

**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENT AND RESTRICTIONS FOR VINEYARD ESTATES**

WHEREAS, **DRIFTWOOD 323 VINEYARD, LTD.**, a Texas limited partnership ("**Declarant**") desires to hereby impose certain covenants, conditions and restrictions upon and against the Property described on Exhibit "A" attached hereto and hereinafter defined in Section 1.10; and

WHEREAS, the Property consists of Lots 17-55, of The Vineyard - Phase I, a subdivision in Hays County, Texas, as shown on the map or plat thereof recorded in Book 14, Pages 26-27 of the Plat Records of Hays County, Texas (the "Subdivision Plat"); and

WHEREAS, Declarant is the owner the entirety of the Property.

NOW, THEREFORE, as the owner of the entirety of the Property, Declarant hereby executes and records in the Official Public Records of Hays County, Texas this Declaration of Covenants, Conditions and Restrictions for Vineyard Estates and thereby imposes the terms and provisions hereof on the Property.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VINEYARD ESTATES (this "Declaration") governs all Lots from time to time contained within the Property (the "Subdivision").

**L
CERTAIN DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases shall have the meanings hereinafter specified:

- 1.01 "**Articles**" means the Articles of Incorporation of the Association.
- 1.02 "**Assessment**" means any assessment levied by the Association under the terms and provisions of this Declaration.
- 1.03 "**Association**" means the El Vinedo Homeowners Association, Inc., a Texas nonprofit corporation.
- 1.04 The "**Board**" means the Board of Directors of the Association.
- 1.05 "**Bylaws**" means the Bylaws of the Association, as adopted by the Board and as from time to time amended.

- 1.06 **"Declarant"** refers to Driftwood 323 Vineyard, Ltd., a Texas limited partnership, its assignees and other lawful successors in interest.
- 1.07 **"Declaration"** refers to this Declaration of Covenants, Conditions, and Restrictions of Vineyard Estates, as it may be amended from time to time.
- 1.08 **"Improvement"** means every structure and all appurtenances thereto of every type and kind, including, but not limited to, streets, buildings, outbuildings, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning equipment, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular, cable or satellite television, or other utilities.
- 1.09 **"Lot"** means any parcel of land within the Property shown as a subdivided lot on a recorded subdivision plat of part or all of the Property.
- 1.10 **"Owner"** means any person holding a fee simple interest in any portion of the Property. A mortgagee is not an Owner.
- 1.11 The **"Property"** means all the land in Hays County, Texas, as legally described on Exhibit "A" attached hereto. Declarant reserves the right to add additional land and lots to the definition of Property as set forth in Section 2.06, below.
- 1.12 **"ACC"** of **"Architectural Control Committee"** shall mean the architectural control committee created pursuant to this Declaration and having the authority and responsibility delegated thereto by this Declaration, as set forth in Article V of this Declaration.

II. GENERAL AND RESTRICTIONS

2.01 Nuisance and Hazardous Activities. No activities shall be conducted on the Property and no improvements shall be constructed or allowed to remain on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, (a) no firearms shall be discharged upon any part of the Property, (b) no explosives shall be kept or used on any part of the Property (other than in the ordinary course of construction of improvements thereon), (c) no open fires shall be lighted or permitted except under carefully monitored and controlled circumstances, and (d) no toxic substances shall be dumped or discharged onto or into any part of the Property. Nothing shall be done or kept on the Property which would materially increase the rates of insurance or cause the cancellation of insurance on any Lot or any of the improvements located thereon.

2.02 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring/exploring for, or removing oil, gas or other hydrocarbons, minerals of any kind, or for removing or mining rocks, or stones, sand, gravel, aggregate or earth, other than in the ordinary course of constructing improvements thereon.

2.03 Temporary Structures. No temporary or portable structure/building shall be placed upon the Property without the prior written approval of the ACC. Temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction of residences, may be maintained for a period of up to ten months.

2.04 Subdivision. No Lot may be subdivided into two or more smaller Lots nor any easement granted without the express written consent of the Declarant, which may be withheld absolutely.

2.05 Sanitary Sewers. No outside, open or pit type toilets will be permitted on the Property. No cesspools will be permitted on the Property. All dwellings constructed in this Subdivision must have a septic or sewage disposal system installed by the Owner which complies with the requirements of all governing agencies with jurisdiction over such matters prior to occupancy. The foregoing restriction shall not be construed to prohibit portable outdoor toilets for construction workers from being placed on any Lot during actual construction of a residence on such Lot.

2.06 Addition of Additional Land. Declarant may at any time, and from time to time, add additional land to the provisions, covenants, conditions, restrictions, liens and charges set forth in this Declaration by recording an amendment hereto in the Official Public Records of Hays County, Texas which includes a description of such additional land and references this Declaration.

III.

USE AND CONSTRUCTION RESTRICTIONS

3.01 Residential Subdivision: Except as expressly provided in this Declaration to the contrary, each Lot will be used exclusively for single-family residential purposes. No more than one primary residence and one guest house may be constructed on each Lot. The provisions of this Section 3.01 shall not be construed as being inconsistent with classification of any Lot as "agricultural" for ad valorem taxation purposes.

3.02 Motif; Building Materials; Dwelling Size. All buildings upon the Lots shall be of traditional design/appearance and quality construction and shall be constructed of approved building materials. "Approved building materials" for exterior walls include stone or stucco. Wood, reflective metal, cement block, cinder block, hardi-board siding or corrugated metal is not a permissible exterior wall covering. Brick may be used only as an accent on exterior walls and surfaces. Each primary residential structure shall contain not less than 2,800 square feet of finished heated and air-conditioned living space, exclusive of porches, decks, garages and carports. All porches shall be covered. Each primary residential structure shall not have less than 100% of its exterior walls of

stone or stucco masonry construction. All of the exterior walls of the front of each structure shall be of stone or stucco masonry construction. A guest house having no more than 1,000 square feet of finished living space, located to the rear of the primary residence, will be permitted on each Lot. All roofs must be of tile, metal or 50 year 3-tab asphalt dimensional-only shingle. No residence shall have more than two (2) stories or be higher than thirty five (35) feet, measured according to the following definition: the vertical distance between the top of the foundation at its highest point within the structure and the highest ridge, peak, or gable of a roof, excluding chimneys, cupolas, or other design features. For a two-story residence, the total air-conditioned area of the second floor may not exceed 40% of the total air conditioned area of the residence. Garages shall accommodate at least three (3) cars. The exterior design, construction, and overall appearance of the primary residence, garage and of any guest house must be single-family residential and must conform with to the same exterior finish requirements as for the primary residence, as set forth above.

3.03 Business Activities: In-house business activity is permissible, provided that such activity is in no manner evident from the exterior. Without limitation, there will be no business usage which involves customer parking of more than three vehicles at any given time, or exterior storage of identifiable inventory, equipment, or business vehicles. This Declaration does not prohibit occasional meetings with business associates in residences on Lots.

3.04 Setback and Slope Requirements, Utility Easements. An easement is expressly reserved in, on, over and through those Public Roadways depicted on the Subdivision Plat (the "Public Roadways"). A ten foot (10') easement is created and reserved along the perimeter of each Lot for the purpose of constructing and installing conduits, telephones, and electric light poles, water lines and other equipment necessary to supply any public or private utility service. No residence or other structure may be located any nearer that sixty feet (60') from the front Lot Line (i.e., the Lot line which directly faces a Public Roadway), nor nearer that fifty feet (50') from any rear Lot Line, nor nearer that twenty feet (20') from any side Lot line.

3.05 Access Restrictions and Easements. Reserved for future amendments.

3.06 Maintenance. Each Owner shall keep all landscaping visible from the abutting street(s) on his/her Lot cultivated, mowed, trimmed, pruned, and free of trash and other unsightly material. All improvements upon any Lot shall at all times be kept in good condition and repair and adequately painted or otherwise maintained at the sole expense of the Owner of such Lot.

