

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS §
COUNTY OF GILLESPIE §

KNOW ALL MEN BY THESE PRESENTS:

THAT, PRESTON L. PYKA and BARBARA A. PYKA, Trustees of the PRESTON L. PYKA and BARBARA A. PYKA LIVING TRUST (the "Trust"), is the owner of that certain tract of land in Gillespie County, Texas, more particularly described as follows ("Trust Tract"):

Being 36.573 acres of land, more or less, situated in Gillespie County, Texas, being part of the Juan Jose Gonzales Survey No. 57, Abstract No. 258, and being a portion of that 100.2 acre tract described in Instrument No. 20095890 of the Official Public Records of Gillespie County, Texas. Said 36.573 acre tract of land is described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all pertinent purposes;

and, as such, desiring to create and carry out a uniform plan for the improvement and development of the Trust Tract ("the Property"), does hereby adopt and establish the following restrictions, covenants and conditions ("Protective Covenants") to run with the land and to apply in the use, occupancy, and conveyance of the Property, which restrictions, covenants and conditions shall be binding on all parties having a right, title or interest in or to the above described Property or any part thereof, and their heirs, successors and assigns, and which restrictions, covenants and conditions shall inure to the benefit of each owner thereof; and each contract or deed which may be executed with regard to any of such Property shall be conclusively held to have been executed, delivered and accepted, subject to the following restrictions and covenants (the headings being employed for convenience only and not to be controlling over content):

ARTICLE I.
DEFINITIONS

"Declarant" shall mean and refer to PRESTON L. PYKA and BARBARA A. PYKA, Trustees of the PRESTON L. PYKA and BARBARA A. PYKA LIVING TRUST, its heirs, successors and assigns.

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

"Owner" shall mean and refer to the record owner (including Declarant), whether one or more persons or entities, of a fee simple title to any Tract including contract Sellers, but excluding those having such interest merely as security for the performance of an obligation.

"Property" shall mean and refer to that certain real property hereinbefore described as the

Trust Tract.

"Tract" shall mean and refer to any plot of land which is out of the Property.

"Maple Tract" shall mean and refer to that certain 55.61 acre tract of land out of the Juan Jose Gonzales Survey No. 57, Abstract No. 258, in Gillespie County, Texas, and being a portion of that certain 100.2 acre tract described in Instrument No. 20095890 of the Official Public Records of Gillespie County, Texas. Said 55.61 acre tract of land being more fully described by metes and bounds on Exhibit "B" attached hereto and made a part hereof for all pertinent purposes.

ARTICLE II.
RESTRICTIVE COVENANTS

The Declarant hereby declares that the Property shall henceforth be owned, held, transferred, sold and conveyed subject to the following covenants, conditions and restrictions which are intended for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on Declarant and all Owners, and their respective heirs, successors and assigns, and which shall inure to the benefit of Declarant and each Owner of any part of the Property and the Maple Tract, and their respective heirs, successors and assigns.

Section I. Restrictions

1. No more than one single family residence shall be erected on a Tract. A guest house or "mother-in-law" residence may be situated on a Tract in addition to the single family residence, however, in such event no bed and breakfast unit shall be permitted on the Tract.
2. No more than one (1) bed and breakfast unit shall be permitted on any Tract. No single bed and breakfast unit shall be occupied by more than eight (8) individuals at one time.
3. The Property shall not be divided into more than four (4) Tracts.

4. No mobile, MANUFACTURED, MODULAR HOMES ARE PERMITTED ON PROPERTY.

ARTICLE III.
TERM

The covenants and restrictions set forth in this Declaration are made and adopted to run with the land and shall be binding upon the undersigned and all parties and persons claiming through and under them until January 1, 2038, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless and until an instrument executed by Owners of more than 50% of the acreage in the Property and in the Maple Tract has

been recorded agreeing to terminate said covenants and restrictions in whole or in part.

