Obligations. The party responsible for the Access Maintenance Obligations hereunder shall be referred to herein as the "Responsible Party", and NMI shall remain the sole Responsible Party hereunder throughout the "Option Terms" set out in the Option Agreements described herein; and

(ii) The Responsible Party shall be responsible for any and all reasonable and necessary costs incurred in connection with the Access Maintenance Obligations (herein called the "Access Maintenance Costs") subject to reimbursement as described below. The Access Maintenance Costs, however, shall exclude any administrative, management or "overhead" costs or fees of the Responsible Party.

The Private Drive shall be maintained in good condition and repair. Notwithstanding the foregoing, the owners of the NMI Tract and the Cliburn Tract each agree to be responsible for a portion of the Access Maintenance Costs based upon the Sharing Percentages set forth below (which percentages are based on the ratio of the number of square feet within such party's Parcel, to the number of square feet within all of the NMI Tract and Cliburn Tracts). Requests for reimbursement by the Responsible Party shall be made no more than quarterly and shall be supported by written evidence reasonably setting forth the Access Maintenance Costs incurred by such Responsible Party. Each of the other parties shall reimburse the Responsible Party for its respective share of such Access Maintenance Costs within thirty (30) days following such request for reimbursement. If not paid within such thirty (30) day period, such party's obligation to reimburse shall accrue interest thereon at the rate of eighteen percent (18%) per annum from the date incurred until the date of payment, and shall be secured by a lien on the Property owned by such party which is subject to this Agreement. For purposes hereof, the relative sharing percentages (the "Sharing Percentages") of the properties shall be as follows:

|               |       |
|---------------|-------|
| NMI Tract     | 41.2% |
| Cliburn Tract | 58.8% |

If, at any time, the Responsible Party is not performing the Access Maintenance Obligations, and such failure continues more than twenty (20) days following Responsible Party's receipt of written notice (the "Access Maintenance Notice") specifying in detail the asserted failure by Responsible Party and the curative action(s) required (or such additional period as may be reasonably required to cure such failure, if the same may not be reasonably cured within twenty (20) days, provided that the Responsible Party promptly commences such cure within such initial twenty (20) day period and thereafter diligently prosecutes such cure to completion), any other party to this Agreement or any Future Owner shall have the right, but not the obligation, to undertake the Access Maintenance Obligations, in which event such party shall be entitled to reimbursement as set forth above. Notwithstanding the foregoing, at no time during any portion of any "Option Period" set forth in

either of the Option Agreements described herein shall Cliburn be responsible for any portion of the Access Maintenance Costs.

### **ARTICLE III**

#### **Utility Easement**

3.1 Conveyance of Utility Easement. In addition to the Joint Access Easement created hereby, the Owners hereby grant and convey unto the Easement Beneficiaries, a non-exclusive easement (the "Utility Easement") under, across and through the Easement Tract for the construction, operation, maintenance, repair, replacement, upgrade, decommissioning and removal of underground water lines, wastewater lines, storm sewer lines, and underground electrical, gas, cable, telephone and communications lines and associated appurtenances (the "Utility Lines") as may be necessary for the development of the Cliburn Tracts and the NMI Tract and making connections therewith in, upon and across the Easement Tract. It is presently intended that NMI shall construct or cause any such Utility Lines to be constructed within the Utility Easement and as such, NMI shall be the sole owner of such Utility Lines and related improvements. NMI shall be under no obligation to install Utility Lines of any particular size or capacity and is in no way obligated to provide utility services to the Cliburn Tracts. Should Cliburn or any successor in interest to the Cliburn Tracts wish to "tap in" to such Utility Lines, such party must first obtain NMI's consent and permission.

### **ARTICLE IV**

#### **Eminent Domain**

Nothing herein shall be construed to give any Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting such Tract(s) of such other Owner(s), or to give the public or any government entity any rights to the Tracts, except as expressly set forth in this Agreement.

### **ARTICLE V**

#### **Modification and Cancellation**

For so long as Cliburn owns any portion of the land that is subject to this Agreement, any amendment or modification to this Agreement shall require Cliburn's prior consent, such consent not to be unreasonably withheld, conditioned or otherwise delayed. Subject to the foregoing, this Agreement may be modified or canceled only by written agreement signed by (i) NMI for so long as NMI owns any portion of the Tracts subject to this Agreement, or (ii) successors and assigns of Cliburn and NMI owning at least fifty one percent (51%) of the land subjected to this Agreement.

### **ARTICLE VI**

#### **General Provisions**

6.0 No Dedication. No provision of this Agreement shall ever be construed to grant or

create any rights whatsoever in or to any portion of any Tracts other than the Joint Access Easement and the Utility Easement. Except as provided herein with respect to the Utility Easement, nothing in this Agreement shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any rights whatsoever.

6.1 Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of intent of this document nor in any way affect the terms and provisions thereof.

