

Waller City Clerk

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Debbie Hollan, County Clerk - Waller County, TX

**SECOND AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
EQUESTRIAN OAKS ESTATES**

This Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Equestrian Oaks Estates is made this day by the undersigned owners of the lots subject to said Declaration, in accordance with the procedures set forth therein.

WHEREAS, N. Robbie Smith and Annette W. Smith being owners and developers of Equestrian Oaks Estates, a subdivision of a certain 24.964 acre tract, more or less, in the Polly Perry League, Waller County, Texas according to a recorded plat of said subdivision, recorded certain deed restriction in the office of the County Clerk of Waller County, Texas entitled "Declaration of Covenants, Condition and Restriction Equestrian Oaks Estates" (the "original restriction") under Waller County Clerk's File Number 1002880 on June 3, 2010; and

WHEREAS, the original declaration contains a provision (section 8.6) which specifically provides for an amendment of Articles VI, VII and VIII (after January 1, 2012) by the association, acting through the Board of Directors; and

WHEREAS, the original declaration contains a provision (section 12.2) for other amendments to the declaration (after December 31, 2012) by the written agreement, by signed ballot, of sixty percent (60%) of the TOTAL ELIGIBLE VOTES of the Association as defined in Article III of the original declaration; and

WHEREAS, this Second Amendment is intended by the undersigned to constitute a "proper amendment to the declaration", once executed; and

WHEREAS, a requisite majority of owners of the lots in Equestrian Oaks Estates have agreed to amend the original declaration as more specifically described below. NOW, WHEREFORE, THE OWNERS OF THE LOTS, IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THE DECLARATION, HEREBY AGREE TO AMEND AND RESTATE THE DECLARATION AS FOLLOWS:

- 1. Article I, Section 1.14 is hereby added to read as follows:

1.14 "Construction Drawings" shall be defined as detailed construction drawings and shall not include basic floor plans that lack construction details, or artistic renderings of any kind not normally used in the building industry as a basis for construction. The Board of Directors is authorized to make the final determination on whether any construction drawings submitted are adequate and may reject drawings that the Board does not believe meet industry standards regarding detail or precision.

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2. Article II, Section 2.1 is hereby amended to read as follows:

2.1 The "Subdivision". The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Waller County, Texas and is more particularly described in the recorded plat for Equestrian Oaks, recorded in the real property records of Waller County under Clerk's File No.1002880, Volume 1210, page 410.

3. Article III, Section 3.7 is hereby amended to read as follows:

3.7 Architectural Control Committee. The Architectural Control Committee (ACC) shall operate under the provisions of Article V of this Declaration and shall be responsible for reviewing of all plans for any improvement or action within the Subdivision which is subject to this Declaration or the Governing Documents. The Committee shall also be responsible for monitoring compliance with all of the provisions of this Declaration and and may instigate any action necessary to bring about compliance. This responsibility and authority is delegated to the ACC by the Board of Directors, which shall have the final say over any decision of the ACC, unless otherwise provided in this Declaration.

4. Article III, Section 3.8 (g) is hereby amended to read as follows:

(g) Delegation. The Board shall have the right to delegate to committees, officers, employees, or agents any of its duties and powers under the Governing Documents except such powers which are non-delegable according to law. No such delegation, however, whether to a professional management company, the Architectural Control Committee, or otherwise, shall relieve the Association of its obligations to perform such delegated duty. The Board shall retain ultimate authority for approval or rejection of any proposals, submissions, or requests, unless otherwise expressly provided for in this Declaration.

5. Article III, Section 3.8 (h) is hereby amended to read as follows:

(h) Appeals. The Board shall hear appeals on decisions of the Architectural Control Committee according to the provisions of Section 5.6, and shall hold hearings on any proposed enforcement of the Governing Documents. The Board may, in its discretion, upon unanimous agreement of its members, decline to hear any appeal and allow a decision of the ACC to stand without a hearing if the members determine such an appeal would be a waste of time or resources and that no new or additional information is likely to be presented during the appeal process that might result in a different result than reached by the ACC.

6. Article III, Section 3.12 is hereby amended to read as follows:

3.12 Inspection Of Records. The Members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours upon at least 48 hours written notice to the Board, not counting weekends, and Members shall be entitled to make copies of documents pertaining to the business of the Association during or as part of such an inspection. Such records shall be made available to all Members and any other person or entity having a valid interest in the Properties upon the written request of such party,

but only after the aforementioned written notice has been provided. The Association shall have the right to charge reasonable fees for providing copies of said documents.