3.07 Litter, Rubbish and Debris. No litter, rubbish, debris, or trash (other than that to be picked up by a collection/disposal or recycling service) shall be kept or stored on any Lot; and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, offensive or detrimental to any other nearby property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers; and except at times of pickup, such containers shall be kept to the rear of each residence. Any compost pile must be (a) properly maintained, (b) not visible from any street, and (c) located no closer than 25 feet from any adjoining Lot. Trash is to be collected at least weekly and under no circumstance shall trash be disposed of through burning on any Lot, unless expressly allowed in writing by the Association. The Declarant and/or the Association reserve the

right to contract with a licensed trash removal serves to serve the garbage collection needs of the Property, with each Owner paying for the service to his or her Lot.

3.08 Sports/Recreational Facilities; Motorized Vehicles. Any basketball courts or portable/free-standing goals, tennis courts, swimming pools, play structures, and similar permanent or semi-permanent sports/recreational facilities which are located on any Lot must be approved in advance by the ACC and located to the side or rear of the primary residence of such Lot and shall not be visible from any public roadway. No above-ground swimming pools are permitted. The use of motorcycles and any motorized vehicles (including, without limitation, three-wheelers and four-wheelers) shall be limited to those which have been approved and are legal for street use. Such use shall be limited to the Public Roadways and paved driveways on any Lot, and the use of motorcycles and any other motorized vehicle in any common area or Park Area is expressly prohibited. No off-road use of any motorcycles or motorized vehicles shall be permitted, and all motorcycles operated within the Property shall have mufflers installed and in good condition, which limit the exhaust noise to no more than eighty (80) decibels, ten (10) feet from the end of the exhaust pipe.

3.09 Mobile Homes, Etc. No mobile homes or manufactured housing shall be parked or placed on any part of the Property or used as a residence, either temporary or permanent, at any time. No motor homes, travel trailers or recreational vehicles shall be parked on any Lot for more than three days during any 30-day period.

3.10 Storage Tanks, Antennae. Satellite dishes must be located behind the primary residence on a Lot, and not be readily visible from the Public Roadways. Any dishes or antennae for electromagnetic reception/transmission must be less than 24" in diameter and located to the rear of the residence on such Lot and at least 50 feet from all Lot lines. No radio signals, television signals, or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of any television, electromagnetic or radio signal on any other Lot. Storage tanks (i.e., for water, propane, butane, etc.) must be located behind or to the side of the primary residence on a Lot, must be buried and not be conspicuous from the Public Roadways.

3.11 Peripherals, Screening. Outbuildings, firewood piles, other materials storage piles, storage facilities, mechanical equipment, clotheslines, and other peripherals must be located near the rear of the Lot and/or screened so that the same are not readily visible from the street(s) abutting the Lot on which the same are located.

3.12 Noise. No extraordinarily loud exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any portion of the Property.

3.13 Livestock, Pets & Grazing. No livestock (including, without limitation, horses, cows, mules, goats, sheep, poultry and swine) shall be permitted, nor shall any cattle feeding, fowl feeding or other feed lot or commercial operations be allowed, expressly including commercial kennels. A maximum of two (2) dogs and (2) cats will be allowed on any Lot and shall not be allowed to roam or run about at large.

3.14 Commercial Trucks. No tractor-trailer type trucks or dump trucks or other similar large commercial-type trucks or construction machinery or equipment or vehicles shall be parked on any portion of the Property at any time except temporarily while such vehicles are being used in the construction of improvements on/or within the subdivision.

3.15 Construction Activities. This Declaration shall not be construed so as to prevent or interfere unreasonably with normal construction activities during the construction of improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of normal noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In no event shall any structure be allowed to remain uncompleted for more than one year after construction has commenced. In addition, during construction of any structure, all adjoining roadways and thoroughfares shall be kept free from debris, and during construction, each Lot must utilize a commercial-size roll-off trash receptacle from commencement until completion of construction. In the event that construction upon any Lot does not conform to the requirements set forth above, or otherwise does not conform to usual good construction practices in the area, as determined by the Association, the Association shall have the authority to seek and obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which becomes unsanitary, unsightly, offensive or detrimental to the Lot or to any other portion of the Property, then the Association may arrange for such debris to be removed and the Owner of the Lot shall be liable for all expenses incurred in connection therewith. In the event of default in the payment of such sums within thirty days after demand therefor has been made, the Owner of the Lot shall be obligated to pay interest at the highest lawful rate on all sums due thereunder, including reasonable attorneys' fees. Repayment of all such amounts shall additionally be secured by the lien referred to in Section 7.05 hereof.

3.16 Camping, Recreational Activities. No overnight camping will be permitted. Hunting, trapping and discharge of firearms are expressly prohibited within the Property.

3.17 Junked Motor Vehicles; Junk. No Lot shall be used as a depository for abandoned or junked motor vehicles. An abandoned or junked motor vehicle is one without a current, valid state inspection sticker and license plate. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept or allowed to remain on any Lot. No accessories, parts or objects used with cars, boats, buses, trucks, trailers, house trailer or the like, shall be kept on any Lot other than in a garage or similar enclosed structure.

3.18 Signs. No signs shall be erected or maintained on any lot except the following types of signs:

- (a) Such signs as may be required by legal proceedings.

- (b) During the time of construction of any building or other improvement, one (1) job identification sign not larger than three feet by four feet (3' x 4'), having a face area not larger than twelve (12) square feet.
- (c) Two (2) "For Sale" signs to advertise that a Lot and improvements thereon are being offered for sale and having a face area not larger than three (3) square feet on sign facing street.

3.19 Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet and six feet above the surface of any roadways in the subdivision shall be placed or permitted to remain on any corner Lot.

3.20 Water Supply; Septic System. No outside toilets will be permitted, except temporarily during the construction of improvements. All septic tanks must conform to regulations applicable to the Lot promulgated by Hays County, the Lower Colorado River Authority, and the Texas Commission on Environmental Quality, as applicable. Each Owner shall be responsible for the water and septic/wastewater system installed on such Owner=s Lot. All water and septic/wastewater systems shall conform to regulations applicable to the Lot promulgated by Hays County, the Lower Colorado River Authority, and the Texas Natural Resource Conservation Commission, as applicable. Inspections and certification by each regulatory authority having jurisdiction over septic/wastewater and water systems shall be conducted in compliance with applicable regulations.

3.21 Reserved for future amendments.

3.22 Maintenance and Assessment of Common Recreation Areas within Vineyard Estates. The Association shall own and shall have the obligation to maintain, and levy and collect assessments for the maintenance and landscaping of and liability insurance for any common recreation areas (referred to collectively herein as the "Park") and any security gates or other devices controlling access (the "Park Security Facilities") to the Park. At such time as the Park is constructed, the Association shall levy assessments ("Park Maintenance Assessments") against each Lot for the cost of maintenance of the Park, landscaping, the Park Security Facilities and insurance as the Association determines appropriate. Such Assessments may be separate or a part of the Regular Assessments and any excess Park Maintenance Assessments which are collected from time to time by the Association shall be considered "general funds" of the Association (as such term is defined in Section 6.08 hereof) and may be applied and disbursed by the Association for any authorized purpose. The Park Maintenance Assessment shall be subject to adjustment by the Association at any time.

3.23 Mortgagee Protection. Notwithstanding any other provision of the Declaration, no lien created under this Declaration or any lien arising by reason of any breach of this Declaration, nor the enforcement of any provision of this Declaration, shall defeat or render invalid the rights of the beneficiary under any recorded Mortgage or Deed of Trust of first and senior priority now or hereafter given upon any portion of the Property. However, after a foreclosure or a conveyance in lieu of foreclosure, such portion of the Property shall remain subject to this Declaration and shall

thereafter be liable for all assessments levied after such completion of foreclosure or conveyance in lieu of foreclosure.