**ARTICLE IV.
ENFORCEMENT**

Declarant, its heirs, successors or assigns, or any Owner, and any Owner of any portion of the Maple Tract, shall have the right to enforce, by proceedings at law or in equity, the terms, provisions, covenants, conditions, and restrictions of this Declaration. Failure of Declarant or any Owner or any Maple Tract Owner to take any action upon any breach or default shall not be deemed a waiver of their right to take action upon any subsequent breach or default. The reservation by Declarant of this right of enforcement shall not create a duty or obligation of any kind to enforce same, and Declarant shall not be subjected to any claim, demand, or cause of action from any Owner by virtue of not enforcing any term, provision, covenant, condition or restrictions herein contained.

**ARTICLE V.
PARTIAL INVALIDITY**

The invalidation of any of the terms, provisions, covenants, conditions or restrictions contained in this Declaration, by judgment, court order, operation of law or otherwise, shall in no way affect the validity any of the other terms, provisions, covenants, conditions or restrictions hereof, which shall remain in full force and effect.

**ARTICLE VI.
AMENDMENT**

(a) The Owners (but expressly excluding their respective mortgagees, if any) of at least sixty-six percent (66%) of the acreage in the Property and of the Maple Tract may amend this Declaration, by executing and filing an instrument containing such amendment, in the office of the County Clerk of Gillespie County, Texas.

**ARTICLE VII.
WAIVER AND LACHES**

The obligation to abide by the provisions contained in this Declaration shall be deemed to be of a continuing and continual basis. Each and every day an Owner allows a condition to exist on such Owner's Tract which is not in compliance with the requirements contained herein shall constitute a separate and individual violation hereof, and shall give rise to a new cause of action for such breach. The intended effect and express purpose of this provision shall be that every Owner, by accepting title to a Tract, hereby waives the affirmative defenses of the statute of limitations, waiver and laches with respect to covenant violations. Failure of Declarant or of any Owner or of any Owner of the Maple Tract to enforce the terms of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

EXECUTED by said Declarant, this _____ day of _____, 2017.

Declarant:

The Preston L. Pyka and Barbara A. Pyka Living Trust

By: _____
PRESTON L. PYKA, Trustee

By: _____
BARBARA A. PYKA, Trustee

STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on this the _____ day of _____, 2017, by PRESTON L. PYKA and BARBARA A. PYKA, Trustees of the PRESTON L. PYKA and BARBARA A. PYKA LIVING TRUST, on behalf of the Trust.

Notary Public, State of Texas

EXHIBIT " A "

Page 1 of 2



SEARCHERS
LAND SURVEYING, LLC

P.O. Box 528, Mason, TX 76856
325-347-7489 • searchersls.com
Firm # 10193966

LEGAL DESCRIPTION Being 36.573 acres of land out of the Juan Jose Gonzales Survey No. 57, Abstract No. 258, in Gillespie County, Texas and being a portion of that certain 100.2 acre tract described in Instrument No. 20095890 of the Official Public Records of Gillespie County, Texas; Said 36.573 acre tract being more particularly described as follows and as surveyed under the supervision of Searchers Land Surveying, LLC in October, 2015:

BEGINNING at a 1/2 inch iron rod set in the east line of said 100.2 acre tract and the west line of Pfister Road for a corner of that 35.161 acre tract surveyed this same day by Searchers Land Surveying, LLC, being a portion of said 100.2 acre tract, and the northeast corner hereof, and from which a 1/2 inch iron rod set for the northeast corner of said 100.2 acre tract bears North 23°48'45" East a distance of 25.91 feet;

THE FENCE along the east line of said 100.2 acre tract and the west line of Pfister Road, the following 2 courses:

1. South 23°48'45" West a distance of 247.64 feet to a calculated point for a corner hereof;
2. South 26°47'21" West a distance of 555.88 feet to a calculated point in the record common line of said Abstract No. 258 and the Brigido Guerrero Survey No. 56, Abstract No. 245 and the north line of that certain 24.88 acre tract described in Volume 345, Page 842 of the Real Property Records of Gillespie County, Texas for the southeast corner of said 100.2 acre tract and the southeast corner hereof, and from which an 8 inch pine fence corner post found on the east side of Pfister Road bears North 89°36'04" East a distance of 44.93 feet,

