

HC 9620475 B pgs

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**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR LOST SPRINGS RANCH SECTION II**

**STATE OF TEXAS**

**COUNTY OF HAYS,**

**KNOW BY ALL MEN THESE PRESENTS**

That Deguello Investments, Inc. is the owner of all certain tract of land platted and described as Lost Springs Ranch, an addition to the county of Hays (county), Texas, according to the plat thereof (plat) recorded in Book, 7 pages 287-288 of the Plat records of Hays County, Texas.

Declarant has subdivided the property into tracts containing certain acreage (more or less) as shown on the plat.

Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of establishing a general scheme for the development of all of the tracts in the Addition and for the purpose of enhancing and protecting the value, attractiveness and desirability of said tracts and which shall run with the land and be binding on all parties having or acquiring any right, title or interest in the property, and which shall inure to the benefit of each owner.

**ARTICLE I  
CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS**

**Section 1.1- Residential Use:** All tracts shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any tract other than; one (1) single-family residence per tract, which residence may not exceed two (2) stories in height, one single story guest house and a garage as provided below. No garage, shack or temporary building shall be constructed on any tract as living quarters thereon. A single guest house may be constructed thereon provided it is built in conjunction with or after the main dwelling unit to which it is appurtenant and provided that the total living area of such guest house exclusive of open porches, garages, patios, or accessory building(s) is not less than 600 sq. ft.

**Section 1.2-Mobile Home Use:** No mobile or modular homes shall be permitted at any time, temporary or permanent.

**Section 1.3-Restrictions on Resubdivision:** There shall be no resubdivision of any tract without approval of Declarant or its successors or assigns.

**Section 1.4-General Uses and Prohibitions:**

(a) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Addition at any time.

(b) No vehicles or other equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, and pick-up trucks that are in operating condition and have current licenses plates and inspection stickers and are in use on the streets and highways of the State of Texas. Other vehicles or equipment not meeting these operating, or other conditions as described above must be parked in an approved garage or barn. The Declarant or Committee shall have the right to have any such vehicle or equipment in violation removed at owner's expense.

(c) No structure of a temporary character, such as a camper trailer, barn or other out-building shall be used on any property at any time as a dwelling except during construction for up to six (6) months provided an

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approved septic system has been installed. The entire exterior of all main dwellings constructed on tracts, must be completed within six (6) months after the commencement of work thereon or the placing of materials on such property, whichever occurs the earliest. There shall be no delivery or accumulation of building materials on any tract until approval of the design and site plan has been obtained from the Declarant or the Committee.

(d) Security lights shall be motion sensor only and shall be mounted no higher than fifteen (15) feet from the ground floor elevation of the house. Additionally, there shall be as standard; a cover or shield to prevent the upward flow of light.

(e) There shall be no towers, satellite dishes or antennae of any type rising more than twenty (20) feet above ground floor elevation of the house. Satellite dishes shall be located at the least visible, but still practical location from the street. Location of the site shall be approved by Declarant or the Committee. All utility lines shall be located underground on all tracts and within the Addition..

(f) There shall be no permanent camps allowed; i.e. RVs and campers shall be stored in a garage or barn when not in use or stored at another location other than within the Addition. The Declarant or the Committee shall have the right to have any RV or camper in violation towed at owner's expense.

(g) There shall be no individual wells drilled on any tract without written approval from Declarant or declarant's assignees in the purpose and intent hereof to protect the flow of the springs within the Addition.

(h) Household pets must be restrained or confined within the homeowner's tract, inside a fenced area or within the house. All animals must be properly vaccinated and tagged for identification. No hogs or swine of any kind are permitted within the Addition. Other livestock is permitted provided that there is no more than one (1) head per two and a half acres. In no event shall overgrazing be permitted. Any livestock pens shall be constructed in a professional manner and maintained so as not to become noxious and offensive to others within the Addition. No commercial breeding of any kind is permitted. Poultry or fowl shall be limited to five (5) per acre, no roosters shall be allowed at any time. Barns and pens must be constructed with new materials and with on-site location approved by the Committee. Dogs will not be allowed to roam loose. No more than two dogs per tract.

(i) No tract or other area in the Addition shall be used as a dumping ground for rubbish or as a site for the accumulation of unsightly materials of any kind, including, but not limited to, broken or rusty equipment, disassembled or inoperative cars or other vehicles, equipment, discarded appliances and furniture. Trash, garbage or other waste shall be kept in sanitary containers. All equipment for the storage and disposal of excess materials incident to construction may be stored on tracts during construction so long as construction progresses without delay.