3.24 Subordination. The Lien for assessments provided for herein shall be subordinated to the lien of any first Mortgage if the Mortgage was recorded before the delinquent assessment became due. The sale or transfer of any portion of the Property subject to unpaid assessments shall not affect the assessment lien. However, the sale or transfer of any portion of the Property subject to assessment pursuant to Mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Property subject to assessment from liability for any assessments thereafter becoming due or from the lien thereof.

3.25 Land Clearing and Landscaping; Water Collection Systems. In an effort to preserve the natural Texas Hill Country beauty and integrity of Vineyard Estates, with the exception of cedars, no Lot or tract shall be clear cut of all native foliage and/or vegetation, and the planting of grass and sod is strictly prohibited outside of a twenty five foot (25') radius around any structure located on any Lot. Xeriscaping is mandatory. A list of permitted vegetation is attached hereto as Exhibit "B" (the "Plant List"), and no plants not on such list shall be permitted, without the approval of the ACC, except for in Garden Areas (as that term is defined hereinbelow). Each Owner shall submit a landscaping plan to the ACC prior to clearing or planting any vegetation on such Owner's Lot, which plan shall be subject to the written approval of the ACC. The removal from any Lot of any vegetation which is on the Plant List (other than cedars) shall be subject to the prior approval of the ACC. The planting on any Lot of any vegetation which is not on the Plant List shall also be subject to the prior written approval of the ACC, which may be denied absolutely. On-site water collection systems for the irrigation of vegetation and landscaping are strongly encouraged, but must be approved in advance by Declarant and/or the ACC, as the case may be. No underground irrigation or sprinkler systems shall be permitted, except within Garden Areas (as defined below).

3.25A Garden Areas. An owner may plant one (1) flower and/or vegetable garden, to be located solely in an area within a twenty five foot (25') radius around the main residence, to a maximum size of twenty feet by twenty feet (20' x 20') (referred to herein as the "Garden Areas"). Garden Areas shall be located to the rear or to the side of any residence, and shall not be visible from any street. Owners may plant vegetation not on the Plant List in Garden Areas, and Garden Areas only. Fencing of the Garden areas shall be no more than eight feet (8') high, and shall be constructed of ornamental iron, aluminum fencing mimics a wrought iron appearance or a 4x4 wire mesh fence that is fully framed in a wood enclosure. Cedar plank and chain link fencing around the Garden Areas are specifically prohibited.

3.26 Water Run-off. Excepting approved on-site water collection systems which retain rainwater, nothing shall be erected, placed, maintained, done or permitted to remain on any Lot which interferes with surface water runoff in such a manner as to cause such water run-off to be diverted to any material degree across any other Lot or which causes flooding or erosion to any other Lot or to any street or ditch.

3.27 Driveways; Access. Each residential Lot shall have a driveway of concrete, crushed granite or asphalt, and must be finished with concrete curbs. Declarant and/or the ACC reserve the right to require driveways to be constructed of decorative concrete in the review contemplated by Section 3.30 and Article V, below. Such driveways must be at least twelve feet (12') wide.

3.28 Buses, Trailers and Boats. No trailer or boat shall be left parked in the street abutting any Lot except for construction and repair equipment used in connection with the construction or repair of a residence, and no boat or trailer shall be parked on a Lot in such a manner as to be visible from the street unless in a standard garage. No buses or motor homes shall be permitted to be parked any street or Lot..

3.29 Lot Fencing. The construction of fences shall be restricted, and no fence shall be constructed on any Lot without the prior written consent of the ACC. The Declarant or, after the expiration of the Protective Period, the ACC, may in its sole discretion, prohibit the construction of any proposed fence, or specify a different type of material of which any proposed fence must be constructed, or require that any proposed fence be screened so as not to be visible from other portions of the Property. All fences or walls (other than building walls) shall be masonry, low ranch-style wood fencing, or wrought iron. No fences fronting any roadway may be more than four (4) feet six (6) inches high and must be constructed of masonry or wrought iron. Barbed wire may not be used on the Property. All fences shall be maintained in a fully repaired and presentable manner. Notwithstanding the foregoing, except with the advance written approval of the ACC, no fencing of any kind or character shall be placed or installed across or along the front yard/lot line of any Lot. ALL POOLS MUST BE INDEPENDENTLY FENCED FOR SAFETY.

3.30 Review by Declarant or ACC. In addition to the requirements under Article V hereof for submission of Plans and Specifications to the ACC, no improvement of any kind, including but not limited to, residences, guest houses, accessory buildings, swimming pools, wells, septic systems, satellite dish, flag poles, fences, walls, mailboxes, exterior lighting, patios, tennis courts, roof overhangs, sidewalks, driveways, driveway entrances or any other improvement shall be constructed, placed or maintained upon any Lot and no alteration of the exterior of any improvement shall be made until (i) a complete copy of the plans and specifications for the improvement showing (a) the exterior design, height, building material and color scheme of the improvement and (b) the location of the improvement on the Lot, plotted horizontally and vertically; and (ii) a site plan showing the location of all present and planned improvements, including but not limited to, any water well, the septic system, the residence, the driveway, the landscaping the grading plan, any fencing and any walls have been submitted to and approved in writing by the Declarant, or, after the expiration of the Protective Period (defined below) the ACC, and a copy of all such and specifications as finally approved, has been deposited with both the Declarant and the ACC. At the time of such submittal, the Owner shall also include the name, address and telephone number of the builder/general contractor, for information purposes only.

3.31 Conformity and Aesthetics. Notwithstanding the specific architectural and building restrictions set forth herein, Declarant and the ACC shall exercise their best judgment to see that the exterior design and location of all improvements, landscaping and alterations on Lots within the

Property conform to and harmonize with the surrounding improvements, environment, topography and finished grade evaluations. The Declarant and, after the expiration of the Protective Period, the ACC, has the authority to ensure that all construction and improvements within the Property conform and harmonize with all other existing or proposed construction and improvements. Before commencement of construction, each Owner shall submit all plans for construction to the Declarant and the ACC. In this regard, the Declarant and, after the expiration of the Protective Period, the ACC, shall have the final authority to approve or disapprove all plans for external design, architecture, color scheme, shape, height, type of materials, quality of workmanship, topography, finish grade elevations, landscaping and easements, so as to assure that the Property will consist of an attractive, integrated housing development wherein all improvements are designed to conform to and complement all other existing and proposed improvements.

3.32 Mailboxes. No mailbox may be located on any Lot. Mailboxes shall be centrally located and maintained by the Association.

IV. THE ASSOCIATION

4.01 Organization. The Association shall be a Texas non-profit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its articles and bylaws and/or in this Declaration. Neither the articles nor bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.02 Membership. Upon becoming an Owner of a Lot, a person shall automatically become a member of the Association. Membership in the Association is mandatory, appurtenant to, and shall run with the ownership of the Lot which entitles the Owner thereof for membership. Membership in the Association may not be severed from the ownership of a Lot or in any way transferred, pledged, mortgaged, or alienated except together with the fee simple title to said Lot.

4.03 Voting Rights. The Association will have two (2) classes of voting membership:

(a) Class A. The Class A members will be all Owners other than Declarant. Each Class A member will be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an interest in any Lot, such voting will be exercised as they among themselves determine, but in no event will more than one vote be cast with respect to any Lot.

(b) Class B. The Class B member will be Declarant and its successors and assigns. The Class B member will be entitled to five (5) votes for each Lot owned by Declarant. The Class B membership will be terminated automatically at the first time when Declarant no longer owns any Lots, or the expiration of five (5) years after the date of the sale of the first Lot to a party other than Declarant.