6.2 Rights of Successors. The benefits and obligations of this Agreement and the easement rights created hereunder shall constitute benefits and servitudes running with the land described herein. This Agreement shall bind and inure to the benefit of the Owners, their respective heirs, representatives, lessees, successors, and assigns. In the event fee simple title to all or any one or more of the Tracts is ever held by a single party (as is the case on the date of this Agreement with respect to some of the Tracts), there shall be no merger of title between the servient and dominant estates herein created or otherwise extinguishing the easements and restrictions herein created.

6.3 Easements Not Exclusive. The easements created hereby are not exclusive and the Owners hereby reserve the right to grant such other easements, rights, or privileges to such persons and for such purposes as the Owners may determine in their respective sole discretion, so long as such purposes do not unreasonably interfere with the easement rights created hereby.

6.4 Severability. If any of the provisions of this Agreement are hereinafter expressly declared by a court of competent jurisdiction to be invalid or unenforceable, then any such provision shall be canceled and severed from this Agreement and the other provisions of this Agreement shall continue in full force and effect.

6.5 Ad Valorem Taxes. Nothing in this Agreement shall be construed to require an Owner to pay any ad valorem, real property, or personal property taxes assessed against any parcel owned by the other Owner. If at any time the Access Easement herein granted is taxed as a separate tax estate or parcel by the applicable taxing authority, then Owners or their respective successors and assigns shall share in the payment of the taxes assessed against the Access Easement Area in the Sharing Percentages set forth in paragraph 2.5(a)(ii) above.

6.6 Attorney's Fees; Injunctive Relief.

- (a) In the event this Agreement becomes the subject of litigation between among the Owners, the prevailing party shall be entitled to recover its reasonable attorney's fees and litigation expenses and costs.
- (b) This Agreement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable upon proof of the existence of interference or threatened interference, with the necessity of proof of inadequacy of legal remedies or irreparable

harm, and will be obtainable only by the parties to, or those benefited by, this Agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or equity.

6.7 Notices. Wherever any notice, demand, request, consent, approval or other communication (herein called a "Notice" or "notice") is required or permitted hereunder, such Notice shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or shall be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile (with an original to follow by delivery, mail or courier) to the number for each party set forth below, or to such other numbers as are specified by written notice given in accordance herewith:

If to NMI: Stewart Pate  
6201 Guadalupe St.  
Austin, Texas 78752

If to Cliburn: Estate of John W. Cliburn  
Attn: Tracy Cliburn  
1505 N. Vine  
Victoria, TX 77901

6.8 Association. In the event that a property owners association is ever formed by NMI for the management or enforcement of covenants or restrictions encumbering the NMI Tract, or any other land contiguous to the NMI Tract, then the powers, duties and obligations designated to the Responsible Party as set forth in this Agreement for the maintenance of the easements described herein, and corresponding rights and powers to collect the Access Maintenance Costs described herein, may be transferred by the Responsible Party to such association at such Responsible Party's sole discretion. Further, in the event that such association is formed, Cliburn may convey, at any time, fee simple title to the land underlying the Cliburn Easement Area to such association.

6.9 Removal of land from Agreement. At such time as the property to be described in the Option Agreements has been surveyed, Cliburn shall be entitled, and the Parties agree that Cliburn shall be permitted to remove the remaining (approx. 204 acre) portion of the Cliburn Tract that is not subject to either Option Agreement, to be removed from, and transferred free and clear from the terms of this Agreement.

Further, at any time following the expiration of the Option Term(s) set forth in the Option Agreements, Cliburn shall be permitted to withdraw any portion of the Cliburn Tract that NMI has not exercised its option to purchase, from the terms of this Agreement, conditioned upon Cliburn's simultaneous conveyance of fee simple title to any portion of the Cliburn Easement Area still owned by Cliburn at such time to NMI or such party as NMI may designate. Upon such withdrawal and

conveyance, the Sharing Percentage set forth in Section 2.5 above shall be adjusted to reflect the appropriate acreage of land remaining subject to this Agreement.


*[signatures pages to follow]*

EXECUTED, by the undersigned to be effective as of the 18th day of November 2011.

NMI:

**NINE MILE INVESTMENTS, LTD.,**  
A Texas limited partnership

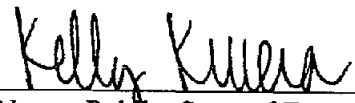
By: 1185 – Maverick, Inc.  
A Texas corporation  
Its general partner

By:   
Stewart R. Pate,  
President

THE STATE OF TEXAS       §  
  §  
COUNTY OF TRAVIS       §  
  §  
  §

VICTORIA  
This instrument was acknowledged before me on the 18 day of November, 2011, by Stewart Pate, President of 1185 – Maverick, Inc., a Texas corporation, general partner of Nine Mile Investments, Ltd., a Texas limited partnership on behalf of said limited partnership.



  
Notary Public, State of Texas

CLIBURN:

  
Tracy Cliburn

Independent Executrix and Trustee under the will of John W. Cliburn

THE STATE OF TEXAS           §  
  §  
COUNTY OF Victoria       §

This instrument was acknowledged before me on the 18th day of November, 2011, by Tracy Cliburn, Independent Executrix and Trustee under the will of John W. Cliburn, proved to me through her driver's license to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same in the capacity and for the purposes and consideration therein expressed.



