

Hays County  
Liz Q. Gonzalez  
County Clerk  
San Marcos, Texas 78666



70 2011 11029626

Instrument Number: 2011-11029626

As

Recorded On: December 21, 2011

OPR RECORDINGS

Parties: WIMBERLEY SPRINGS PARTNERS LTD

To

Billable Pages: 14

Number of Pages: 15

Comment:

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

OPR RECORDINGS	68.00
Total Recording:	68.00

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

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**Record and Return To:**

WINTON  
31 WEST VALLEY SPRING  
WIMBERLEY TX 78676



State of Texas |  
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

*Liz Q. Gonzalez*  
Liz Q Gonzalez, County CLerk

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR WIMBERLEY SPRINGS  
(ANNEXATION OF WIMBERLEY SPRINGS NEIGHBORHOOD 22  
FORMERLY WOODCREEK, SECTION 22)**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "**Supplemental Declaration**") is made this 21<sup>st</sup> day of December 2011, by Wimberley Springs Partners, Ltd., a Texas limited partnership (the "**Declarant**").

**Recitals**

A. On December 21, 2006, Declarant filed that certain Declaration of Covenants, Conditions and Restrictions for Wimberley Springs recorded as Document No. 06038534 in Volume 3076, Page 41 of the Official Public Records of Hays County (the "**Declaration**");

B. Declarant desires to subject the real property described in **Exhibit "A"**, which is attached hereto and incorporated herein by this reference (the "**Additional Property**") to the Declaration pursuant to Article IX, Section 9.1 of the Declaration.

C. The Additional Property was formerly known as Woodcreek, Section Twenty Two (22) and was subject to deed restrictions dated July 6, 1977 and recorded in Volume 298, Page 71 of the Deed Records of Hays County, Texas, and as amended by the restrictions recorded in Document No. 80028405, Volume 3487, Page 708 of the Official Public Records of Hays County, Texas (as amended, the "**Original Restrictions**").

D. Article IX of the Original Restrictions provides that the Original Restrictions may be amended immediately at any time on a vote of the owners of two-thirds of the lots in Woodcreek, Section 22 following a recommendation by the Architectural Control Authority of Section 22. Article II, Section 2.b of the Original Restrictions provides that each lot owner will be entitled to one vote for each whole lot owned by that owner.

E. Pursuant to the terms of Article II, Section 2 of the Original Restrictions, the authority of the Architectural Control Authority has vested in the Woodcreek Property Owners Association. By agreement dated December 11, 2008, the Woodcreek Property Owners Association agreed to approve the Declaration and this Supplemental Declaration for Section 22.

F. The owners of at least two-thirds of the lots in the Additional Property, after a recommendation by the Woodcreek Property Owners Association as the Architectural Control Authority of Section 22, desire to amend the Original Restrictions in Accordance with Article IX of the Original Restrictions and to have the amendments take effect on the recording of this Supplemental Declaration.

G. By a vote conducted on November 21, 2011, the owners of two-thirds of the lots in the Additional Property, following a recommendation by the Woodcreek Property Owners Association as the Architectural Control Authority of Section 22, voted to amend the Original

Restrictions by restating the Original Restrictions in their entirety with the Declaration and this Supplemental Declaration.

H. Pursuant to Article IX of the Original Restrictions, the provisions of the Declaration and this Supplemental Declaration will apply to the Additional Property on and after the date of the recording of this Supplemental Declaration (the "**Recording Date**"). Following the Recording Date, the Original Restrictions shall no longer apply to the Additional Property.

I. RDMS Family Partners, Ltd. ("**RDMS**") was the prior Developer of the Additional Property. By Assignment dated April 23, 2001, RDMS assigned its rights as developer under the Original Restrictions to Wimberley Quicksand Partners, Ltd. By instrument filed with the Texas Secretary of State on October 12, 2005, Wimberley Quicksand Partners, Ltd. changed its name to Wimberley Springs Partners, Ltd, which is the Declarant. Declarant has recommended the adoption of this Supplemental Declaration as an amendment to the Original Restrictions.

J. This Supplemental Declaration has been duly approved as an amendment to the Original Restrictions.

### **Declaration**

NOW THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby subjects the Additional Property to the provisions of the Declaration, and adds the Additional Property to the Properties subject to the Declaration. The Additional Property shall be forever held, transferred, used, owned, conveyed, occupied and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, both of which shall run with the title to such property and shall be binding upon all persons having any right, title or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title and assigns. The provisions of this Supplemental Declaration shall be binding upon the Wimberley Springs Community Association, Inc., in accordance with the terms of the Declaration.

#### **Article I. Definitions**

The definitions provided in Article II of the Declaration are incorporated herein by reference.