The holder of more than one (1) vote may both make a motion and second such motion for any purpose.

4.03A Protective Period. It is the intent of Declarant that the Property be developed in an aesthetically integrated manner and that this Declaration be enforced in a uniform manner during the early stages of the development of the Lots. In this regard, and notwithstanding the foregoing or anything else in this Declaration to the contrary, Declarant shall have the sole approval and enforcement power under this Declaration until the earlier to occur of i) five (5) years after the date of the recording of this Declaration in the Official Public Records of Hays County, Texas, or ii) the date on which Declarant no longer owns any Lot (the "Protective Period"). As clarification, in any instance in this Declaration where the Association and/or the Board are granted authority or power (including, without limitation, to approve or disapprove any aspect of any residence to be constructed on a Lot, the enforcement, collection and application of Assessments, etc.), such authority or power shall be solely imputed to the Declarant during the Protective Period.

4.04 Powers and Duties of the Association. Following the expiration of the Protective Period, the Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in this Declaration. The Association shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the powers expressly granted to it by the laws of Texas or by this Declaration. Except where expressly provided to the contrary by this Declaration or by other applicable law, all management and decision making of the Association shall be by the Board. Without in any way limiting the generality of the three preceding sentences, the Association (acting through the Board) shall have the following powers and responsibilities:

- (a) **Assessments and Collections.** The Association shall levy and collect Assessments. In furtherance of its duty and authority to collect Assessments and other sums due the Association, the Board may establish payment policies, set due dates, impose and enforce penalties, and take all other lawful action necessary or appropriate for collection of Assessments and other sums owed to the Association.
- (b) **Rules and Bylaws.** The Association shall promulgate, amend, repeal and/or reenact the Bylaws and such Rules not in conflict with this Declaration, as it deems proper, covering any and all aspects of its functions, including the use, occupancy, and preservation of Association Property. The Board may adopt Rules for the purpose of administering the Association and obtaining compliance by Owners and their family, guests, and tenants with the Declaration, the Bylaws, and the provisions of any other law or applicable rule.
- (c) **Records.** The Association shall keep books and records of the Association's affairs and make such books and records, together with current copies of the Restrictions, available for inspection by the Owners, upon reasonable request during normal business hours.

- (d) Professional Services. The Association may retain and pay for legal, accounting, management, engineering, and other professional services necessary or proper in the operation of the Association.
- (e) Contracts; Property Ownership. The Association may enter into contracts and may acquire, own, lease, and dispose of all manner of real and personal property on such terms as the Board shall, in the exercise of good business judgment, deem advisable.
- (f) Change in Lot Lines and Utilities. The Board shall have the power to approve, on behalf of the Association, any replatting or relocation of lot lines or utilities for Lots.
- (g) Enforcement. The Association shall have the power and authority, in its own name and on behalf of itself and the Owners, or in the name of and on behalf of any Owner who consents thereto, to commence, maintain, or defend legal actions to enforce or construe the Declaration or Bylaws or to restrain and enjoin any breach or threatened breach of the Declaration or Bylaws. The Association shall have the right to file and defend a suit for injunctive relief, damages, and/or other relief on behalf of the Association and/or the Owners. Relief recoverable includes, without limitation, removal or modification of any Improvement constructed or modified in violation of the Declaration. The Association is also authorized to settle claims, enforce liens, and take all other action that it deems necessary or reasonable and expedient to enforce the Declaration or Bylaws and/or to carry out the duties of the Association set forth in the Declaration, Articles, or Bylaws.
- (h) Discretionary Enforcement. If an Owner or other person with standing complains of a violation of the Declaration or Bylaws and the Association determines that the alleged violation is of such doubtful character and/or of such limited scope or impact as not to warrant the expenditure of Association resources, the Association may decline to undertake action to enforce such violation and leave enforcement to the complaining party.
- (i) Frivolous Complaints. The Association shall not be required to expend time or other resources on patently frivolous, unmeritorious, or harassing complaints/requests made by Owners or others; and the Association may recover all of its costs, including reasonable attorney's fees, for responding to or defending against such complaints/requests.

4.05 Rights and Remedies. The Association may enforce all duties and obligations now and/or hereafter imposed by the Declaration or the Bylaws by all lawful means, including without limitation the following:

- (a) Collection Charges. The Association may (1) impose late charges for late payment by an Owner of monies owed to the Association, and (2) assess a returned check charge against an Owner for each returned check until acceptable payment is

received. These charges may be set by the Association from time to time but shall not exceed any maximum charge permitted under applicable law.

- (b) Suspension of Voting Rights. The voting rights of any Owner who is more than 45 days delinquent on any sum owed to the Association shall be automatically suspended without notice. Such suspension of voting rights shall extend to general or special membership meetings, mail ballots, committee meetings, board meetings, and all other meetings.
- (c) Notices to Multiple Owners, Tenants, Mortgagees. Subject to the provisions of Section 4.03, above, notice to or from one of multiple Owners or tenants of a Lot shall be deemed as notice to or from all Owners or tenants of that Lot.
- (d) Attorney's Fees. If a delinquent account or other violation is turned over to the Association's attorney, the delinquent Owner shall be liable for all attorney's fees incurred by the Association in collecting the account, filing liens, foreclosing liens, releasing liens, prosecuting lawsuits, and/or otherwise enforcing the Declaration and Bylaws. Subject to the provisions of Section 3.24 hereof, all such sums shall be a continuing lien and charge upon the delinquent Owner's Lot(s), as well as the personal obligation of said Owner; and this obligation may be enforced in the same manner and to the same extent as provided herein for Assessments.

4.06 Rules. and Policies. The Board of Directors shall have wide latitude in adopting and implementing rules governing the appearance and use of Lots and in establishing policies for enforcement of the Declaration and Bylaws.

4.07 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles of Incorporation and Bylaws of the Association, as the same may be amended from time to time. Initially, the Board will be composed of appointees of Declarant. After the expiration of the Protective Period, the initial members of the Association shall arrange for an election of the members to elect three (3) members of the Association to replace the appointees of Declarant.

V.

ARCHITECTURAL CONTROL COMMITTEE

5.01 Membership of Architectural Control Committee. The Architectural Control Committee shall consist of three (3) voting members (the "Voting Members"), and such additional non-voting members serving in an advisory capacity ("Advisory Members") as the Board deems appropriate.

5.02 Action by Architectural Control Committee. Items present to the ACC shall be decided by a majority vote of the current voting members of the ACC.

5.03 Term. Each member of the ACC shall hold office until such time as he/she has resigned, has been removed or his/her successor has been appointed, as provided herein.

5.04 Declarant's Rights of Appointment. During the Protective Period, Declarant shall have the right to appoint and remove all Members of the ACC, Voting and Advisory.

5.05 Duties.

(a) General. It shall be the duty of the ACC to receive, consider and act upon all proposals, plans, complaints, request for determination, Plans and Specifications or other matters submitted pursuant to the terms of this Declaration, and to carry out all other duties imposed on it by this Declaration.

(b) Consultant. The ACC may, but need not, hire specialized consultants and incur expenses up to five hundred dollars (\$500.00), to aid it in reviewing plans and their incidents. The cost of such specialized consultants and expenses shall be considered to be a cost of the Plans and Specifications of the Owner. Payment of such costs shall be considered a filing requirement of the Plans and Specifications, and such Plans will not be considered unless and until such costs are paid.

5.06 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide and control the construction or erection of any Improvement, including, but not limited to, those indicating size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications for all building products and construction techniques, samples of exterior colors, plans for utility services and all other documentation or information relevant to any Improvement.

5.07 Adoption of Rules.

(a) The ACC may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties.