7. Article IV, Section 4.3 is hereby amended to read as follows:

4.3 Creation of Lien and Personal Obligation. In order to secure the payment of the Maintenance Charge, and other charges and assessments hereby levied, each Owner of a Tract in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Tract which may be foreclosed on by non-judicial foreclosure, pursuant to the provision of Section 51.002 of the Texas Property Code (and any successor statute); and each such owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of written instrument executed by the President or any Vice-President of the Association and filed for record in the Real Property Records of Waller County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power or sale hereby granted, the Association, or the Association's agent, shall give notice of foreclosure sale as provided by the Texas Property Code 88 then amended. Upon request by Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended, and shall convey such Tract to the highest bidder for cash by the General Warranty Deed.

Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of non-payment by any Owner of any Maintenance Charge or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten (10) days prior written notice thereof to such non-paying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 6.03 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property Code hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration filed in the Real Property

Records of Waller County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

8. Article V, Section 5.1 is hereby amended to read as follows:

5.1 Basic Control.

(a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced or changes made in the design or exterior appearance thereof (including, without limitation, painting, staining or siding), or any addition or exterior alteration made thereto after original construction or demolition or destruction by voluntary action made thereto after original constructed, on any Tract in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the Committee of the construction plans and specification for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument.

(b) Each application made to the Committee, shall be accompanied by two sets of detailed construction drawings, plans and specifications for all proposed construction (initial or alteration) to be done on such tract including plot plans showing location on the tract. Construction plans shall be defined as detailed construction drawings and shall not include basic floor plans that lack construction details, or artistic renderings of any kind not normally used in the building industry as a basis for construction. The Board of Directors is authorized to make the final determination on whether any construction drawings submitted are adequate and may reject drawings that the Board does not believe meet industry standards regarding detail or precision.

9. Article V, Section 5.2 (b) is hereby amended to read as follows:

(b) The Board shall select a committee of three (3) members to be known as the Equestrian Oaks Estates Architectural Control Committee. Two of the three Members of the Committee must be an Owner of property in Equestrian Oaks Estates. The Board, by majority vote, may, at any time, replace any one, more than one, or all members of the ACC. The Board's authority to replace ACC members is within its absolute discretion and need not be for cause or otherwise justified.

10. Article V, Section 5.5 is hereby amended to read as follows:

5.5 Variance. The Committee may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Committee, when circumstances such as topography, natural obstructions, Tract configuration, Tract size, hardship, aesthetic or environmental considerations require a variance. The Committee reserves the right to grant variances as to building set-back lines. Such variances must be evidenced in writing and shall become effective when signed by a majority of the members of the Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the

granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental law as and regulations affecting the property concerned and the Plat. All variances authorized by the ACC must be approved by the Board before such authorization shall have any force or effect, and the Board may withhold or deny such approval in its sole discretion.

11. Article V, Section 5.6 is hereby amended to read as follows:

5.6 Appeals. Any Member or other individual or entity directly affected by a decision of the Architectural Control Committee may appeal in writing to the Board of Directors of the Association, provided the written appeal shall be received by the Board not more than thirty (30) days following the final written decision of the ACC. The Board shall submit such appeal to the ACC for review, whose written recommendations will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written approval or disapproval of the ACC's decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant. The Board may, in its discretion, upon unanimous agreement of its members, decline to hear any appeal and allow a decision of the ACC to stand without a hearing if the members determine such an appeal would be a waste of time or resources and that no new or additional information is likely to be presented during the appeal process that might result in a different result than reached by the ACC. The issuance in writing by the Board's decision shall be deemed effectively immediately upon receipt of any written notice.

12. Article VI, Section 6.4 is hereby amended to read as follows:

6.4 Signs. NO sign of any kind shall be displayed to the public view on any Lot or Common Areas, except Builders may display one (1) sign of not more than sixteen (16) square feet on a Lot to advertise the Lot and the residential structure situated thereon for sale during the sale and/or construction. Any owner or owner's representative may display one sign of not more than nine (9) square feet on a Lot to advertise the sale of the Lot. Also reasonable accommodation will be made for realtors to gain access to the subdivision for purposes of showing the property. The Association may display such signs as it may deem necessary for the efficient use of the Common Areas or beneficial for the Members. Declarant or Equestrian Oaks Estates Community Association specifically is granted the right to enter on any property to remove signs not permitted by these Covenants.