(j) No tract or improvement on any tract shall be used for business, professional, commercial or manufacturing purposes of any kind. No noxious or offensive activity shall be undertaken within the Addition, nor shall anything be done which is or may become an annoyance or nuisance in the neighborhood. Nothing in this sub-paragraph shall prohibit an owner's use of a residence for quiet, inoffensive activities, so long as such activities are in compliance with all governmental and zoning requirements and does not interfere with adjoining homeowners' use and enjoyment of their residences and yards.

(k) No sign of any kind shall be displayed to the public view on any tract except one (1) sign of not more than 18 " x 24 ", advertising the property for sale or rent. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

(l) No hunting or discharge of firearms or weapons of any type is allowed within the Addition.. Owners shall be responsible for the actions of any tenants.

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**Section 1.5-Minimum Floor Area:** The total living area of the main residential structure, as measured to the outside of exterior wall but exclusive of open porches, garages, patios and detached accessory buildings, shall not be less than 1800 sq. ft. unless approved by the Declarant of the Association Representative Committee.

**Section 1.6-Side Line and Front Line Setback Restrictions:** Any dwelling shall have a minimum setback line of fifty (50) feet for sides and rear and one-hundred (100) feet from the front, except where designated by Declarant. Tract 40 shall be allowed at 25 foot setback from west boundary. Tracts 41, and 45 through 54 shall be allowed a 25' foot setback from side lines. Declarant or Committee may specify a building site which may be subject to greater or lesser setbacks as will be designated on the building site plan. Declarant or Committee shall have sole discretion with respect to building site location.

**Section 1.7-Fences and Walls:** Any fence of wall must be constructed of generally accepted standard fencing materials and completed in a professional manner. No barbed wire or chain link fences shall be allowed.

**Section 1.8-Carports and Garages:** All carports and garages will be of the same general construction as the main dwelling, and located on the tract, per the Committee approved building and site plan.

**Section 1.9-Septic Tanks:** Any and all tracts having a dwelling in accordance with these restrictions shall at all times have a septic system approved by state and county regulatory authorities and shall be in sound working condition and order at all times and in compliance with all applicable state and county regulations and requirements.

## ARTICLE II PROPERTY ASSOCIATION

**Section 2.1-Appointment:** Within one (1) year from the recording of these covenants, Declarant or his assignee shall designate and appoint an Association Representative Committee (herein called the "Committee") composed of three (3) property owners of the Addition of which the Declarant or his assignee is one and shall remain as long as Declarant or assignee is an owner of any tract in the Addition. Each person on the Committee shall be generally familiar with the residential and community development, design matters and knowledgeable about Declarant's concern for a high level of taste and design standards within the Addition.

**Section 2.2-Compensation:** No member of the committee shall be entitled to compensation for, or be liable for claims, causes or action or damages arising out of, services performed pursuant to this Declaration.

**Section 2.3-Authority:** No dwelling or any other structure shall be commenced, until a house and site plan shall have been approved in writing by a majority of the members of the Committee. The plan will show:

- (a) location of the main dwelling and any other structure relative to any easements, setback lines, drainage facilities, and septic systems;
- (b) quality of workmanship and materials, adequacy of structural design, proper facing and elevation of main dwelling and any other structure(s) with respect to roadway;
- (c) conformity and harmony of the external design;

The Committee is authorized and empowered to consider and review any and all aspects of construction which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more tract owners or the general value of tracts in the Addition. In considering the harmony of external design between existing structures and the proposed building being erected, placed or altered, the Committee shall consider only the general appearance of the proposed building as that can be determined from front, rear and side elevations on submitted plans.

**Section 2.4-Procedure for Approval:** Two copies of the final plans and specifications shall be submitted to the Committee and shall be signed and dated as received by a member of the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of improvements. The documents shall specify any requested variance from the setback lines or any other requirements set forth in this Declaration. At such time as the plans and specifications meet the approval of the Declarant or the Committee, the plans shall be marked " Approved", signed by the Declarant or a majority of the Committee and returned to the lot owner or his/her designated representative. If disapproved by the Declarant or the Committee, a statement of the reason for disapproval shall be returned in writing within thirty (30) days. If the Declarant or the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, written approval of the matters submitted shall be deemed to have been completed.