(b) Unless and until a political subdivision of the State of Texas regulates such matters by law in the Property, the rules promulgated by the ACC may include building codes governing all types of construction on the Property, a fire code, a housing code, and other similar codes as the ACC deems necessary and desirable. To the extent possible, these codes shall (i) be performance based, (ii) encourage the use of new technologies, techniques and materials, and (iii) be compatible with the codes of Hays County, Texas and the Uniform Building Code.

5.08 Review of Proposed Construction. Whenever in this Declaration or in any supplemental declaration the approval of the ACC is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole

discretion, are relevant. Except for construction by Declarant, prior to commencement of any construction of any improvement on the Property or any portion thereof, the final Plans and Specifications shall be submitted to the ACC, and construction thereof may not commence unless and until the ACC has approved such Plans and Specifications in writing. The ACC shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties as assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including inspection of construction in progress, to assure its conformance with Plans and Specifications approved by the ACC. The ACC shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans and Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

5.09 Procedure for Submission and Approval of Plans and Specifications.

(a) Submission and approval of Plans and Specifications shall be in accordance with the rules promulgated by the ACC, as authorized by Section 5.07.

(b) If the ACC fails to approve or disapprove any material or Plans and Specifications submitted to it hereunder within thirty (30) days after the date shown on the submittal receipt ("Approval Period") or to give notice of its actions as above required, it shall be conclusively presumed that the ACC has approved such materials submitted. If the ACC requests additional or amended materials or amended Plans and Specifications ("Amendments") during the initial Approval Period, the Approval Period shall be automatically extended for fifteen (15) days following the date upon which such Amendments have been submitted. If the Amendments are not submitted on or before the date specified by the ACC (or if no time is specified, within fifteen (15) days after the Amendments are requested) (the "Amendment Deadline") then the Plans and Specifications shall be automatically disapproved. If the ACC approves Plans and Specifications on the condition that certain Amendments be submitted ("Conditional Approval"), such Conditional Approval shall expire if the Amendments are not received by the Amendment Deadline.

5.10 Meetings of the Architectural Control Committee. The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may, by resolution unanimously adopted in writing, designate one of its Members to take any action or perform any duties for and on behalf of the ACC, except the granting of variances as hereinafter provided. In the absence of such designation, the vote of a majority of all of the Members of the ACC taken without a meeting shall constitute an act of the ACC.

5.11 Action Without Formal Meetings. The ACC may take action without formal meeting by unanimously consenting in writing on any matter which it might consider at a formal meeting. Such unanimous written consent shall constitute an act of the ACC. For the purpose hereof, unanimous written consent shall constitute an act of the ACC.

5.12 No Waiver of Future Approvals. The approval or consent of the ACC to any Plans and Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent to as to any Plans and Specifications, or any other matter whatever, subsequently or additionally submitted for approval or consent by the same or different person.

5.13 Non-Liability of Architectural Control Committee Members. Neither the ACC, nor any Member thereof, nor the Board, nor any Member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the ACC's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the ACC or its Members of the Board or its Members, as the case may be. Neither the ACC nor the Members thereof shall be liable to any Owner due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from such Owner's Lot or Lots.

5.14 Variances. The ACC may grant variances from compliance with any of the provisions of this Declaration or any supplemental declaration, including, but not limited to, restrictions upon height, bulk, size, shape, floor areas, land area, placement of structures, set-backs, building envelopes, colors, materials, or land use when, in the opinion of the ACC, in its sole and absolute discretion, such variance will not be adverse to the overall development plan for the Subdivision. Such variances must be evidenced in writing and must be signed by at least a majority of the Voting Members of the ACC. If a variance is granted, no violation of the covenants, conditions or restrictions contained in this Declaration or in any supplemental declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and in the particular instance covered by the variance.

5.15 Guidelines for Building. The ACC may promulgate a set of guidelines not in conflict with this Declaration for building and developing in the Subdivision which may be as general or specific as the ACC shall decide, and may be amended from time to time by the ACC.

5.16 Submission of Final Plans and Specifications. The final Plans and Specifications shall be submitted in triplicate to the ACC care of the Declarant, at the following address: _____, or such other address as may be designated from time to time, one copy of which will be returned to the person submitting the Plans and Specifications with an endorsement as to the date received by the ACC.

5.17 Delegation of Appointment Powers. The Declarant shall have the right, but not the obligation, to delegate to the Association in writing the right to appoint and remove Members of the ACC and upon such written delegation of authority filed of record in the Official Public Records of Hays County, Texas, the selection of Voting Members to serve on the ACC shall be by separate election by the Owners.

5.18 Inspection of Work.

(a) **Completed Work.** Inspection of completed work and correction of defects shall proceed as follows:

(1) Upon the completion of any Improvement for which the final Plans and Specifications were approved by the ACC, the Owner shall give written notice of completion to the ACC.

(2) Within such reasonable time as the ACC may set in its rules, but not to exceed fifteen (15) days thereafter, the ACC or its duly authorized representative may inspect such Improvement. If the ACC finds that such work was not done in strict compliance with all approved Plans and Specifications, it shall notify the Owner in writing of such noncompliance within five (5) days, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.

(3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the ACC shall notify the Board of Directors in writing of such failure. Upon notice to the Owner, the Board shall conduct a hearing at which it shall determine if there is noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the non-complying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all reasonable expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy and assessment against such Owner and Improvement in question, and the Lot upon which the same is situated, for reimbursement, and the same shall constitute a lien upon such Lot and Improvement and be enforced as provided in this Declaration.

(4) If for any reason after receipt of said written notice of completion from the Owner no inspection is made or any noncompliance is not found within the period provided in Subparagraph (2) of this Section 5.18(a), the Improvement shall be deemed to be in accordance with said approved Plans and Specifications. In the instances where an inspection has occurred and the Improvements are in compliance, upon request, the ACC shall issue a "Certificate of Compliance" in a form suitable for recording. The certificate shall identify the Lot or Property and the Improvement, and shall certify only that the Improvements thereon are not in violation of the covenants of this Declaration, or, if they are in violation, that a variance has been granted. THE CERTIFICATE OF COMPLIANCE SHALL NOT BE CONSTRUED TO CERTIFY THE ACCEPTABILITY, SUFFICIENCY OR APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE OF THE ACTUAL CONSTRUCTION OF THE IMPROVEMENTS OR OF THE WORKMANSHIP OR MATERIALS THEREOF. THE OWNERS ARE HEREBY NOTIFIED THAT THE CERTIFICATE OF COMPLIANCE IN NO WAY WARRANTS

THE SUFFICIENCY, ACCEPTABILITY, OR APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE OF THE CONSTRUCTION, WORKMANSHIP, MATERIALS OR EQUIPMENT OF THE IMPROVEMENTS. RECORDATION OF SUCH CERTIFICATE OF COMPLIANCE SHALL BE AT THE EXPENSE OF THE OWNER OF THE IMPROVED LOT.

5.19 Governmental Agency Approval. Nothing in this Declaration shall relieve or be interpreted as purporting to relieve any Owner from also securing such approvals, certificates, or permits of any governmental agency or entity with jurisdiction over the Property as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the ACC may require that a copy of such approvals, certificates, or permits be provided to the ACC as a final condition to approval of the Plans and Specifications, or as additional assurance to the ACC that the Improvements and uses of approved Plans and Specifications meet governmental requirements, or for both such purposes.

VI ASSESSMENTS

6.01 Covenant to Pay Assessments. Each Owner of a Lot, including Declarant, hereby covenants to pay to the Association (a) Regular Assessments (as defined in Section 6.03 hereof) (b) Special Assessments (as defined in Section 6.04 hereof); (c) Park Maintenance Assessment (as defined in Section 3.21 hereof), and (d) late charges (as specified in Section 6.06 hereof) for each Lot that he/she/it owns. All such Assessments and charges shall be established and collected from time to time as herein provided. Each Owner further covenants to pay to the Association reasonable attorney's fees, costs, and expenses incurred in connection with collection of Assessments.

