

DECLARATION

0699362

OF COVENANTS, CONDITIONS AND RESTRICTIONS

AP-27-72 16995 B 699362 LST A PB 1850

*Handwritten initials*

STATE OF TEXAS

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X  
X

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF HARRIS

150-39-1528

THIS DECLARATION, made on the date hereinafter set forth by FRIENDSWOOD DEVELOPMENT COMPANY and KING RANCH, INC., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the P. Whitty Survey, A-1458, John Asbury Survey, A-91, and Elijah Votaw Survey, A-823, County of Harris, State of Texas, which is more particularly described as a tract or parcel of land known as Kings Forest, Section One, recorded in Volume 193, Page 106 of the Harris County Map Records.

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NOW THEREFORE, Declarant hereby declares that all of the properties described above and which may be hereafter added or annexed thereto by Declarant shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Bear Branch Trail Association, its successors and assigns.

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Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners and for the free flow of pedestrian and bicycle traffic to and from the adjoining common area or areas of an adjoining association or associations and to and from common area or areas contiguous thereto. The Common Area to be owned by the Association at the time of the conveyance of the first lot is 15.1529 acres of land in the P. Whitty Survey, A-1458, the John Asbury Survey, A-91, and the Elijah Votaw Survey, A-823, in Harris County, Texas, said 15.1529 acres being more particularly described by metes and bounds in Exhibit "A" attached hereto, made a part hereof and incorporated herein for all purposes.

Section 5. "Lot" shall mean and refer to any plot of land within the Properties to be used for purposes of a dwelling

Section 6. "Declarant" shall mean and refer to [redacted] Development Company and King Ranch, Inc., its successors or assigns if such successors or assigns should acquire a property from the Declarant for the purpose of development.

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership

shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership: 150-39-1531

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one owner holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1990.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation Assessments. The Declarant, for each Lot owned with the covenants, hereby covenants, and each Owner of any Lot by the execution of a deed therefor, whether or not it shall be so recited in such deed, is deemed to covenant and agree to pay

to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

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Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for street lighting, cleaning and sweeping of all of that one-half (1/2) of Kingwood Drive, Woodland Hills Drive, Northpark Drive, and Lake Houston Parkway, streets adjacent to the Properties, mowing and maintenance of all of one-half (1/2) of the esplanades within such adjacent streets, mowing of, maintenance of surface drainage swales or, removal of dead trees and brush from, cleaning out culverts under pathways on, emptying trash and garbage receptacles located in, care of diseased and insect-infested trees, and repair of pathways in the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be Thirty Dollars (\$30.00) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 3% above the maximum assessment for the previous year without a vote of the membership.

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(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 3% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in part, the cost of any construction, reconstruction, or replacement of a capital improvement upon the Common Building fixtures and personal property related thereto. Any such assessment shall have the assent of two-thirds of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized

Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be given to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting, the presence of members or of proxies entitled to at least sixty percent (60%) of all the votes of each class of members shall constitute a quorum. If the required quorum is not present at a meeting, another meeting may be called subject to the same notice, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum. No such subsequent meeting shall be called more than 30 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments:  
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments:  
Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.  
The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, provided that sale or transfer of any Lot by voluntary sale or foreclosure of a

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mortgage lien shall not affect the assessment lien, but the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien to the extent of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. Any amendment must be recorded.



Section 4. Annexation. Additional land within the P. Whitty Survey, A-1458, and A. E. Langerman Survey, A-1196, H. T. & B. R. R. Co. Survey No. 3, A-1719, H. T. & B. R. R. Co. - Survey No. 5, A-422, the Harrison McLean Survey, A-529, and the John W. Asbury Survey, A-91, the Elijah Votaw Survey, A-823, in Harris County, Texas, said land being more particularly described in Exhibit "B" attached hereto, may be added or annexed to the Properties by Declarant, its successors or assigns, without the consent of members at any time or from time to time, within fifteen (15) years from the date of this instrument; however, Declarant shall not be obligated to add or annex such additional land. Such additional land which may be added or annexed may be subjected to land use restrictions different from those stated herein and shall become subject to an Annual Assessment, and shall have voting rights fixed by Declarant at the time of such addition or annexation, which Annual Assessment rate and voting rights for land added or annexed by Declarant with different use restrictions shall be separate and may be different from the rate provided for herein, provided that the assessment rate and voting rights set by Declarant shall be fair and equitable to all properties and members.

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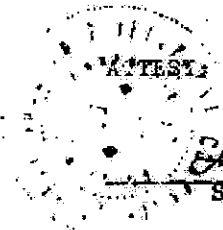
Should all or any part of the land described in Exhibit "B" be annexed into another association(s) providing the same or essentially the same services and benefits as the Association, then the Declarant's rights to annex such land to the Association shall cease.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 1st day of September, 1972.

FRIENDSWOOD DEVELOPMENT COMPANY  
Acting Herein for Itself and for  
KING RANCH, INC.  
Declarant

By J. C. Byrd  
J. C. BYRD, VICE PRESIDENT

O.K. all  
FORM 6  
O.K.  
TRANS 90

  
WITNESSE  
[Signature]  
SECRETARY

STATE OF TEXAS  
COUNTY OF HARRIS

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BEFORE ME, the undersigned authority, on this day personally appeared J. C. BYRD, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of FRIENDSWOOD DEVELOPMENT COMPANY, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of FRIENDSWOOD DEVELOPMENT COMPANY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 1<sup>st</sup>  
day of September, 1972.



Fern S. Gordon  
Notary Public in and for  
Harris County, Texas

FERN S. GORDON  
NOTARY PUBLIC IN AND FOR HARRIS COUNTY, TEXAS  
MY COMMISSION EXPIRES JUNE 1, 1973