13. Article VI, Section 6.6 is hereby amended to read as follows:

6.6 Removal Of Dirt. The digging, addition, or removal of dirt from any Lot or from any portion of the Common Areas is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon, and subject to the Approval of the Architectural Control Committee. These restrictions notwithstanding, small holes dug by a homeowner on the owner's property for routine purposes do not require ACC approval.

14. Article VI, Section 6.7 is hereby amended to read as follows:

6.7 Cutting Of Trees. No Owner or his representative shall upon any lot cut any live timber or trees larger than four (4) inches in diameter in the trunk as measured forty-eight (48) inches from the ground, except for clearing fence lines or on that portion of said Lot which comprises the actual building site where improvements are going to be erected, together with a driveway leading to such building site.

15. Article VI, Section 6.10 is hereby amended to read as follows:

6.10 Antennas And Satellite Dishes. Any antenna, satellite dishes or appurtenant structure shall be located behind the ridge line of the residence or in the backyard and shielded from view. Any antenna which will be more than ten (10) feet taller than the ridge line of the residence and visible from any street must be approved by the Architectural Control Committee.

16. Article VI, Section 6.15 is hereby amended to read as follows:

6.15 Certificate of Occupancy. No Lot shall be used for residential purposes in any manner; either initially, or subsequent to resale or leasing at the option of the ACC, until an inspection of the Lot has been made by the Architectural Control Committee to ascertain that all improvements of the main residence, garage, driveways, culvert crossings, lighting, or other construction shall be completed and that the condition of the Lot is in compliance with the provisions of the Governing Documents. Said inspection by the ACC shall take place within seven (7) days of the receipt of written notice of completion of construction and/or such other information as is required for the issuance of a Certificate of Occupancy. Within seven (7) days of the inspection, the ACC shall:

- a) In the case of a satisfactory inspection; issue a Certificate of Occupancy, or
- b) In the case of unsatisfactory inspection; issue by Notice to the Owner, a statement of the deficiencies which prevent the issuance of a Certificate of Occupancy.

No warranty of the fitness of workmanship or materials, and no waiver of the Association's rights to enforce provisions of the Governing Documents shall be implied by the issuance of said Certificate of Occupancy.

17. Article VI, Section 6.17 is hereby DELETED IN ITS ENTIRETY.

18. Article VII, Section 7.11 is hereby amended to read as follows:

7.11 Gas and Propane. There is no natural gas service in the Subdivision. Propane tanks are permitted provided that such propane tank is buried below ground and not visible from adjoining property or public or private streets.

19. Article VII, Section 7.13 is hereby amended to read as follows:

7.13 Mailbox. The association will provide a rural mailbox that conforms to the U. S. Postal Service requirements and shall be constructed, maintained and located according to the plans and specifications as required by the ACC. Mailbox stanchion must be constructed of brick or stone. Each lot owner will be responsible for initial construction, repair, an annual maintenance as necessary by means of a special assessment if the board determines there are insufficient funds in reserve. No mailboxes will be constructed inside the community gate.

20. Article VII, Section 7.14 is hereby amended to read as follows:

7.14 Address Numerals. All address numbers, as assigned by CenterPoint Energy or such other authorized agency, shall be prominently displayed in a decorative manner along the front property line on the street of the address. Each address display shall be constructed and installed in accordance with plans and specifications designated by the Architectural Control Committee or lot owner's plans provided that they are approved by the Architectural Control Committee. In general the address display must be constructed of brick or stone. All numerals will be of standard size and shall be located so that the lighting required in Section 7.15 shall make the address readily visible at night.

21. Article VIII, Section 8.1 is hereby amended to read as follows:

8.1 General. All buildings or structures within the Subdivision shall meet the following requirements except as otherwise modified by this Declaration or the Architectural Control Committee.

(a) New Construction. All buildings or structures placed upon any Lot in the Subdivision shall be constructed of all new materials excepting for used brick or other decorative accessories that are commonly used in the construction of new residences. All exterior material other than those which are not commonly decorated or painted shall be stained or painted with at least two (2) coats of paint. The approval of all materials and appearances is at the sole discretion of the Architectural Control Committee.