6.02 Purpose of Assessments. The Association shall set and levy Assessments, as needed, for the purposes of (a) promoting the comfort, health, safety, and welfare of the Owners, (b) enforcing and defending the Declaration and Bylaws, (c) maintaining the Association Property, and (d) promoting the purposes of the Association as stated herein or as otherwise provided in the Articles or Bylaws. Prior to the beginning of each fiscal year, the Board shall adopt an annual budget to cover the proposed operating expenses of the Association necessary to accomplish the purposes set forth in this Section.

6.03 Regular Assessments. Regular Assessments ("Regular Assessments") shall be assessed as follows:

- (a) Improved Lots. The initial Regular Assessment for each Improved Lot (i.e. Lots with improvements constructed thereon) shall be \$600.00 per calendar year, commencing in the calendar year 2007. The Regular Assessment shall thereafter be adjusted by the Board as required to meet Association needs.

- (b) Unimproved Lots. The initial Regular Assessment for each Unimproved Lot shall be \$600.00 per calendar year, commencing in the calendar year 2007.
- (c) Due Date of Regular Assessments. Unless otherwise provided by the Board, Regular Assessments shall be due and payable to the Association in advance on or before the first day of January of each calendar year. For purposes of the assessment of late charges, a Regular Assessment will be considered delinquent if not paid within thirty days from its due date. For all other purposes, including, without limitation, the purposes of Section 4.05(b) hereof, a Regular Assessment will be considered delinquent if not paid on the due date. The Owner of a Lot is obligated to pay Regular Assessments regardless of whether the Owner actually receives a bill, or other notice of any such Regular Assessment.

6.04 Special Assessments. In addition to the Regular Assessments authorized herein, the Association may levy Special Assessments ("Special Assessments") in order to carry out any of the purposes of the Association or otherwise to benefit the Association. The due date(s) and delinquent date(s) of any Special Assessment under this section shall be fixed by the resolution authorizing such Special Assessment.

6.05 Vote Required for Special Assessment. The Special Assessments authorized by Section 6.04 hereof must be approved by two-thirds of the votes duly cast in person or by proxy at a meeting duly called for such purpose, written notice of which shall have been given to all Members at least 20 days in advance setting forth the purpose of the meeting and the proposed assessment.

6.06 Reserved for Future Amendments.

6.07 Park Maintenance Assessments. Park Maintenance Assessments shall be as follows:

- (a) Amount of Assessment. The initial Park Maintenance Assessment shall be Zero Dollars (\$0.00) per Lot per calendar year, commencing in the calendar year 2007. The Association may thereafter increase the Park Maintenance Assessment as necessary to maintain the Park within Vineyard Estates; provided, however, that at no time shall the Association have the authority to increase the amount of the Park Maintenance Assessment charged to any Lot owned by Declarant without Declarant's express written consent.
- (b) Due Date of Park Maintenance Assessments. Unless otherwise provided by the Board, Park Maintenance Assessments shall be due and payable to the Association in advance on or before the first day of January of each calendar year. For purposes of the assessment of late charges, a Park Maintenance Assessment will be considered delinquent if not paid within thirty days from its due date. For all other purposes, including, without limitation, the purposes of Section 4.05(b) hereof, a Park Maintenance Assessment will be considered delinquent if not paid on the due date. The Owner of the Lot is obligated to pay Park Maintenance Assessments regardless

of whether the Owner actually receives a bill, invoice or other notice of any such Assessment.

6.07 Late Charges and Collection Costs. If any Assessment, whether Park, Regular or Special, is not paid before becoming delinquent, the Owner responsible therefor may be required to pay a late charge at such rate as the Board may designate from time to time. Each Owner shall also be liable for payment of all costs and expenses, including returned check charges, reasonable attorney's fees, and recording fees incurred in collection of Assessments and/or other sums owed by the Owner to the Association. Said charges and fees shall be the personal obligation of the Lot Owner. An Owner's non-receipt of a statement or other notice that Assessments are due shall not be a defense to the imposition of late charges and other costs of collection.

6.08 General Funds. All Regular Assessments which are collected from time to time, all Special Assessments which are collected from time to time in excess of the amount required to pay the cost of the project or purpose for which such Special Assessment was assessed and all Park Maintenance Assessments which are collected from time to time in excess of the amount required to perform necessary maintenance in the Park shall be considered "general funds". All "general funds" of the Association may be held by the Association as a reserve, applied to upcoming expenses or returned to the Owners and all of the foregoing shall be considered "authorized purposes". In the event any "general funds" are at any time returned to the Owners, the Association shall endeavor to return the funds to the Owners who contributed in the same proportion as such funds were contributed.

6.09 Lot Consolidation; Replatting. No combination, consolidation, or replatting of Lots shall alter the Assessments due with regard to each original Lot involved unless the same (a) occurs at the instance of Declarant or (b) involves extraordinary circumstances and receives the unanimous approval of the Board.

VII LIABILITY AND INDEMNITY

7.01 Liability of Association Representatives. Association directors, officers, employees, and committee members (collectively the "Association Representatives") shall not be liable to any Owner or other person claiming by or through any Owner for any act or omission of such Association Representative in the performance of his/her Association duties unless such act or omission (a) is an act or omission not in good faith or that involves intentional misconduct or a knowing violation of law, (b) involves a transaction from which an Association Representative receives an improper personal benefit, whether or not the benefit resulted from an action taken within the scope of the Association Representative's office/position, or (c) is conduct for which the liability of the Association Representative is expressly imposed by a statute.

7.02 Indemnification. The Association shall indemnify every past and present Association Representative from all claims, demands, actions and proceedings and all expenses associated therewith unless such indemnity would contravene the provisions of Section 7.01 of this Declaration. Such indemnification payments shall be a common expense. This indemnity shall extend to all

expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by such person in connection with such proceeding if it is found and determined by the Board or a court that such person: (a) acted in good faith and in a manner which such person reasonably believed to be consistent with the best interests of the Association, or (b) with respect to any criminal action or proceeding, had no reasonable basis to believe such conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person breached the immediately preceding requirements. The Board may purchase and maintain insurance on behalf of any person who is or was an Association Representative against any claim asserted against or incurred by such person in any such capacity or status, whether or not the Association would have the power to indemnify such person against such liability. The premium for such insurance shall be treated as a common expense, and the Board of Directors is authorized and directed to modify the Association's corporate charter and Bylaws to the extent necessary to facilitate the purchase of such insurance.

7.03 Amendment of Liability and Indemnity Provisions. Notwithstanding any other provision in this Declaration, the Board may amend this Article 6, without the concurrence of the Members or Mortgagees, in order to conform to changes in applicable law.

VIII MISCELLANEOUS

8.01 Construction. This Declaration shall be liberally construed to promote its express and implicit purposes. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision or portion. Unless the context requires a contrary construction, use of the singular, plural, and/or a designated gender shall be of no consequence in construing this Declaration. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the sections hereof.

8.02 No Warranty of Enforceability. While Declarant has no reason to believe that any of the terms and provisions of this Declaration are in any respect invalid or unenforceable, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such terms or provisions. Any Owner acquiring a Lot shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant, and her respective successors and assigns, harmless therefrom.

8.03 Compliance with Declaration. Each Owner shall comply strictly with the provisions of this Declaration. Failure to comply with any part of this Declaration shall give rise to a cause of action for damages, attorney's fees, and/or injunctive relief.