Kelly Kucera  
Notary Public, State of Texas

**EXHIBIT "1"**

The Cliburn Tract

That certain 936.804 acre tract located in Victoria County, Texas, being a portion of that certain 1654.88 acre tract conveyed by Ranch Land Partners, Ltd., a Texas limited partnership, to John W. Cliburn according to that document recorded at Instrument No. 200616279, of the Official Records of Victoria County, Texas, excluding that certain 207.99 acre tract of land described in Exhibit "A" of that deed from John W. Cliburn to Pioneer Natural Resources, USA, Inc., recorded at Instrument No. 201102378, of the Official Records of Victoria County, Texas, and further excluding that certain 510.086 acre tract conveyed from Tracy Post Cliburn, Independent Executrix and Trustee under the will of John W. Cliburn to Nine Mile Investments, Ltd., under that special warranty deed recorded at Instrument No. \_\_\_\_\_, Official Records of Victoria County, Texas.

↑  
this was filled in on  
original before recording  
recording into  
from deed  
Cliburn to Nine Mile  
recorded yesterday



Exhibit "2"

**DALE L. OLSON**

Registered Professional Land Surveyor

711 Water Street

Bastrop, TX 78602

Phone (512) 321-5476 \* Fax (512) 303-5476

FIELD NOTES FOR A 510.086 ACRE TRACT IN THE INDIANOLA RAILROAD COMPANY SURVEY NO. 5, INDIANOLA RAILROAD SURVEY NO. 6, INDIANOLA RAILROAD COMPANY SURVEY NO. 9, INDIANOLA RAILROAD COMPANY SURVEY NO. 11, AND THE DAY LAND AND CATTLE COMPANY SURVEY IN VICTORIA COUNTY, TEXAS.

BEING a 510.086 acre tract or parcel of land out of and being a part of the Indianola Railroad Company Survey No. 5, A-189, Indianola Railroad Survey No. 6, A-380, Indianola Railroad Company Survey No. 9, A-190, Indianola Railroad Company Survey No. 11, A-217, and the Day Land and Cattle Company Survey, A-477, in Victoria County, Texas, and being a part of that certain 1654.88 acre tract described as Tract 3 in a deed from Ranch Land Partners, LTD, to John W. Cliburn, dated Nov. 30, 2006, recorded in Instrument No. 200616279, Victoria County Official Records. Herein described tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of the said 1654.88 acre tract, a 60d nail found at a fence corner in the west line of U.S. Hwy. No. 77 for the northeast corner of this tract.

THENCE with the west line of U.S. Hwy No. 77 and east line of the said 1654.88 acre tract, S 03 deg. 14 min. 20 sec. W, at 272.33 feet pass a 5/8 inch iron rod set for the northeast corner of that certain 3.96 acre 60 foot access easement described in a deed from John W. Cliburn to Pioneer Natural Resources USA, Inc., recorded in Instrument No. 201102378, Victoria County Official Records, in all 302.56 feet to a 5/8 inch iron rod set for the center of said 3.96 acre easement for the southeast corner of this tract.

THENCE crossing said 1654.88 acre tract with the center of said 3.96 acre tract and center of a proposed 60 foot access easement along an existing gravel road, N 79 deg. 43 min. 19 sec. W, 6855.67 feet to a 60d nail set; N 64 deg. 51 min. 34 sec. W, 1204.57 feet to a 60d nail set at the beginning of a curve to the left.

THENCE with the said curve to the left whose radius is 1500.00 feet; whose long chord bears N 73 deg. 51 min. 21 sec. W, 469.12 feet; 471.06 feet along the arc to a 60d nail set at end of said curve.

THENCE continuing with the center of the proposed 60 foot access easement, N 82 deg. 51 min. 08 sec. W, 1993.88 feet to a 5/8 inch iron rod set where same intersects the west line of the said 1654.88 acre tract and east line of the Richard Clyde Chamrad 100 acre tract recorded in Vol. 820, Page 214, Victoria County Deed Records, for the southwest corner of this tract.

THENCE with the west line of the 1654.88 acre tract, the east line of the Chamrad 100 acre tract, the Mary Gayle Braman Trust 30 acre tract, the Mark A. Wheelis 10.0 acre tract recorded in Instrument No. 200318796, the Raymond Rojas Living Trust recorded in Instrument No. 200812174, the Mark E. Luckenbach, et. ux., 10.00 acre tract recorded in Vol. 200714758, the Raymond Rojas Living Trust 10.00 acre tract recorded in Vol. 200714004, the Mark A. Roller 10.00 acre tract recorded in Instrument No. 200315865, the Mark A. Roller 10.00 acre tract recorded in Instrument No. 200315909, Victoria County Official Records, the east line of the Alene P. Gray 50.00 acre tract recorded in Vol. 1044, Page 558, Victoria County Deed Records and the east line of the Alene P Gray 20.59 acre tract, N 44 deg. 39 min. 10 sec. E, at 753.39 feet pass a fence corner found at a common corner of the Chamrad and Braman tracts, at 1507.84 feet pass a fence corner found at a common corner of the Braman and Wheelis 10.00 acre tract, at 1753.27 feet pass a fence corner found at a common corner of the Wheelis 10.00 acre and Rojas 10.00 acre tract, at 2001.02 feet pass a 1/2 inch iron rod found at a common corner of the Rojas 10.00 acre and Luckenback 10.00 acre tract; at