#### **Article II. Withdrawal of Property**

The Declarant reserves the right to amend this Supplemental Declaration unilaterally at any time as long as it has the right to annex additional property to the Declaration pursuant to Article IX thereof, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Additional Property of the Properties then owned by the Declarant, its affiliates or the Association from the coverage of the Supplemental Declaration and the Declaration, to the extent originally included in error or as a result of any changes in the

Declarant's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

**Article III. Private Water Systems; Maintenance of Service Lines**

The construction of any private water system on any lot of the Additional Property is prohibited without the prior written approval of Declarant and Aqua Utilities, Inc., d/b/a Aqua Texas, Inc. The foregoing prohibition does not apply to a rain water catchment system serving the same property on which the rain water is collected. The lot owner of each lot in the Additional Property is responsible for the maintenance, repair and replacement of any utility lines on such lot running from a house, dwelling unit, improvement or other structure to the curb box.

**Article IV. Relation to Original Restrictions**

This Supplemental Declaration and the Declaration are hereby substituted in lieu of the Original Restrictions. Articles III, IV and V of the Original Restrictions continue to affect the Properties without interruption and are restated in their entirety in **Exhibit "B"** attached hereto, subject to minor modifications to reflect different terminology. It is the intent of the Declarant and the property owners subject to the Original Restrictions that this Supplemental Declaration and the Declaration be construed as an amendment to the Original Restrictions and be afforded the same priority of recordation as the Original Restrictions. This Supplemental Declaration shall be afforded the same priority of recordation as the Original Restrictions with respect to all lots (whether or not owned by Declarant), streets, alleys, roads, parks, easements, or other properties contained within the Additional Property and all owners of any property interests therein. All persons seeking to enforce this Supplemental Declaration and the Declarations with respect to the Additional Property, including the Wimberley Springs Community Association, succeed to and benefit from the priority of recordation established by the Original Restrictions. By voting to approve the filing of this Declaration, the owners of lots subject to the Original Restrictions have, by their affirmative vote, acknowledged and agreed that all procedural requirements to amend the Original Restrictions have been satisfied and completed and all actions by the Declarant and the owners of lots in connection with such amendment are hereby ratified, confirmed and approved. Declarant succeeds to and hereby reserves all rights, title and interest reserved to the Developer under the Original Restrictions.

**Article V. Streets and Roads**

Declarant is the owner of the streets and roads contained in the Additional Properties and reserves the exclusive right, power and authority to (a) convey or dedicate all or some of the streets and roads to a governmental entity or the Association, (b) convey or dedicate easements in, on or under the streets and roads, and (c) re-plat, reconfigure, modify, vacate or abandon the streets and roads, subject to the existing recorded plat thereof and the approval of applicable governmental entities.

## **Article VI. Supplemental Use Restrictions**

The Additional Properties are hereby made subject to the Supplemental Use Restrictions attached hereto as **Exhibit "B"**, which shall be applicable to all use of the Additional Properties, in accordance with and subject to the Declaration. The Supplemental Use Restrictions are additional Use Restrictions under the Declaration, but shall be applicable to the Additional Property only. All improvements existing on the date of this Supplemental Declaration in conformity with the Original Restrictions shall be deemed in conformity with the Use Restrictions of the Declaration and this Supplemental Declaration. In the event of a conflict between the Supplemental Use Restrictions and the Use Restrictions in the Declaration, the Supplemental Use Restrictions shall control.

## **Article VII. Assessments**

The Association may not impose Base Assessments on Lots within the Additional Property until January 1, 2012. Any assessments due from Lots within Additional Property under the Original Restrictions or other applicable agreement for the period of time prior to January 1, 2012 shall continue to be due without modification by this instrument. No assessments will be due from Lots within the Additional Property in relation to the Original Restrictions for any period of time after January 1, 2012. After January 1, 2012, the Declaration shall solely govern assessments imposed on Lots within the Additional Property.

## **Article VIII. Special Restrictions for Grandfathered Lots**

Declarant recognizes that, as of the date of these Supplemental Declarations, certain Owners have already constructed Homes and improvements on Lots in reliance on the assessment caps and other policies in existence under the Original Restrictions and, as an accommodation to such Owners, declares as follows with respect to the Lots described on **Exhibit "C"** (the "**Grandfathered Lots**"), which shall be subject to the following special restrictions and rules (the "**Special Restrictions**"):

1. Limit on Assessments. Until the expiration of this Paragraph under Paragraph 5, the annual maintenance assessments imposed on Grandfathered Lots by the Association shall not exceed One Hundred and Twenty Dollars (\$120) and no other Street, Neighborhood or New Member Fee Assessments established by the Declaration may be imposed against the Grandfathered Lots. For purposes of clarity, it is agreed that if a single Dwelling Unit is located on more than one Grandfathered Lot, as described in Paragraph 4 below, then the annual assessments shall not be multiplied by the number of such Lots on which the single Dwelling Unit is located, but instead assessments shall be assessed as if such multiple, adjacent Grandfathered Lots, were a single Lot and the maximum aggregate liability of the Homeowner with respect to such multiple Lots on which the Homeowner's single Dwelling Unit is located shall be One Hundred and Twenty Dollars (\$120).

2. Non-Compliant Fences. Fences or similar improvements already in existence on a Grandfathered Lot as of the date of this Supplemental Declaration that do not comply with the Original Restrictions need not be modified to comply with the Original Restrictions or this