8.04 Enforcement and Nonwaiver. Except as otherwise provided herein, the Association, any Owner (at his/her own expense), and/or Declarant shall have the right to enforce any or all of the

provisions of this Declaration. In order to enforce the Declaration, the Association, Owner, and/or Declarant, shall deliver written notice to the alleged violator who shall have 30 days in which to remedy the violation (unless such time frame will cause serious harm to the complaining party and/or other Owners, in which case the notice period will be reduced to the maximum time which will not cause serious harm to others); and if the alleged violator fails to do so, then the complaining party shall have the right to enforce the provisions of this Declaration. The failure of any party to enforce the provisions of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce this Declaration or to recover his/her attorney's fees and costs of suit from the other party.

8.05 Lien for Enforcement. All sums due under this Declaration shall be secured by a continuing lien and charge upon the subject Lot as well as the personal obligation of the Owner and his/her successors in interest. Subject to the provisions of Section 3.23, above, the aforesaid lien shall be superior to all other liens and charges against said Lot, except only for ad valorem tax liens. To evidence the aforesaid lien, the Association, or Declarant (but not any other Owner) may prepare a written notice of lien, setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a legal description of the Lot. Such notice shall be signed by the Association or Declarant and may be recorded in the office of the County Clerk of Hays County, Texas. Such lien shall attach with the priority set forth above from the date that such payment becomes delinquent, and the Association, or Declarant may thereafter institute suit against the subject Owner personally and/or enforce the lien through non-judicial foreclosure in accordance with the provisions of Sections 51.002 and 204.010 of the Texas Property Code, as the same may be amended, superseded or replaced from time to time.

8.06 Amendment. Prior to the expiration of the Protective Period, this Declaration may be unilaterally amended by Declarant executing and recording a written amendment hereto in the Official Public Records of Hays County, Texas. Thereafter, this Declaration may be amended by the written agreement of the Owners holding at least two-thirds (2/3) of the votes entitled to vote at a meeting of the Association. No amendment shall be effective until it has been recorded in the Official Public Records of Hays County, Texas. A simple majority of the Owners may amend this Declaration for the sole and strictly limited purpose of making this Declaration comply with financing eligibility requirements of the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration, Federal Housing Administration, or comparable federal agencies. Declarant shall have the unilateral right at any time to amend this Declaration for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein. Notwithstanding any of the foregoing, any attempt to amend this Declaration in a manner which would have the effect of (i) decreasing Declarant's rights hereunder, or (ii) increasing Declarant's duties, obligations, liabilities or Assessments hereunder shall be void ab initio absent the express written consent of Declarant.

[Signature and Acknowledgment follow]

IN WITNESS WHEREOF, the undersigned has executed this Declaration on this 7 day of June, 2007.

**DRIFTWOOD 323 VINEYARD, LTD., a
Texas limited partnership**

By: DV 249 GP, L.L.C., a Texas limited
liability company, general partner

By: [Signature]
Steve Tucker, Member-Manager

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned Notary Public, on this day personally appeared Steve Tucker, Member-Manager of DV 294 GP, L.L.C., general partner of Driftwood 323 Vineyard, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration and in the capacity therein expressed.

GIVEN under my hand and seal of office this 7 day of June, 2007.



[Signature]
Notary Public in and for the State of Texas
Print Name: HAZEL M. BASSETT
My Commission Expires: 1-13-09

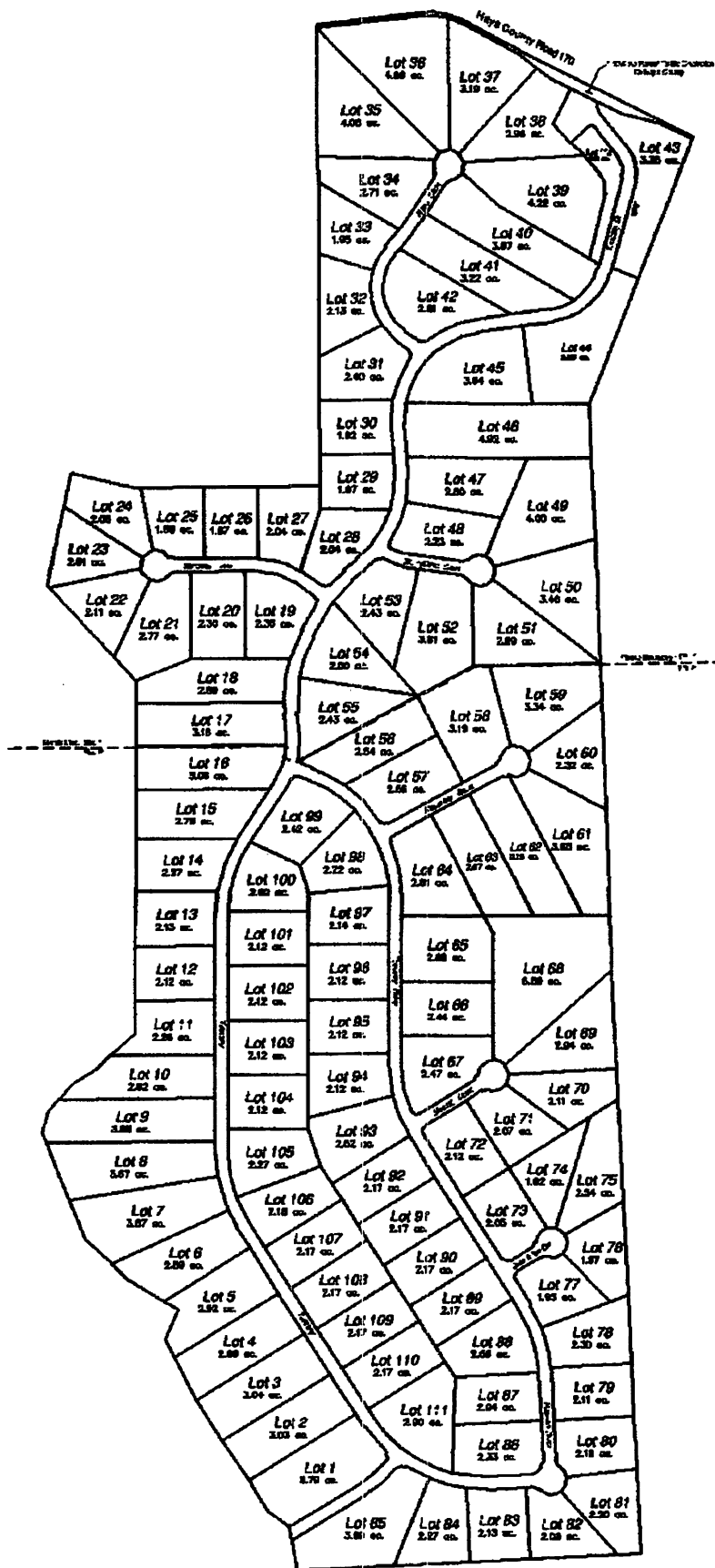
EXHIBIT "A"

Property Description

Lots 17-55, THE VINEYARD – PHASE 1, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Bok 14, Pages 26-27 of the Plat Records of Hays County, Texas.

The Vineyard

Bk Vol Pg
70016560 DPR 3182 393



APPROVED PLANT MATERIAL LIST

The following list of plants is composed of selected native and adaptive plant material suitable for the plant habitat found in Vineyard Estates. This approved plant list is made up of recommended plants for installation on residential properties. This is not an all-exclusive plant list, but rather a list of appropriate plant materials, which for the most part, are readily available in the local nursery trade.

As regional and xeriscape gardening techniques become more mainstream, additional native plant species will become available in the marketplace as demand is increased. Therefore, this list of approved plants will be amended from time to time.