2247.51 feet pass a 1/2 inch iron rod found at a 1/2 inch iron rod found at a common corner of the Luckenback 10.00 acre and last mentioned Rojas 10.00 acre tract, at 2494.21 feet pass a 1/2 inch iron rod found at a common corner of the Rojas 10.00 acre and Roller 10.00 acre tract, at 2989.45 feet pass a 1/2 inch iron rod found at a common corner of the second mentioned Roller 10.00 acre tract and Gray 50.00 acre tract, In all 4726.47 feet to a 1/2 Inch iron rod found at a fence corner, the northwest corner of the 1654.88 acre tract for the northwest corner of this tract.

THENCE with the north line of the 1654.88 acre tract, S 53 deg. 22 min. 34 sec. E, 8672.66 feet to the POINT OF BEGINNING, containing 510.086 acres of land.



Dale L. Olson  
Reg. Pro. Land Surveyor 1753

OR

Michael D. Olson  
Reg. Pro. Land Surveyor 5386

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Order #: 116211

Date Created: 8/02/11

## **EXHIBIT "A"**

### **Cliburn Easement Area**

The portion of that certain sixty foot (60') wide Easement Tract described in Exhibit "C" attached hereto that is located within and is a part of the Cliburn Tract described in Exhibit "1" attached hereto, such area being that portion of the Easement Tract lying to the South of the East-West centerline of the Easement Tract.

## **EXHIBIT "B"**

### **NMI Easement Area**

The portion of that certain sixty foot (60') wide Easement Tract described in Exhibit "C" attached hereto that is located within and is a part of the NMI Tract described in Exhibit "2" attached hereto, such area being that portion of the Easement Tract lying to the North of the East-West centerline of the Easement Tract.

## **EXHIBIT "C"**

Exhibit "C"

**DALE L. OLSON,**

Registered Professional Land Surveyor  
711 Water Street  
Bastrop, TX 78602  
Phone (512) 321-5476 \* Fax (512) 303-5476

FIELD NOTES FOR A 60 FOOT ACCESS EASEMENT IN THE INDIANOLA RAILROAD SURVEY NO. 6, INDIANOLA RAILROAD COMPANY SURVEY NO. 9, INDIANOLA RAILROAD COMPANY SURVEY NO. 11, AND THE DAY LAND AND CATTLE COMPANY SURVEY IN VICTORIA COUNTY, TEXAS.

BEING a 60 foot access easement out of and being a part of the Indianola Railroad Survey No. 6, A-380, Indianola Railroad Company Survey No. 9, A-190, Indianola Railroad Company Survey No. 11, A-217, and the Day Land and Cattle Company Survey, A-477, in Victoria County, Texas, and being a part of that certain 1654.88 acre tract described as Tract 3 in a deed from Ranch Land Partners, LTD, to John W. Cliburn, dated Nov. 30, 2006, recorded in Instrument No. 200616279, Victoria County Official Records. Centerline of herein described tract or parcel of land being more particularly described by metes and bounds as follows:

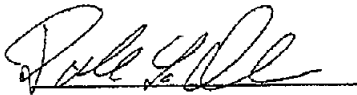
COMMENCING FOR REFERENCE at the northeast corner of the said 1654.88 acre tract, a 60d nail found at a fence corner in the west line of U.S. Hwy. No. 77.

THENCE with the west line of U.S. Hwy No. 77 and east line of the said 1654.88 acre tract, S 03 deg. 14 min. 20 sec. W, at 272.33 feet pass a 5/8 inch iron rod set for the northeast corner of that certain 3.96 acre 60 foot access easement described in a deed from John W. Cliburn to Pioneer Natural Resources USA, Inc., recorded in Instrument No. 201102378, Victoria County Official Records, in all 302.56 feet to a 5/8 inch iron rod set for the POINT OF BEGINNING, the center of the herein described easement.

THENCE crossing said 1654.88 acre tract with the center of the herein described 60 foot access easement along an existing gravel road, N 79 deg. 43 min. 19 sec. W, 6855.67 feet to a 60d nail set; N 64 deg. 51 min. 34 sec. W, 1204.57 feet to a 60d nail set at the beginning of a curve to the left.

THENCE with the said curve to the left whose radius is 1500.00 feet; whose long chord bears N 73 deg. 51 min. 21 sec. W, 469.12 feet; 471.06 feet along the arc to a 60d nail set at end of said curve.

THENCE continuing with the center of the proposed 60 foot access easement, N 82 deg. 51 min. 08 sec. W, 1993.88 feet to a 5/8 inch iron rod set where same intersects the west line of the said 1654.88 acre tract and east line of the Richard Clyde Chamrad 100 acre tract recorded in Vol. 820, Page 214, Victoria County Deed Records, for the termination of the herein described easement, from which a 1/2 inch iron rod found at the northwest corner of the said 1654.88 acre tract bears N 44 deg. 39 min. 10 sec. E, 4726.47 feet.