THE FENCE along the north line of said 24.88 acre tract and the south line of said 100.2 acre tract, along the general meanders of an existing fence, the following 3 courses:

1. South 89°36'04" West a distance of 80.49 feet to an 8 inch pine fence corner post found;
2. South 89°30'34" West a distance of 931.23 feet to a 1/2 inch iron rod set for the northwest corner hereof;
3. North 89°51'26" West a distance of 867.65 feet to a steel t-post found for the northwest corner of said 24.88 acre tract, the northeast corner of that certain 18.48 acre tract described in Instrument No. 20144083, the southeast corner of that 8.500 acre tract surveyed this same day by Searchers Land Surveying, LLC, being a portion of said 100.2 acre tract, and the southwest corner hereof,

THENCE North 00°00'00" West a distance of 310.79 feet crossing said 100.2 acre tract along the east line of said 8.500 acre tract to a 1/2inch iron rod set for the northeast corner of said 8.500 acre tract, a corner of said 55.161 acre tract and a corner hereof;

THENCE crossing said 100.2 acre tract along the southeast and south lines of said 55.161 acre tract, the following 2 courses:

1. North 48°07'59" East a distance of 959.76 feet to a 1/2 inch iron rod set;
2. South 81°26'25" East a distance of 1529.74 feet to the POINT OF BEGINNING containing 36.573 acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings, distances and acreage shown hereon are NAD 83, Texas Central Zone and are derived from GPS techniques. 1/2 inch iron rod set are 1/2 inch rebar with plastic caps marked "Searchers RPLS 6275".

Surveyed by;



Abraham J. Leamons
Registered Professional Land Surveyor #6275
Date: October 9, 2015
Job# 15-1288



EXHIBIT " B "

Page 1 of 3



SEARCHERS
LAND SURVEYING, LLC

P.O. Box 528, Mason, TX 76856
325-347-7489 • searchersls.com
Firm # 10193966

LEGAL DESCRIPTION: Being 55.161 acres of land out of the Juan Jose Gonzales Survey No. 57, Abstract No. 258, in Gillespie County, Texas and being a portion of that certain 100.2 acre tract described in Instrument No 20095890 of the Official Public Records of Gillespie County, Texas; Said 55.161 acre tract being more particularly described as follows and as surveyed under the supervision of Searchers Land Surveying, LLC in October, 2015:

BEGINNING at a 1/2 inch iron rod found in the record common line of said Abstract No. 258 and the J.W. & R. Leavitt Survey No. 64, Abstract No. 419 and the west line of that certain 58 acre tract described in Volume 110, Page 829 of the Deed Records of Gillespie County, Texas for the southwest corner of Tract No. 13, Phase 2, of the High River Ranch Subdivision in Gillespie County, Texas as recorded in Volume 3, Page 152 of the Plat Records of Gillespie County, Texas, the southwest corner of that certain tract described in Instrument No. 20101351 of said Official Public Records, the northwest corner of said 100.2 acre tract and the northwest corner hereof;

THENCE along the north line of said 100.2 acre tract, the following 4 courses:

1. South 89°48'41" East a distance of 269.91 feet along the south line of said Tract No. 13 and the south line of said Instrument No. 20101351 to a 1/2 inch iron rod found with cap marked "BONN 4447" for the southeast corner of said Tract No. 13, the southeast corner of said Instrument No. 20101351, the southwest corner of Tract No. 12, Phase 2 of said High River Ranch Subdivision and the southwest corner of that certain tract described in Instrument No. 20150296 of said Official Public Records;
2. South 89°46'43" East a distance of 269.93 feet along the south line of said Tract No. 12 and the south line of said Instrument No. 20150296 to a 1/2 inch iron rod found with cap marked "BONN 4447" for the southeast corner of said Tract No. 12, the southeast corner of said Instrument No. 20150296, the southwest corner of Tract No. 11, Phase 2 of said High River Ranch Subdivision and the southwest corner of that certain tract described in Instrument No. 20141094 of said Official Public Records, and from which a 1/2 inch iron rod found in concrete bears South 89°55'21" East a distance of 108.60 feet;
3. South 89°49'56" East a distance of 410.96 feet along the south line of said Tract No. 11 and the south line of said Instrument No. 20141094 to a 1/2 inch iron rod found in concrete for the southeast corner of said Tract No. 11, the southeast corner of said Instrument No. 20141094, the southwest corner of Tract No. 10,