**Section 2.5-Standards:** The Committee shall have the sole discretion with respect to design and site locations. One objective of the Committee is to prevent radical, odd, curious, bizarre or peculiar structures from being built in the Addition. The Committee may from time to time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration.

**Section 2.6-Continuation:** Upon expiration of two (2) years from subdivision approval, the Association acting by the affirmative vote of two-thirds (2/3) of the members present and voting at a meeting of the members of the Association called for such purpose, shall have the authority to select a Committee to continue the functions of the original Committee to serve on an annual basis.

**Section 2.7-Liability of Committee:** The members of the Committee shall have no liability for decisions made by the Committee so long as such decisions are made in good faith and not arbitrary or capricious.

**Section 2.8-Interim Committee:** Declarant shall function as " the Committee" until such time as a Committee has been formed.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

**Section 3.1-Membership:** Every owner of a tract shall be a member of the proposed Lost Springs Ranch Homeowners Association, A Texas Non-profit Corporation, and its successors and assigns (" The Association"). Membership shall be appurtenant to and shall not be separated from ownership of any tract which is part of the Addition. Every member shall have the right at all times during business hours to inspect the books of the Association.

**Section 3.2-Voting Rights:** Tract owners shall be entitled to (1) vote for each tract owned, provided that association dues are current. In no event shall more than one (1) vote be cast with respect to any one tract, however an owner of multiple tracts shall have one (1) vote per tract as long as dues have been paid on additional tracts.

**Section 3.3-Bylaws:** The Association may make whatever rules and bylaws it deems desirable to govern the Association and its members, provided however, any conflict between the Bylaws and the provisions of this Declaration shall be controlled by the provisions of this Declaration.

### ARTICLE IV ASSESSMENTS

**Section 4.1-Creation of the Lien and Personal Obligation of Assessments:** The Declarant or assignee, for each tract in the Addition, and each owner by acceptance of a deed to a tract, is deemed to covenant and agree to pay to Association the following: (a) Annual assessments or charges, and (b) special assessments,

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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, cost and reasonable attorney's fees, shall be the personal obligation of the person who was the owner of such property at the time when the assessment came due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 4.2-Annual Assessments:** Each tract is hereby subjected to an annual maintenance charge and assessment of four hundred dollars (\$400.00) per annum, for the purpose of creating a fund to be designated and known as the "Operating Fund", which maintenance charge and assessment will be paid by the owner or owners of each tract to the Association in advance annually. The assessment for each tract shall be uniform. 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 tract have been paid. The annual assessment may be adjusted as needed by a vote of the Association members by a vote as described in Section 4.4 below.

**Section 4.3-Purposes:** The Association shall use the proceeds of the Operating Fund for the use and benefit of all residents. Such uses and benefits to be provided by the Association may include, by way of example and not limitation, any and all of the following: Maintaining roadways, property owners park (s), signs in or adjoining any rights of way, payment of all legal charges and expenses incurred in connection with the enforcement of covenants and restrictions. Payment of all reasonable and necessary expenses in connection with the administration of the Association. It being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

**Section 4.4-Special Assessments:** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of enforcing the deed restrictions in the event of a breach or violation, or other unexpected expenditure, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members and proxies entitled to cast sixty percent (60%) of all the votes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding.

**Section 4.5-Effect of Nonpayment of Assessments and Remedies of the Association:** Any assessment that is not paid within thirty (30) days after the due date shall bear interest from the due date at a rate that does not exceed the maximum of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. The Association may bring an action at law against the owner personally obligated to pay the same and may foreclose the lien against the tract. No owner shall waive or otherwise escape liability for the assessment provided for herein by abandonment of his tract.

**Section 4.6-Subordinated Lien to Secure Payment:** The lien for the assessments provided for herein shall be subordinate to the liens of any valid mortgage or deed of trust. Sale or transfer of any tract shall not affect the assessment lien. No sale or transfer shall relieve such tract from liability and liens for any assessments thereafter becoming due.

**Section 4.7- Duration:** The above maintenance charge and assessment will remain effective for the full term of this Declaration.

## ARTICLE V GENERAL PROVISIONS



**Section 5.1-Easement:** Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the plat and over the rear five (5) feet of each tract. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. Declarant or assignee reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements, utilities, and drainage facilities.

