

AFTER RECORDING, RETURN TO:

**Judd A. Austin, Jr.
Henry Oddo Austin & Fletcher, P.C.
1717 Main Street
Suite 4600
Dallas, Texas 75201**

**CORRECTION NINTH AMENDMENT TO THE AMENDED AND
CONSOLIDATED COVENANTS, CONDITIONS AND RESTRICTIONS
FOR HACKBERRY CREEK RESIDENTIAL COMMUNITY**

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS
COUNTY OF DALLAS §

INTRODUCTORY PROVISIONS

WHEREAS, the Amended and Consolidated Covenants, Conditions and Restrictions on and for Hackberry Creek Residential Community, made by the members of Hackberry Creek Home Owners Association (the "Association"), was filed of record on October 30, 1996 and is recorded in Volume 96213, Page 3823, *et seq.* of the Official Public Records of Dallas County, Texas (the "Hackberry Creek Declaration"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Partial Amendment to the Consolidated Declaration of Covenants, Conditions and Restrictions on and for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on January 30, 1998 and is recorded in Volume 98020, Page 1194, *et seq.* of the Official Public Records of Dallas County, Texas (the "First Amendment"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Second Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on October 30, 2003, and is recorded in Volume 2003196, Page 8123, *et seq.* of the Official Public Records of Dallas County, Texas (the "**Second Amendment**"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Third Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on September 23, 2004, and is recorded in Volume 2004184, Page 00040, *et seq.* of the Official Public Records of Dallas County, Texas, and re-recorded on September 24, 2004 in Volume 2004185, Page 00148, *et seq.* of the Official Public Records of Dallas County, Texas (the "**Third Amendment**"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Fourth Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on September 24, 2004, and is recorded in Volume 2004185, Page 00131, *et seq.* of the Official Public Records of Dallas County, Texas (the "**Fourth Amendment**"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Fifth Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on November 4, 2008, and is recorded as Instrument No. 20080350914 in the Official Public Records of Dallas County, Texas (the "**Fifth Amendment**"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Sixth Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on December 7, 2015, and is recorded as Instrument No. 201500322578 in the Official Public Records of Dallas County, Texas (the "**Sixth Amendment**"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Seventh Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on June 17, 2016, and is recorded as Instrument No. 201600163783 in the Official Public Records of Dallas County, Texas (the "**Seventh Amendment**"); and

WHEREAS, the Hackberry Creek Declaration was amended by virtue of that certain *Eighth Amendment to the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions for the Hackberry Residential Community*, which was filed with the Dallas County Clerk's office on January 8, 2020, and is recorded as Instrument No. 202000005502 in the Official Public Records of Dallas County, Texas (the "**Eighth Amendment**"); and

WHEREAS, the Hackberry Creek Declaration, and the First Amendment through Eighth Amendment, affect certain tracts or parcels of real property in the City of Irving, Dallas County, Texas, more particularly described on Exhibit A attached hereto and incorporated herein by reference for all purposes (collectively, the "**Properties**"); and

WHEREAS, under Article XI, Section 11.04 of the Hackberry Creek Declaration, the Hackberry Creek Declaration may be changed or modified by means of amendment with the

consent of a majority of the total eligible votes of the members of the Association, voting in person or by proxy, at a meeting called for such purpose; and

WHEREAS, at the meeting of the members conducted on October 21, 2020, the following amendment to the Hackberry Creek Declaration was proposed and approved by the consent of a majority of the total eligible votes of the membership of the Association, voting in person or by proxy.