Phase 1 of said High River Ranch Subdivision and the southwest corner of that certain tract described in Instrument No. 20071777 of said Official Public Records, and from which a 1/2 inch iron rod found in concrete bears South 89°49'08" East a distance of 441.31 feet;

4. South 89°49'00" East a distance of 1270.71 feet along the south line of said Tract No. 10 and the south line of said Instrument No. 20071777 to a 1/2 iron rod found in the west line of that certain 65.2 acre tract described in Volume 567, Page 779 of said Official Public Records for the southeast corner of said Tract No. 10, the southeast corner of said Instrument No. 20071777 and the northeast corner of said 100.2 acre tract and the northeast corner hereof;

THENCE South 25°39'51" West a distance of 714.52 feet along the east line of said 100.2 acre tract and the west line of said 65.2 acre tract to a 3 inch pipe fence corner post found for a corner of said 100.2 acre tract, the southwest corner of said 65.2 acre tract and a corner hereof;

THENCE South 81°26'25" East a distance of 1515.90 feet along the north line of said 100.2 acre tract and the south line of said 65.2 acre tract to a 1/2 inch iron rod set in the west line of Pfister Road for the southeast corner of said 65.2 acre tract, the northeast corner of said 100.2 acre tract and the northeast corner hereof, and from which a 1/2 inch iron rod found in the centerline of Pfister Road bears South 81°26'25" East a distance of 20.73 feet;

THENCE South 23°48'45" West a distance of 25.91 feet along the east line of said 100.2 acre tract and the west line of Pfister Road to a 1/2 inch iron rod set for the northeast corner of that 36.573 acre tract surveyed this same day by Searchers Land Surveying, LLC, being a portion of said 100.2 acre tract, and a corner hereof;

THENCE crossing said 100.2 acre tract along the north and northwest lines of said 36.573 acre tract, the following 2 courses:

1. North 81°26'25" West a distance of 1529.75 feet to a 1/2 inch iron rod set for a corner hereof;
2. South 48°07'59" West a distance of 959.76 feet to a 1/2 inch iron rod set for the northeast corner of that 8.500 acre tract surveyed this same day by Searchers Land Surveying, being a portion of said 100.2 acre tract, a corner of said 36.573 acre tract and a corner hereof;

THENCE North 90°00'00" West a distance of 1179.71 feet crossing said 100.2 acre tract along the north line of said 8.500 acre tract to a 1/2 inch iron rod set in the record common line of said Abstract No. 258 and said Abstract No. 419, the east line of said 58 acre tract and the west line of said 100.2 acre tract for the northwest corner of said 8.500 acre tract and the southwest corner hereof, and from which a 1/2 inch iron rod found in the east line of said 58 acre tract for the southwest corner of said 100.2 acre tract bears South 00°17'10" West a distance of 316.51 feet;

Page 3 of 3

THENCE North 00°17'10" East a distance of 1313.44 feet along the record common line of said Abstract No. 258 and said Abstract No. 419, the east line of said 58 acre tract and the west line of said 100.2 acre tract to the POINT OF BEGINNING containing 55.161 acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings, distances and acreage shown hereon are NAD 83, Texas Central Zone and are derived from GPS techniques. 1/2 inch iron rod set are 1/2 inch rebar with plastic caps marked "Searchers RPLS 6275".

Surveyed by:



Abraham J. Leamons
Registered Professional Land Surveyor #6275
Date: October 9, 2015
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