**Section 5.2-Recorded Plat:** All dedications, limitations, restrictions, and reservations shown on the Plat are incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by Declarant or assignee, conveying tracts in the Addition, whether specifically referred to therein or not. Trails and easements shown on the plat shall not be fenced or encumbered in any way. The parks and road easements shall be dedicated to the Lost Springs Home Owners Association upon its formation. Motorized vehicles are prohibited within the parks, or on trails and easements except for those areas designated for parking.

**Section 5.3-Maintenance and Improvements:** Subject to the provisions of Article III, each tract owner shall maintain the exterior of all buildings, fences, walls and other improvements on his/her tract in good condition and repair, and shall replace worn and rotten parts, and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior portions of the improvements to deteriorate in an unattractive or unsafe manner.

**Section 5.4-Mortgages:** It is expressly provided that the breach of any of these declarations, restrictions, and conditions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but said declarations, restrictions, and conditions shall be binding thereto as to tracts acquired by foreclosure, trustee's sale or otherwise, as to any breach occurring or continuing after such acquisition of title.

**Section 5.5-Term:** The forgoing covenants and restrictions shall run with and bind the land and shall remain in full force and effect for a term of thirty (30) years after this Declaration is recorded. They shall be automatically extended for successive periods of ten (10) years unless amended as provided herein.

**Section 5.6-Severability:** If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, or restriction, each of which shall remain in full force and effect.

**Section 5.7-Binding Effect:** Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Addition, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the owner of any land except land in the Addition. This Declaration, when executed, shall be filed of record in the deed records of the County so that each and every owner or purchaser of any portion of the Addition is on notice of the conditions, covenants, restrictions and agreements herein contained.

**Section 5.8-Enforcement:** The owner of any tract in the Addition shall have the right to have each and all of the foregoing restrictions, conditions and covenants herein faithfully carried out and performed with reference to each and every tract in the Addition, together with the right to bring suit or undertake any legal process, or to employ any alternative dispute resolution method specified by a court of competent jurisdiction that may be proper to enforce the performance thereof, the right and easement to have such restrictions, conditions and covenants strictly complied with, such right to exist with the owner of each tract and to apply to all other tracts in the Addition whether owned by the undersigned, its successors and assigns to others. Failure by any owner, including Declarant, to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to so thereafter.

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Section 5.9-Definition of "Owner": As used herein, the term "owner" shall refer to the record owner, whether one or more persons or entities (including contract sellers), or the fee simple title to a tract on which there is or will be built a single-family residence, but not including those having an interest merely as security for the performance of an obligation.

Section 5.10-Other Authorities: If other authorities or governmental agencies such as any federal, state, county, or city, should impose more demanding, expansive, or restrictive requirements than those set forth herein, the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish requirements herein.

Section 5.11-Amendment: At any time, the owners of the legal title to sixty-six percent (66%) of the tracts within the Addition (as shown by the County records) may amend the covenants, conditions and restrictions set forth herein by recording an instrument containing such amendments(s) except that, for the five (5) years following the recording of this Declaration, no such amendment shall be valid or effective without the joinder of Declarant or Assignee.

DEGUELLO INVESTMENTS, INC.; A Texas Corporation

By: Michael C. Ashley  
Michael C. Ashley, Vice President

Executed this 23rd day of December, 1996

By: Michael C. Ashley  
Michael C. Ashley, Vice President

DEGUELLO INVESTMENTS, INC.; A Texas Corporation

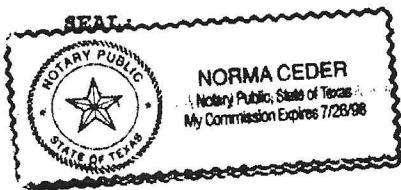
STATE OF TEXAS;

COUNTY OF TRAVIS

KNOWN BY ALL MEN THESE PRESENTS:

That on this 23 day of December in the year of 1996, personally appeared Michael C. Ashley, personally known to me to be the person who executed the within instrument as Vice President, on behalf of the Corporation therein named and acknowledged to me that the Corporation executed it.

By:



Signature: Norma Ceder  
NOTARY PUBLIC; STATE OF TEXAS

Printed Name: NORMA CEDER

Commission Expires: 7/26/98

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Margie T Villalpando* 1701 E Ventura

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*Austin 78748*

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MARGIE T VILLALPANDO, County Clerk  
HAYS COUNTY

