

**SECOND AMENDED AND RESTATED
Declaration of Covenants, Conditions, and Restrictions for
REPLAT OF COYOTE RUN INDUSTRIAL SUBDIVISION**

Preamble

This Declaration of Covenants, Conditions, and Restrictions is made on the 9th day of November 2022, by AGUA DULCE HOLDINGS, LLC, (referred to as "Declarant"), whose mailing address is 605 North Tumbleweed Trail, Austin, Texas 78733.

Recitals

1. Coyote Run Industrial Subdivision has been replatted into the Replat of Coyote Run Industrial Subdivision.
2. On June 9, 2020, Declarant filed that certain Declaration of Covenants, Conditions, and Restrictions for COYOTE RUN INDUSTRIAL SUBDIVISION, which was recorded in Volume 756, Page 698, of the Official Records of Martin County, Texas, and was thereafter Restated and Amended in document recorded on August 3, 2020 in Volume 765, Page 220, of the Official Records of Martin County, Texas (collectively, "Declaration").
3. Pursuant to the terms of Article Six, Section 6.04 of the Declaration (Duration and Amendment), Declarant may amend said Declaration so long as Declarant owns at least 50% of the Lots located in the Replat of Coyote Run Industrial Subdivision.
4. At the present time Declarant is the owner of in excess of 50% of the Lots located in Midland County, Texas, described as follows: REPLAT OF COYOTE RUN INDUSTRIAL SUBDIVISION, a subdivision of Martin County, Texas, according to the map or plat thereof recorded in Volume 4, Page 34A and 34B, of the Plat Records of Martin County, Texas.
5. The Declarant has devised an amended general plan for all of the lots located in the Replat of Coyote Run Industrial Park (the "Property"), with specific provisions for particular parts and parcels of the Property. This amended general plan provides a common scheme of development designed to protect and safeguard the Property over a long period.
6. This amended general plan will benefit the Property in general, the parcels and lots that constitute the Property, the Declarant, and each successive owner of an interest in the Property.
7. Therefore, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, the Declarant desires to restrict the Property according to these covenants, conditions, and restrictions in furtherance of this amended general development plan.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby restates and amends the Declaration, which shall apply to the Property within the Replat of Coyote Run Industrial Subdivision. The Property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered subject to the provisions of the Second Amended and Restated Declaration, all of which said provisions shall run with the title to the Property and shall be binding upon all persons having any right, title, or any interest in the Property, their respective heirs, legal representatives, successors, successors in title, and assigns.

ARTICLE 1
Definitions

Declarant

1.01. "Declarant" means AGUA DULCE HOLDINGS, LLC, and its successors and assigns.

Lot

1.02. "Lot" means any of the numbered plots of land shown on the plat and subdivision map recorded in Volume 4, Page 34A and 34B, of the Plat Records of Martin County, Texas (the "Map"), whether improved or unimproved, and which is intended for development, use and occupancy as a single family dwelling. The term shall not include Common Areas or tracts designated as Drill Sites.

Owner

1.03. "Owner" means the record owner or owners of the fee simple title to any Lot or portion of a Lot in the Property. "Owner" includes contract sellers but excludes persons having only a security interest.

Common Area

1.04. "Common Area" means all roads and streets depicted on the Map which are dedicated for use by all Lot Owners, their guests and invitees, and a 5 acre tract also known as Lot 1, Block 5, Replat of Coyote Run Industrial Subdivision.

Association

1.05 "Association" means COYOTE RUN PROPERTY OWNERS ASSOCIATION, an association consisting of all Owners, which shall have the duty of maintaining, operating and managing the Common Area as provided in this Declaration. Each Owner shall become a member of the Association contemporaneously with acquiring a Lot, without any further documentation of any kind.

Board

1.06 "Board" means the Board of Directors of the Association.

Lender

1.07 "By-Laws" means the By-laws of REPLAT OF COYOTE RUN INDUSTRIAL SUBDIVISION Home Owners' Association which are attached hereto as Exhibit "A".

ARTICLE 2
Restrictions

Size of Lots and Building Materials

- 2.01. Lots may range from one acre to three acres in size.
2.02. All base road materials are to be purchased from CSA.

Water

- 2.03. Lots have right to a bonus community access to CRMWD water line to be held by the Coyote Run Property Owners Association.
2.04. If water ever becomes scarce, Declarant shall provide an alternative water source. (A waterline exists running under a 5 acre tract also known as Lot 1, Block 5 and is able to connect with the CRMWD.)
2.05. There shall be no commercial water sales allowed.
2.06. There shall be no salt water disposal units allowed on any Lot.

Setbacks

- 2.07. Minimum building setback lines of 10' from any boundary Lot line or right-of-way.
2.08. All septic tanks shall be setback a minimum of 50' from any boundary Lot Line.

Activities Prohibited

- 2.09. No Animal Feedlots shall be conducted on any Lot.
2.10. No Lot shall be used or maintained as a dumping ground for trash, rubbish or junk.
2.11. No abandoned equipment or vehicles shall be allowed to remain on any Lot.
2.12. No RV Parks and no Mancamps are allowed to be placed on any Lot. However, RV units are allowed. There may be no more than two RVs per acre of land.
2.13 One residential unit or job trailer/mobile office/Mobile Housing Unit per Lot.

Reporting Requirements

- 2.14. Any hazardous waste spills are to be reported and remediated immediately by the Lot owner.