(b) Roofing. All roofs shall be constructed of (1) "top of the line", two hundred forty (240) pound (or equivalent) heavyweight, accented shadow line composition roof in an earthen tone color (2) tile or (3) approved metal roof materials. In no case shall lightweight or flat composition shingles be allowed on any structure. The approval of all materials and appearances is at the sole discretion of the Architectural Control Committee.

(c) Masonry/Stone. The front of each residential structure shall be constructed with at least 65% masonry and/or stone. The approval of all materials and appearances is at the sole discretion of the Architectural Control Committee.

(d) Construction Standard. In order to insure value and quality in the Development, the Architectural Control Committee may adopt a Minimum Building or Construction Standards Code. Prior to developing plans and specifications, each lot owner should get a copy of said Code, if adopted. Inspections during construction may be required in order to facilitate compliance. Changes to said building code must be

approved by the Board prior to being adopted. Any construction plans approved by a professional engineer/architect that meet the requirements of the International Residential Code for One- and Two family Dwellings (IRC) shall automatically meet the requirements of this construction standard. Other building codes used in lieu of the IRC will be approved on a case by case basis at the sole discretion of the ACC. This requirement may be waived at the discretion of the ACC for minor structures including but not limited to decks, barns, well houses, fences and culverts.

22. Article VIII, Section 8.2 is hereby amended to read as follows:

8.2 Garages. All residences must have an enclosed garage, architecturally similar to the residence. The garage must be at least a two car garage and a concrete parking pad the same width as the garage and a minimum of twenty (20) feet in depth shall be constructed immediately in front of the garage. This paragraph shall not prohibit the construction or use of carports or porticos in addition to the garage which are architecturally similar or complimentary to the residence. All garages must be side loading or rear loading. Garage doors may not face the street unless predominantly obstructed from view. They must be at an angle of at least 45° from the street. No garage shall be permitted to be enclosed for living or used for purposes other than storage of automobiles and other Common uses, unless another approved garage is built, and all garage doors shall be kept closed when not in specific use. This does not preclude the use of "bonus rooms" above the garage being used for normal living purposes.

23. Article IX, Section 9.2 (b) is hereby amended to read as follows:

(b) Upon finding by the Board of a deficiency in such maintenance or installation, the Board shall provide a written notice of deficiency to the Owner by USPS certified mail, or a private delivery service with receipted proof of delivery, which shall briefly describe the deficiency and set a date for hearing before the Board or a committee selected by the Board for such purpose. The Board may delegate its powers under this section to a duly appointed committee of the Association.

24. Article XII, Section 12.6 is hereby amended to read as follows:

12.6 The imposition of a special charge not to exceed Fifty Dollars (\$50.00) per violation, or

(a) The suspension of Owner's rights to use any Association property for a period not to exceed sixty (60) days per violation,

(b) The suspension of Owner's voting rights and his rights to default on any assessment against his Lot or person, or

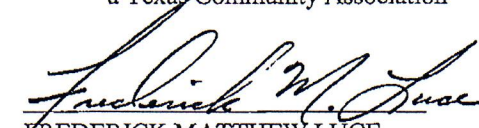
(c) The right to cure or abate such violation and to charge the expense thereof, if any, to such Owner, or

(d) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to attorney's fees and court costs.

Before the Board may invoke the remedies provided above, it shall provide written notice of such alleged violation to Owner, by USPS certified mail, or a private delivery service with receipted proof of delivery, and shall afford the Owner a hearing according to the provisions of Section 9.2. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation.

Except as set forth above, the above-described described Declaration of Covenants, Conditions and Restrictions for Equestrian Oaks Estates, including any amendments accomplished prior to this instrument, shall remain in full force and effect as written. END OF DOCUMENT WITNESSED AND EXECUTED THIS 18TH DAY OF JULY, 2018.