Dale L. Olson  
Reg. Pro. Land Surveyor 1753

OR

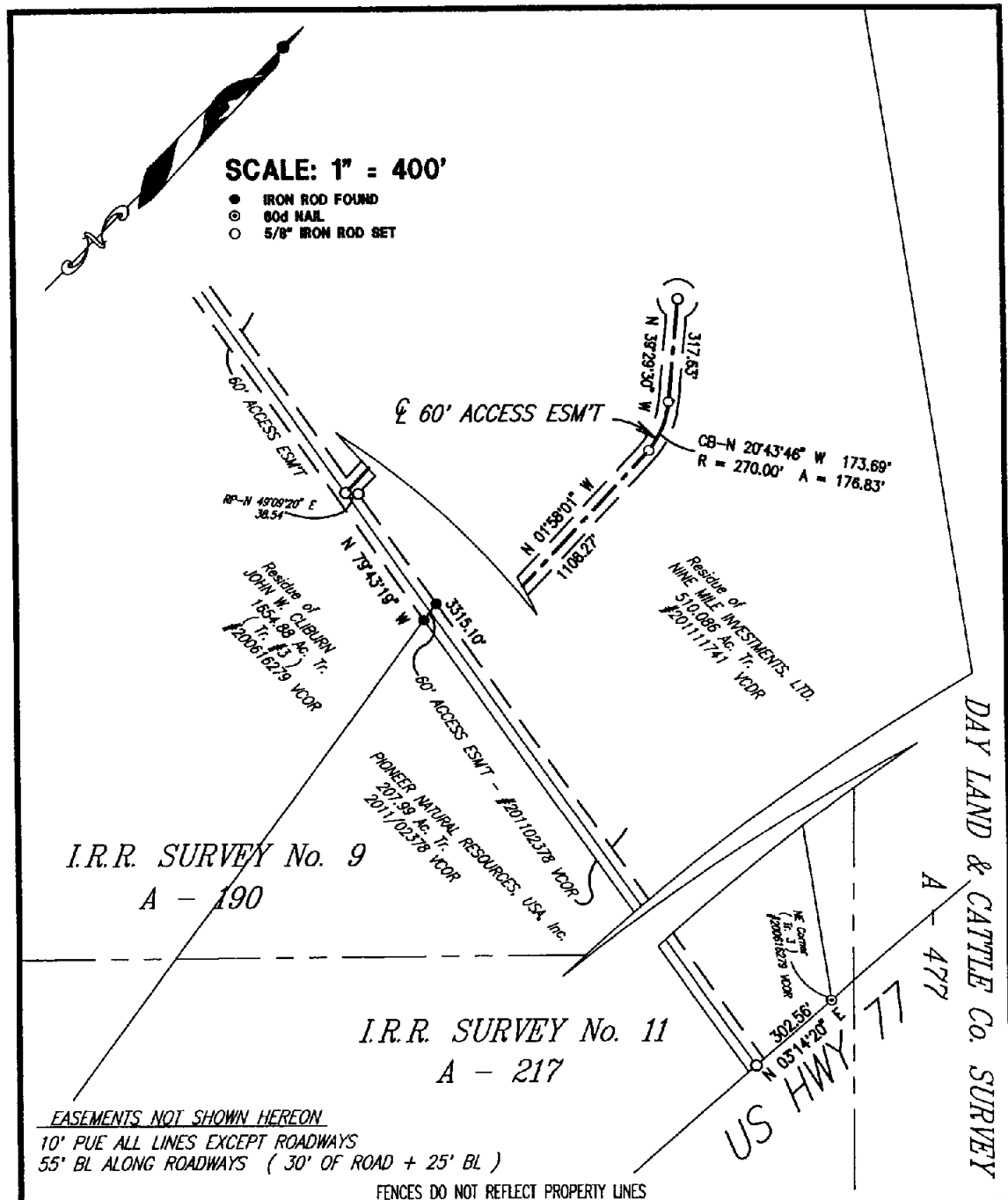
Michael D. Olson  
Reg. Pro. Land Surveyor 5386

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Order #: 116211-ESMT

Date Created 8/12/11

# Exhibit E



The undersigned does hereby certify for the Title Agency, Underwriter, Lender, Mortgage Co. and/or Purchaser, that this survey was, this day, made on the ground, on the property legally described herein, and is correct, and there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility lines, or roads in place, except as shown hereon, and that said property has frontage on a dedicated road way, except as shown hereon.