NOW, THEREFORE, the Hackberry Creek Declaration is hereby amended as follows:

(a) Section 9.06 of Article IX of the Hackberry Creek Declaration is hereby amended and shall read, in its entirety, as follows:

Section 9.06. Fences; Signs. *No fence, wall or hedge (which serves as a barrier) shall be erected, placed or altered on any Lot or Parcel nearer to any street than the minimum building setback line as established by the Design Guidelines or the VACC. All exterior mechanical or service equipment must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street and/or golf course. No fence, wall or hedge (which is not within three (3') feet of the Dwelling Unit walls) shall be erected, placed or altered on any Lot or Parcel without the approval of the VACC. No signs, banners or flags (except for those placed by the Association) shall be placed on walls, fences, trees, parkways, medians or the Common Properties at any time. No sign shall be more than five (5) square feet in size, unless otherwise noted below. All political signs must be ground mounted. No more than two signs related to an individual candidate or ballot item may be placed on any Lot or Parcel. Except as identified below or otherwise limited or restricted by State or Federal law, which limitations or restrictions are incorporated herein by reference, the only sign or signs which are allowed to be displayed to the public view on any Lot or Parcel is a maximum of three (3) of any of the following:*

(a) any bona-fide homebuilder, during the applicable initial construction and sales period, may utilize one (1) professional sign [of not more than twenty-five (25) square feet in size], at a location approved by the Village Architectural Control Committee, for model home advertising and sales purposes;

(b) thereafter, a dignified "For Sale" or "For Lease" sign (of not more than five (5) square feet in size including toppers and hangers) may be utilized by the Owner of the respective residential Lot (or the Owner's Agent) for the applicable sale or lease situation as long as the sign is: (1) Placed parallel to the primary street on which the house is located (or on the side street if the front of the house faces the side street); (2) Centered on the front elevation of the house; (3) No closer to the sidewalk than half the distance (or as close to half the distance as practical) between the sidewalk and the house. For houses located adjacent to the golf course, a second "For Sale" sign may be placed in the rear yard facing the golf course. "For Sale" signs on vacant Lots shall be placed in the front portion of the Lot, parallel to, and at least twenty-five (25) feet from the curb.

Open House signs shall not be placed on the parkways or any other Common Property in the Village.

(c) Job Sign Size and Location - Each contractor shall install one (1) job site sign to be located within the property lines of the Lot or Property on which new construction is to be performed. The sign shall contain a maximum of six (6) square feet of surface area and shall be placed parallel to the street named in the address of the property. The sign shall be constructed from either wood or metal.

The Job Site Sign shall contain the following:

- (1) The street address of the property in letters which are a minimum of three (3) inches high and fully visible from the street;*
- (2) A listing of the Contractor's name, address & telephone number;*
- (3) A copy of the Architectural Control Committee Approval letter affixed to the sign in a weather proofed container;*
- (4) A copy of the City of Irving Building Permit (if issued for the work) affixed to the sign in a weather proofed container.*

"For Sale" or "For Lease" signs may not be placed on property owned by Hackberry Creek Country Club.

Temporary signs advertising remodeling contractors, roofers, pool contractors, landscapers, upcoming events, etc. may not be placed on any Lot. No signs of any kind shall be placed on the parkway (land between the sidewalk and curb), medians or the Common Properties.

Temporary signs (not over five (5) square feet in size) related to a scheduled national or local election may be placed on a Lot no more than ninety (90) days prior to the scheduled election date and must be removed no later than ten (10)

days after the election. No political signs shall be placed on walls, fences, trees, parkways, medians or the Common Properties at any time. No more than two (2) signs related to an individual candidate or ballot item may be placed on any Lot or Parcel.

A permanent sign (not over one (1) square foot in size) identifying the security service that monitors the intrusion/fire alarm at the Property may be placed on the property. Security signs shall be placed close to the house, preferably in the landscaped beds adjacent to the house.

School Spirit signs (Band Member, Cheerleader, Athlete, etc.) may be placed on a Lot during the school year. School Spirit signs shall be limited to a size that is traditional for such signs and must be placed within ten (10) feet of the front of the home.

Birth Announcement signs may be placed on a Lot for up to one (1) week to announce the arrival of a new Resident to the Village.

The terms and provisions of the Hackberry Creek Declaration and the First through Eighth Amendment, except as modified herein, are hereby declared to be in full force and effect with respect to the Properties.