EQUESTRIAN OAKS ESTATES COMMUNITY ASSOCIATION
a Texas Community Association

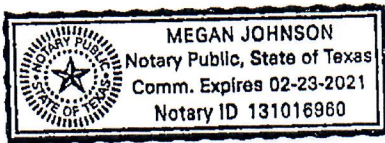

FREDERICK MATTHEW LUCE
President

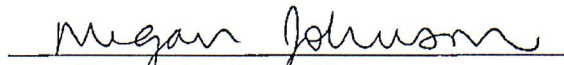
THE STATE OF TEXAS §

COUNTY OF WALLER §

Before me, a Notary Public, on this day personally appeared FREDERICK MATTHEW LUCE, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 18th day of July, 2018 _____




Notary Public, State of Texas

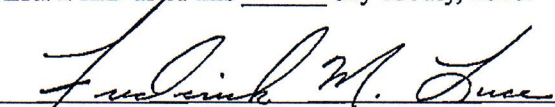
CERTIFICATION VERIFYING SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EQUESTRIAN OAKS ESTATES

The undersigned Board of Directors for the Equestrian Oaks Estates Community Association (the "Association"), in accordance with the Declaration of Covenants, Conditions and Restrictions for Equestrian Oaks Estates, recorded Vol. 1210, Page 410 of the Official Records of Waller County, Texas, as amended previously (the "Declaration") hereby certifies the following:

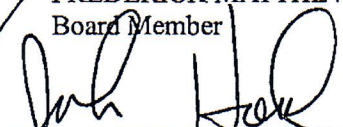
1. The attached Amendments apply to the Declaration covering the real property described in the FINAL PLAT OF EQUESTRIAN OAKS ESTATES , a subdivision in Waller County, Texas, Vol. 1125, Page 84, of the Official Records of Waller County, Texas, as incorporated by reference in the aforementioned Declaration, said real property consisting of 24.964 acres situated in the Polly Perry Survey, Abstract No. A-236, comprising 7 residential Tract Lots in One Block containing 22.910 acres, one (1) Roadway containing 1.758 acres, and one (1) Waller County Future Roadway Dedication containing 0.296 acres (the "Subdivision") and such additions thereto as may hereafter be made is and are and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens as may be or as have been set forth in accordance with the Declaration, including any that may be set forth in accordance with the attached amendments.

2. The ownership records of Equestrian Oaks Estates confirms there are currently seven (7) owners of lots. The attached Amendment of the Declaration of Covenants, Condition and Restriction Equestrian Oaks Estates has been approved by the requisite number of owners of lots in Equestrian Oaks Estates in accordance with the procedures for amending the Declaration as set forth in Article 12.2 therein, the number of owners approving constituting more than a 60% majority of the lot owners of Equestrian Oaks Estates. These Amendments were approved and adopted by a vote of the owners on the 20th day of May, 2018.

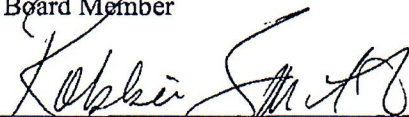
CERTIFIED as of this _____ day of July, 2018:



FREDERICK MATTHEW LUCE
Board Member



JOHN HOWARD
Board Member



ROBBIE SMITH
Board Member

THE STATE OF TEXAS §

COUNTY OF WALLER §

Before me, a Notary Public, on this day personally appeared **FREDERICK MATTHEW LUCE**, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

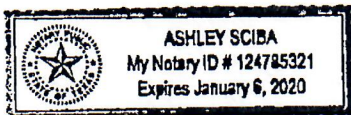
Given under my hand and seal of office this 18th day of July, 2018.

Ashley Sciba

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF WALLER §



Before me, a Notary Public, on this day personally appeared **JOHN HOWARD**, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

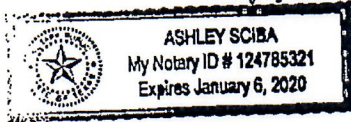
Given under my hand and seal of office this 18th day of July, 2018.

Ashley Sciba

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF WALLER §

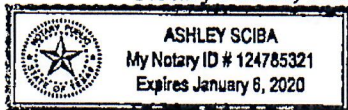


Before me, a Notary Public, on this day personally appeared **ROBBIE SMITH**, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 18th day of July, 2018.

Ashley Sciba

Notary Public, State of Texas



FILED AND RECORDED

Instrument Number: 1805848

Filing and Recording Date: 07/24/2018 12:23:38 PM Pages: 12 Recording Fee: \$56.00

I hereby certify that this instrument was FILED on the date and time stamped hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS of Waller County,



Debbie Hollan

Debbie Hollan, County Clerk
Waller County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

Donna Sheridan, Deputy

Returned To:
EQUESTRIAN OAKS ESTATES