**DALE L. OLSON**

REGISTERED PROFESSIONAL LAND SURVEYOR  
711 WATER STREET (512) 321-5476 BASTROP, TEXAS

**SURVEY PLAT**

of a 60' ACCESS ESM'T in the  
I.R.R. SURVEY No. 9, A-190,  
in VICTORIA COUNTY, TEXAS

*Dale L. Olson*

**DALE L. OLSON**  
REG. NO. 1753  
DALE L. OLSON SURVEYING COMPANY  
DATE: 12/02/11

**MICHAEL D. OLSON**  
REG. NO. 1753  
DALE L. OLSON SURVEYING COMPANY  
DATE: 12/02/11

**STATE OF TEXAS**  
REGISTERED  
**DALE L. OLSON**  
1753  
PROFESSIONAL LAND SURVEYOR

**WILLOW CREEK RANCHES**

SCALE: 1" = 400.00'  
DRAWN BY: K. Goolsby  
DATE: 12/02/11  
DISK-FILE: 323-21a  
ORDER: 116211-16  
PLAT FILE: -4-

Exhibit E

**DALE L. OLSON**

Registered Professional Land Surveyor  
711 Water Street  
Bastrop, TX 78602  
Phone (512) 321-5476 \* Fax (512) 303-5476

FIELD NOTES FOR A 60 FOOT ACCESS EASEMENT IN THE INDIANOLA RAILROAD CO. SURVEY NO. 9  
IN VICTORIA COUNTY, TEXAS.

BEING a 60 foot access easement out of and being a part of the Indianola Railroad Co. Survey No. 9, A-190, in Victoria County, Texas, and being a part of that certain 510.086 acre tract in the Indianola Railroad Co. Surveys No. 5, 6, 9, and 11 and the Day Land and Cattle Co. Survey described in a deed from Tracy Post Cliburns Independent Executrix and Trustee under the will of John Weldon Cliburn to Nine Mile Investments, LTD, dated Nov. 18, 2011, recorded in Instrument No. 201111741, Victoria County Official Records. Herein described tract or parcel of land being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the southeast corner of the said 510.086 acre tract, a 5/8 inch iron rod set at the intersection of a 60 foot access easement with the west line of US Hwy. No. 77 from which a 60d nail found at a fence corner at the northeast corner of the 510.086 acre tract bears N 03 deg. 14 min. 20 sec. E, 302.56 feet.

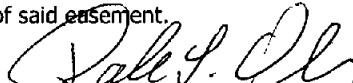
THENCE with the south line of the 510.086 acre tract and center of the said 60 foot access easement, N 79 deg. 43 min. 19 sec. W, at 3315.10 feet pass a 5/8 inch iron rod set where same intersects the center of another 60 foot access easement, in all, 5141.65 feet to a 5/8 inch iron rod set for the POINT OF BEGINNING.

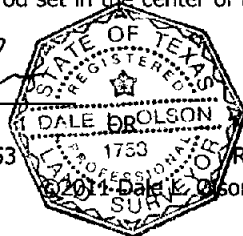
THENCE with the center of the herein described easement, N 01 deg. 58 min. 01 sec. W, 1918.69 feet to a 5/8 inch iron rod set for the beginning of a curve to the right.

THENCE with said curve to the right whose radius is 300.00 feet; whose long chord bears N 17 deg. 19 min. 43 sec. E, 198.26 feet; 202.06 feet along the arc to a 5/8 inch iron rod set at end of said curve.

THENCE continuing with the center of the herein described easement, N 36 deg. 37 min. 26 sec. E, 277.62 feet to a 5/8 inch iron rod set at an angle of said easement.

THENCE continuing with the center of the herein described easement, S 53 deg. 22 min. 34 sec. E, 770.27 feet to a 5/8 inch iron rod set in the center of a 60 foot radius cul-de-sac at the termination of said easement.

  
Dale L. Olson  
Reg. Pro. Land Surveyor 1753



\_\_\_\_\_  
Michael D. Olson  
Reg. Pro. Land Surveyor 5386

Order #: 116211-E2

Date Created: 12/13/11





Exhibit E

**DALE L. OLSON**

Registered Professional Land Surveyor  
711 Water Street  
Bastrop, TX 78602  
Phone (512) 321-5476 \* Fax (512) 303-5476

FIELD NOTES FOR A 60 FOOT ACCESS EASEMENT IN THE INDIANOLA RAILROAD CO. SURVEY NO. 9  
IN VICTORIA COUNTY, TEXAS.

BEING a 60 foot access easement out of and being a part of the Indianola Railroad Co. Survey No. 9, A-190, in Victoria County, Texas, and being a part of that certain 510.086 acre tract in the Indianola Railroad Co. Surveys No. 5, 6, 9, and 11 and the Day Land and Cattle Co. Survey described in a deed from Tracy Post Cliburns Independent Executrix and Trustee under the will of John Weldon Cliburn to Nine Mile Investments, LTD, dated Nov. 18, 2011, recorded in Instrument No. 201111741, Victoria County Official Records. Centerline of the herein described 60 foot access easement being more particularly described by metes and bounds as follows:

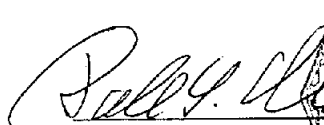
COMMENCING FOR REFERENCE at the southeast corner of the said 510.086 acre tract, a 5/8 inch iron rod set at the intersection of a 60 foot access easement with the west line of US Hwy. No. 77 from which a 60d nail found at a fence corner at the northeast corner of the 510.086 acre tract bears N 03 deg. 14 min. 20 sec. E, 302.56 feet.