IN WITNESS WHEREOF, the members of Hackberry Creek Home Owners Association, have caused this Ninth Amendment to the Amended and Consolidated Covenants, Conditions and Restrictions on and for Hackberry Creek Residential Community, in accordance with Article XI, Section 11.04 thereof, to be effective when filed with the Office of the Dallas County Clerk, to be covenants which shall run with title to the Properties until otherwise amended as provided in the Hackberry Creek Declaration.

**** This Correction Ninth Amendment to the Amended and Consolidated Covenants, Conditions and Restrictions on and for Hackberry Creek Residential Community is filed for the purpose of including Page 5 which was missing from the original filing recorded as Instrument No. 2021-00024776 in the Official Public Records of Dallas County, Texas, and relates back to and is effective as of the date of the original filing, January 26, 2021.

Signed to be effective as of the 26th day of January, 2021.

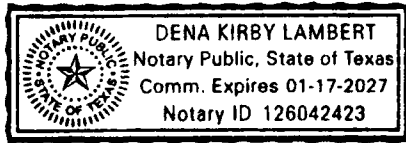
**HACKBERRY CREEK HOME OWNERS
ASSOCIATION**

By: *Tricia Macaluso*
Tricia Macaluso, President

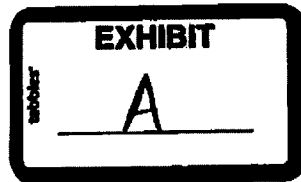
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Tricia Macaluso, President of Hackberry Creek Home Owners Association, known to me to be the person whose name is subscribed on the foregoing instrument and acknowledged to me that she executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND AFFIRMED SEAL OF OFFICE on this 22nd day of March, 2023.



Dena Kirby Lambert
Notary Public, State of Texas



A description of the land parcels included within, and the village-related restrictive covenants covering, the Hackberry Creek single-family residential community.

The Hackberry Creek single-family residential community generally consists of the six (6) separate land areas described as follows [and all references hereinbelow to recorded documents are to the Public Real Estate Records of Dallas County, Texas]:

1. **Area L (50):** Being a 51.511 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Declaration" filed and recorded in Volume 83121, Page 3049 et seq. (particularly within pages 3071-3074) of the Deed Records of Dallas County, Texas. Area L (50) has been platted as follows:

<u>Name of Plat</u>	<u>Plat Recording Data</u>
Final Plat Kinwest Sector 20 - Residential Phase I - First Installment	82132/2416

and Area L (50) (as well as all the other Areas within Hackberry Creek) has been subjected to previously recorded restrictive covenants as follows:

<u>Instrument</u>	<u>Volume</u>	<u>Page</u>
Supplementary Declaration No. 50	83120	4159
Declaration: Area L	83121	3049
Corrected Supplementary Declaration No. 50	83223	2864

2. **Area LXV (65):** Being a 32.938 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and being more particularly described by metes and bounds within that certain "Supplementary Declaration No. 65" filed and recorded in Volume 84170, Page 1891 et seq. (particularly within pages 1901-1902) of the Deed Records of Dallas County, Texas. Area LXV (65) has been platted as follows:

<u>Name of Plat</u>	<u>Plat Recording Data</u>
Preliminary Final Plat Hackberry Creek Village Phase IV 32.938 acres	85202/2561

and Area LXV (65) has been subjected to previously recorded restrictive covenants as follows:

<u>Instrument</u>	<u>Volume</u>	<u>Page</u>
Supplementary Declaration No. 65	84170	1891
Supplementary Declaration No. 1	84170	1904
Corrected Supplementary Declaration No. 1	85236	5809
Corrected Supplementary Declaration	85236	5820

3. **Area LXVI (66):** Being a 84.241 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and being more particularly described by metes and bounds within that certain "Supplementary Declaration No. 66" filed and recorded in Volume 84236, Page 427 et seq. (particularly within pages 437-440) of the Deed Records of Dallas County, Texas. Area LXVI (66) has been platted as follows:

<u>Name of Plat</u>	<u>Plat Recording Data</u>
Hackberry Creek Village Phase II 47.245 acres	86028/5072
Hackberry Creek Village Phase III 37.393 acres	89127/3693

and Area LXVI (66) has been subjected to previously recorded restrictive covenants as follows:

<u>Instrument</u>	<u>Volume</u>	<u>Page</u>
Supplementary Declaration No. 2	84236	414
Supplementary Declaration No. 66	84236	427

4. **Area LXVII (67):** Being a 104.371 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 196, I&G.N.R.R. Co. Survey, Abstract No. 1624, and the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 67" filed and recorded in Volume 87203, Page 4947 et seq. (particularly within pages 4954-4956) of the Deed Records of Dallas County, Texas. Area LXVII (67) has been platted as follows:

<u>Name of Plat</u>	<u>Plat Recording Data</u>
Amended Final Plat Hackberry Creek Estates Phase I 30.6120 acres	88225/1607
Amended/Preliminary Final Plat Hackberry Creek Estates Phase II 20.6589 acres	88225/1623
Preliminary/Final Plat Hackberry Creek Estates Phase III 25.0633 acres	90016/4010 and 4011
Final Plat Hackberry Creek Estates Phases IV, V 22.6828 acres	91065/4537

and Area LXVII (67) has been subjected to previously recorded restrictive covenants as follows:

<u>Instrument</u>	<u>Volume</u>	<u>Page</u>
Supplementary Declaration No. 67	87203	4947
Supplementary Declaration No. 3	87203	4958

5. **Area LXXI (71):** Being: (i) a 71.27 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 71" filed and recorded in Volume 84202, Page 914 et seq. (particularly within pages 924-925) of the Deed Records of Dallas County, Texas; and (ii) being a 1.2127 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 4" filed and recorded in Volume 89203, Page 2259 et seq. (particularly within page 2272) of the Deed Records of Dallas County, Texas; and (iii) being a 0.1707 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 4" filed and recorded in Volume 89203, Page 2259 et seq. (particularly within page 2273) of the Deed Records of Dallas County, Texas; and (iv) being a 0.4167 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 4" filed and recorded in Volume 89203, Page 2259 et seq. (particularly within page 2274) of the Deed Records of Dallas County, Texas. Some, but not all, of Area LXXI (71) has been platted as follows:

<u>Name of Plat</u>	<u>Plat Recording Data</u>
Final Plat of Hackberry Creek Village Phase VI 72 lots - 27.247 acres	91165/3842
Final Plat Hackberry Creek Village Phase VI, Section 1 7.252 acres 25 Lots	94057/1946

and Area LXXI (71) has been subjected to previously recorded restrictive covenants as follows:

<u>Instrument</u>	<u>Volume</u>	<u>Page</u>
Supplementary Declaration No. 71	84202	914
Supplementary Declaration No. 4	89203	2259

6. **Area LXXII (72):** Being a 51.250 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 72" filed and recorded in Volume 84202, Page 901 et seq. (particularly within pages 911-912) of the Deed Records of Dallas County, Texas. Some, but not all, of Area LXXII (72) has been platted as follows:

<u>Name of Plat</u>	<u>Plat Recording Data</u>
Final Plat Hackberry Creek Estates, Tract III - Phase I 26.6575 acres	91196/4764

and Area LXXII (72) has been subjected to previously recorded restrictive covenants as follows:

<u>Instrument</u>	<u>Volume</u>	<u>Page</u>
Supplementary Declaration No. 72	84202	901
Supplementary Declaration No. 5	87203	4936

**Dallas County
John F. Warren
Dallas County Clerk**

Instrument Number: 202300061341

eRecording - Real Property

Recorded On: March 30, 2023 02:16 PM

Number of Pages: 11

" Examined and Charged as Follows: "

Total Recording: \$62.00

******* 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:

Document Number: 202300061341
Receipt Number: 20230330000546
Recorded Date/Time: March 30, 2023 02:16 PM
User: Pamela G
Station: CC22

Record and Return To:

CSC Global



**STATE OF TEXAS
COUNTY OF DALLAS**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Dallas County, Texas.

John F. Warren
Dallas County Clerk
Dallas County, TX

A handwritten signature in black ink, appearing to be "JFW", is written over the printed name of John F. Warren.