ARTICLE 3

Easements

Reservation of Easements

- 3.01. With the written consent of the Association, the platted roadways may be used for utility easements. No shrubbery, fence, or other obstruction shall be placed in any easement or roadway.

ARTICLE 4

Association

Creation

- 5.01. The Owners shall constitute the Association. Each Owner of a Lot, shall automatically be a member of the Association. Association membership shall be appurtenant to ownership of a Lot. Ownership of a Lot is the sole criterion for membership in the Association. Regardless of the number of Owners, each Lot shall be entitled to only one (1) vote.

Transfer of Membership

- 5.02. Association membership can be transferred to the grantee of a conveyance of a Lot in fee. Membership shall not be assigned, pledged, or transferred in any other way. Any attempt to make a prohibited transfer shall be void.

Management of Association

- 5.03. The Association shall be a nonprofit corporation. The Association shall be managed by the board pursuant to the procedures set forth in the Association's bylaws, subject to this Declaration.

Membership Voting, Elections and Meetings

- 5.04. Each Owner shall have one vote. There shall be at least one meeting of the membership each year. At that meeting the Owners shall elect a Board consisting of three (3) directors, vote on any other matters the Board chooses to place before the membership, and discuss any matter of Association business that the Board or any Owner wishes to bring before the entire membership.

Duties and Powers of Board

- 5.05. Through the Board, the Association shall have the following powers and duties:
- (a) To adopt rules and regulations to implement this Declaration and the Association's bylaws;
 - (b) To enforce this Declaration, the bylaws, its rules and regulations;
 - (c) To elect officers of the Board and select members of the Architectural Control Committee when that power devolves to the Board;

- (d) To delegate its powers to committees, officers, or employees;
 - (e) To prepare a balance sheet and operating income statement for the Association and deliver a report to the membership at its annual meeting;
 - (f) To establish and collect regular assessments to defray expenses attributable to the Association duties, to be levied against each Owner, excluding Declarant, who shall not be assessed for any Lot it owns;
 - (g) To establish and collect special assessments for capital improvements or other purposes, to be levied against each Owner, excluding the Declarant, who shall not be assessed for any Lot it owns;
 - (h) To file liens against Lot owners because of nonpayment of assessment duly levied and to foreclose on those liens;
 - (i) To receive complaints regarding violations of this Declaration, the bylaws, or the rules and regulations;
 - (j) To hold hearings to determine whether to discipline Owners who violate this Declaration, the bylaws, or the rules and regulations;
 - (k) To give reasonable notice to all Owners of all annual meetings of the membership and all discipline hearings;
 - (l) To hold regular meetings of the Board at least annually;
 - (m) To manage and maintain all of the Common Area in a state of high quality and in good repair;
 - (n) To pay taxes and assessments that are or could become a lien on the Common Area;
 - (o) To amend the Declaration and Bylaws.
- 5.06. There shall be an initial mandatory Association fee in the amount of \$600 per Lot per year.
- 5.07. The Association shall pay ad valorem taxes on all of the property (common areas and 5 acre tract also known as Lot 1, Block 5, Replat of Coyote Run Industrial Subdivision) owned by the Association.
- 5.08. The Association shall maintain all roads in the Replat of Coyote Run Industrial Subdivision, all common areas, and the 5 acre tract owned by the Association.

ARTICLE 6 General Provisions

Enforcement

6.01.

- A. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations imposed by this Declaration. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.
- B. Each assessment, as mentioned in Sections 5.05 and 5.06, is a personal obligation of each Owner when the assessment accrues. Assessments are secured by a continuing lien on each Lot. By acceptance of a deed to a Lot, each Owner grants a lien, together with the power of sale, to the Association to secure assessments.
- C. A late charge of \$50.00 will be assessed for delinquent payment of assessments. Delinquent Assessments will accrue interest at the rate of 18% percent per annum. The Board may change the late charge and the interest rate.
- D. If the Association complies with all applicable notice requirements, an Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent assessments, foreclosing the Association's lien, and enforcing the Dedicatory Instruments.

Severability

6.02. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

Covenants Running With the Land

6.03. These easements, restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the real property and shall be binding on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Lot, and each Lot Owner.

Duration and Amendment

6.04. The covenants, conditions, and restrictions of this Declaration shall be effective for a term of 25 years from the date this Declaration is recorded, after which period the covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years subject to termination by an instrument signed by more than sixty percent (60%) of the Owners.

The covenants, conditions, and restrictions of this Declaration may be amended from time to time by an instrument signed by more than seventy-five percent (75%) of the Owners. These covenants, conditions or restrictions may be amended at any time by the Declarant so long as Declarant shall own at least fifty percent (70%) of the Lots. Neither any amendment nor any termination shall be effective until recorded in the Official Public Records of Midland County, Texas, and all requisite governmental approvals, if any, have been obtained.

Attorneys' Fees

6.05. If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

Liberal Interpretation

6.06. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.

This Declaration is executed this 9th day of November, 2022.

DECLARANT:

Agua Dulce Holdings, LLC

By: 

Don Thomas Johnston, Managing Member

STATE OF TEXAS §
 §
COUNTY OF Midland §

This instrument was acknowledged before me on the 9th day of November 2022 by Don Thomas Johnston, Managing Member, Agua Dulce Holdings, LLC, a Texas limited liability company.



Shannon M Goldapp
Notary Public, State of Texas