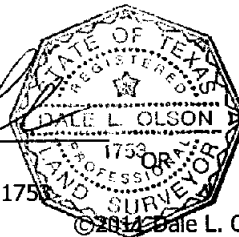
THENCE with the south line of the said 510.086 acre tract and center of said 60 foot access easement, N 79 deg. 43 min. 19 sec. W, 3315.10 feet to a 5/8 inch iron rod set for the POINT OF BEGINNING.

THENCE with the center of the herein described 60 foot access easement, N 01 deg. 58 min. 01 sec. W, 1108.27 feet to a 5/8 inch iron rod set at the beginning of a curve to the left.

THENCE with the said curve to the left whose radius is 270.00 feet; whose long chord bears N 20 deg. 43 min. 46 sec. W, 173.69 feet; 176.83 feet along the arc to a 5/8 inch iron rod set at the end of said curve.

THENCE continuing with the center of the herein described easement, N 39 deg. 29 min. 30 sec. W, 317.63 feet to a 5/8 inch iron rod set in the center of a 60 foot radius cul-de-sac at termination of said easement.

  
Dale L. Olson  
Reg. Pro. Land Surveyor 1753

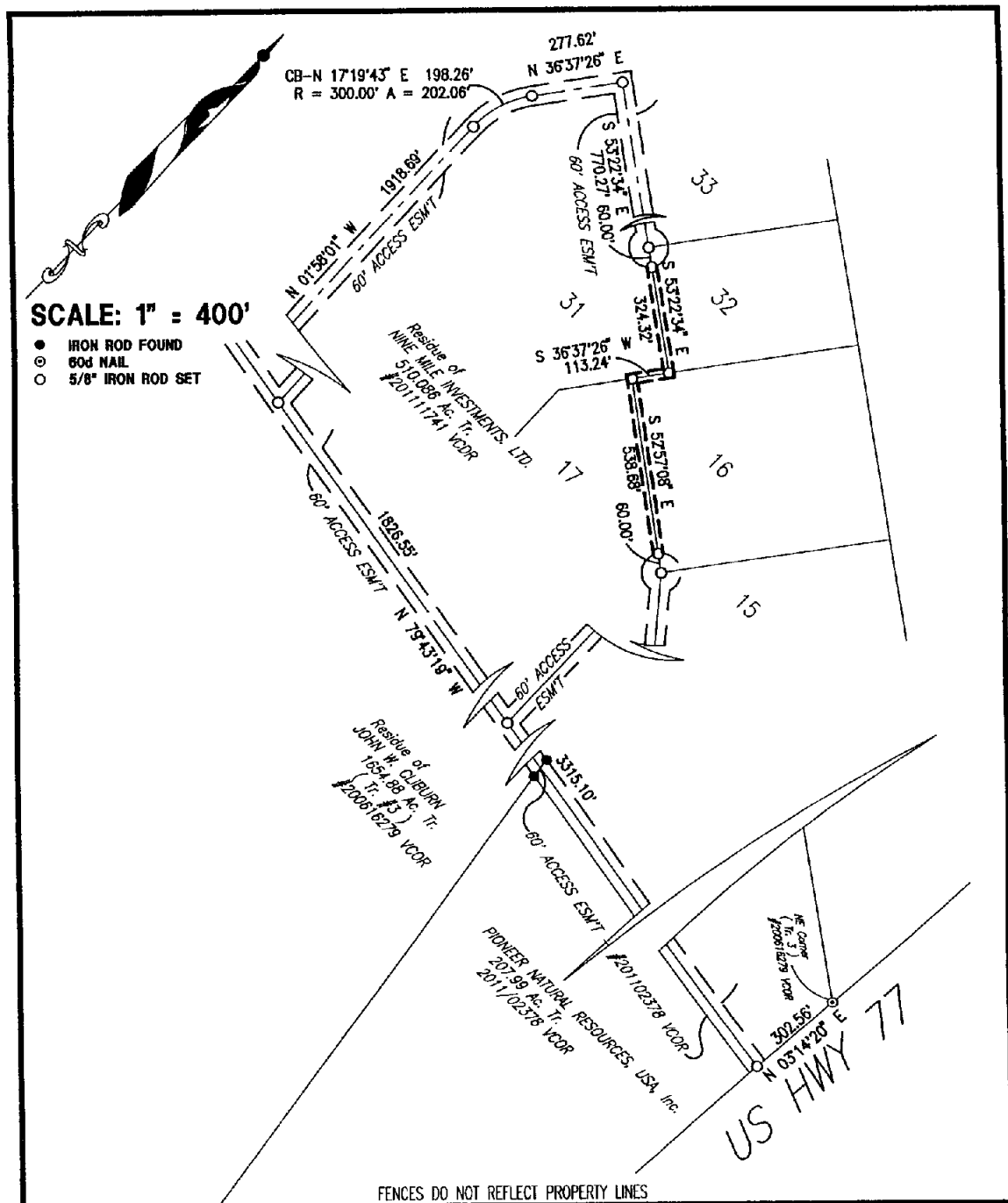


\_\_\_\_\_  
Michael D. Olson  
Reg. Pro. Land Surveyor 5386  
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Order #: 116211-E3

Date Created: 12/13/11

# Exhibit F



The undersigned does hereby certify to the Title Agency, Underwriter, Lender, Mortgage Co. and/or Purchaser, that this survey was, this day, made on the ground, on the property legally described herein, and is correct, and there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility lines, or roads in place, except as shown hereon, and that said property has frontage on a dedicated road way, except as shown hereon.

*Dale L. Olson*

DALE L. OLSON  
REG. NO. 0753  
DALE L. OLSON SURVEYING COMPANY  
DATE: 12/02/11

MICHAEL D. OLSON  
REG. NO. 5396  
DATE: 12/02/11

**DALE L. OLSON**  
REGISTERED PROFESSIONAL LAND SURVEYOR  
711 WATER STREET (512) 321-5476 BASTROP, TEXAS

**SURVEY PLAT**  
of a 30' DRAINAGE EASEMENT in  
the I.R.R. SURVEY No. 9, A-190,  
in VICTORIA COUNTY, TEXAS

|                      |                      |                  |                |
|----------------------|----------------------|------------------|----------------|
| SCALE: 1" = 400.00'  | WILLOW CREEK RANCHES |                  |                |
| DRAFTSMAN: K. Goehrs | ORDER: 116211-DE     | DATE: 12/02/11   | PLAT FILE: -0- |
| DATE: 12/02/11       | DSK-FILE: 323-21a    | ORDER: 116211-DE | PLAT FILE: -0- |

Exhibit F

**DALE L. OLSON**

Registered Professional Land Surveyor  
711 Water Street  
Bastrop, TX 78602  
Phone (512) 321-5476 \* Fax (512) 303-5476

FIELD NOTES FOR A 30 FOOT DRAINAGE EASEMENT IN THE INDIANOLA RAILROAD CO. SURVEY NO. 9 IN VICTORIA COUNTY, TEXAS.

BEING a 30 foot drainage easement out of and being a part of the Indianola Railroad Co. Survey No. 9, A-190, in Victoria County, Texas, and being a part of that certain 510.086 acre tract in the Indianola Railroad Co. Surveys No. 5, 6, 9, and 11 and the Day Land and Cattle Co. Survey described in a deed from Tracy Post Cliburns Independent Executrix and Trustee under the will of John Weldon Cliburn to Nine Mile Investments, LTD, dated Nov. 18, 2011, recorded in Instrument No. 201111741, Victoria County Official Records. Centerline of the herein described 30 foot drainage easement being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the southeast corner of the said 510.086 acre tract, a 5/8 inch iron rod set at the intersection of a 60 foot access easement with the west line of US Hwy. No. 77 from which a 60d nail found at a fence corner at the northeast corner of the 510.086 acre tract bears N 03 deg. 14 min. 20 sec. E, 302.56 feet.

THENCE with the south line of the 510.086 acre tract and center of the said 60 foot access easement, N 79 deg. 43 min. 19 sec. W, at 3315.10 feet pass a 5/8 inch iron rod set where same intersects the center of another 60 foot access easement, in all, 5141.65 feet to a 5/8 inch iron rod set.

THENCE with the said 60 foot access easement, N 01 deg. 58 min. 01 sec. W, 1918.69 feet to a 5/8 inch iron rod set for the beginning of a curve to the right.

THENCE with said curve to the right whose radius is 300.00 feet; whose long chord bears N 17 deg. 19 min. 43 sec. E, 198.26 feet; 202.06 feet along the arc to a 5/8 inch iron rod set at end of said curve.

THENCE continuing with the said easement, N 36 deg. 37 min. 26 sec. E, 277.62 feet to a 5/8 inch iron rod set at an angle of said easement.

THENCE continuing with the center of the said easement, S 53 deg. 22 min. 34 sec. E, at 770.27 feet pass a 5/8 inch iron rod set in the center of a 60 foot radius cul-de-sac, 830.27 feet in all to a 5/8 inch iron rod set in the cul-de-sac of said easement, for the POINT OF BEGINNING.

THENCE S 53 deg. 22 min. 34 sec. E, 324.32 feet to a 5/8 inch iron rod set for an angle.

THENCE S 36 deg. 37 min. 26 sec. W, 113.24 feet to a 5/8 inch iron rod set for an angle.

THENCE S 52 deg. 57 min. 08 sec. E, 538.68 feet to a 5/8 inch iron rod set in the cul-de-sac of another 60 foot access easement, for the termination of the herein described easement, from which a 5/8 inch iron rod found in the center of same bears S 52 deg. 57 min. 08 sec. E, 60.00 feet.



Dale L. Olson  
Reg. Pro. Land Surveyor 1753

OR

Michael D. Olson  
Reg. Pro. Land Surveyor 5386

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Order #: 116211-DE

Date Created: 12/13/11