1. CANOPY TREES

Scientific Name	Common Name	Comments
<i>Acer gradidentatum</i>	Bigtooth Maple	fall color
<i>Acer rubrum</i> var. <i>Drummondii</i>	Drummond Red Maple	
<i>Carya illinoensis</i>	Pecan	limb litter
<i>Ehretia anacua</i>	Anacua	spring/summer bloom
<i>Fraxinus pennsylvanica</i>	Green Ash	weak wooded, limb litter
<i>Fraxinus texensis</i>	Texas Ash	street tree, fast growing
<i>Gleditsia triacanthos</i>	Honey Locust	thornless varieties available
<i>Juglans microcarpa</i>	Texas Black Walnut	
<i>Juniperus virginiana</i>	Eastern Red Cedar	
<i>Pistacia chinensis</i>	Chinese Pistache	fall color
<i>Pistacia texensis</i>	Texas Pistache	alley tree
<i>Platanus mexicana</i>	Mexican Sycamore	drought tolerant
<i>Platanus occidentalis glabrata</i>	Sycamore	moist areas, street tree
<i>Quercus macrocarpa</i>	Burr Oak	street tree
<i>Quercus glaucoides</i>	Lacey Oak	small sized shade tree
<i>Quercus muhlenbergii</i>	Chinquapin Oak	street tree, medium-sized tree
<i>Quercus polymorpha</i>	Mexican White Oak	
<i>Quercus pungens</i> 'Vaseyana'	Vasey Oak	
<i>Quercus shumardii</i>	Shumard Oak	fall color
<i>Quercus shumardii</i> var. <i>texana</i>	Texas Red Oak	fall color/acorns
<i>Quercus sinuata</i>	Shin Oak	drought tolerant
<i>Quercus virginiana</i>	Live Oak	street tree/oak wilt susceptible
<i>Sapindus drummondii</i>	Western Soapberry	drought tolerant, fall berries
<i>Taxodium distichum</i>	Bald Cypress	west location tolerant
<i>Ulmus americana</i>	American Elm	
<i>Ulmus crassifolia</i>	Cedar Elm	drought tolerant, alley tree
<i>Ulmus parvifolia</i>	Chinese Elm	
<i>Ulmus parvifolia</i> 'Drake'	Drake Elm	fast growing, street tree
<i>Taxodium mucronatum</i>	Montezuma Cypress	

2. ORNAMENTAL TREES

<i>Acacia farnesiana</i>	Huisache, Wee-satch	
<i>Acacia wrightii</i>	Wright's Acacia	full sun
<i>Aesculus glabra</i> 'arguta'	Texas Buckeye	understory
<i>Aesculus pavia</i>	Red Buckeye	understory
<i>Arbutus texana</i>	Texas Madrone	
<i>Bauhinia congesta</i>	Anacacho Orchid Tree	

Bumelia lanuginosa	Wooly-Bucket Bumelia	sun/drought, has thorns
Cercis canadensis alba	Whitebud	
Cercis canadensis mexicana	Mexican Redbud	sun/shade
Cercis canadensis texensis	Texas Redbud	sun/drought
Chilopsis linearis	Desert Willow	DR
Citharexylum berlandieri	Fiddlewood	sun/shade
Cordia boissieri	Mexican Olive	white flowers/bold foliage
Cornus drummondii	Rough Leaf Dogwood	shade/DR
Cotinus obovatus	Texas Smoke Tree	
Crataegus reverchonii	Reverchon Hawthorn	
Crataegus tracyi	Mountain Hawthorn	fall color
Diospyros kaki	Japanese Persimmon	
Diospyros texana	Texas Black Persimmon	sun/drought/DR, fruit drop
Eriobotrya japonica	Loquat	
Eysenhardtia texana	Texas Kidneywood	moist locations, small tree
Ilex decidua	Possumhaw Holly	sun/shade, winter berries
Ilex vomitoria	Yaupon Holly	sun/drought, evergreen
Juglans microcarpa	Mexican Walnut	
Koeberlinia paniculata	Golden Raintree	protect from freeze damage
Lagerstroemia indica	Crepe Myrtle	sun/summer color, alley tree
Leucaena retusa	Goldenball Leadtree	
Malus ionensis	Blanco Crabapple	
Parkinsonia aculeata	Retama, Jerusalem Thorn	
Pinus eldarica	Afghan/Eldarica Pine	best pine for alkaline soils
Pinus thunbergii	Japanese Black Pine	
Pithecellobium ebano	Texas Ebony	airy foliage and flowers
Prosopis glandulosa	Honey Mesquite	drought tolerant
Prunus mexicana	Mexican Plum	alley tree, spring flowers
Prunus caroliniana	Carolina Cherry Laurel	moist soils, alley tree
Prunus cerasifera 'purpurea'	Purple Leafed Plum	
Prunus serotina 'Eximia'	Escarpment Black Cherry	fall color, fruit bearing
Pyrus calleryana 'Aristocrat'	Aristocrat Pear	spring blooms, upright
Pyrus calleryana 'Bradford'	Bradford Pear	formal shape, white flower
Rhamnus caroliniana	Carolina Buckthorn	moist soils
Rhus lanceolata	Prairie Flameleaf Sumac	sun/drought/DR
Rhus glabra	Smooth Sumac	sun/drought/DR
Sabal texana	Texas Sabal Palm	drought/DR
Sophora secundiflora	Texas Mountain Laurel	sun/drought/DR
Ungnadia speciosa	Mexican Buckeye	understory, spring flowers
Vitex agnus-castus	Lilac Chaste Tree	sun, late spring blooms
Xylosma congesta	Xylosma	small patio tree
3. SHRUBS		
Abelia grandiflora sherwoodii	Glossy Abelia	sun, summer flowers
Agave americana	Agave/Century Plant	full sun/drought tolerant, accent
Amorpha fruticosa	Indigobush	
Acanthus wrightii	Flame Acanthus	sun/shade, orange flowers
Aucuba japonica	Japanese Aucuba	
Berberis thunbergii atropurpurea	Japanese Barberry	sun
Berberis trifoliolata	Agarita	flowers, fruit, prickly
Buddleia davidii	Butterfly Bush	sun, lavender flowers

<i>Buxus macrophylla</i>	Japanese Boxwood	
<i>Callicarpa americana</i>	American Beautybush	sun/shade, purple fruit in fall
<i>Capsicum</i> spp.	Ornamental Pepper	
<i>Cephalanthus occidentalis</i>	Button Bush	sun/shade/moist soils
<i>Chamaerops humilis</i>	Mediterranean Fan Palm	
<i>Chaenomeles japonica</i>	Flowering Quince	
<i>Continus obovatus</i>	American Smoke Tree	sun/shade, spring bloom
<i>Cotoneaster glaucophylla</i>	Grayleaf Cotoneaster	sun/shade
<i>Cotoneaster horizontalis</i>	Cotoneaster	moist areas
<i>Cortaderia selloana</i>	Pampas Grass	
<i>Cycus revoluta</i>	Sago Palm	protect from freeze
<i>Dalea frutescens</i>	Black Dalea	sun, purple summer flowers
<i>Dasyliros texanum</i>	Texas Sotol	sun, long blade-like leaves
<i>Diospyros texana</i>	Texas Persimmon	sun, accent plant
<i>Elaeagnus pungens</i>	Elaeagnus	sun/shade, fall blooms, large
<i>Erythrina herbacea</i>	Coral Bean	
<i>Escallonia</i> spp.	Escallonia	sun/DR
<i>Eupatorium havanense</i>	Shrubby Boneset	sun
<i>Fatsia japonica</i>	Aralia	shade/tropical effect
<i>Feijoa sellowiana</i>	Pineapple Guava	
<i>Forestiera pubescens</i>	Texas Elbow Bush	sun/drought
<i>Forsythia intermedia spectabilis</i>	Forsythia	sun/shade
<i>Fouquieria splendens</i>	Ocotillo	cacti
<i>Garrya ovata</i>	Silk Tassel	sun
<i>Hesperaloe parviflora</i>	Red Yucca	sun, coral flower spike
<i>Hibiscus syriacus</i>	Althaea	sun, showy summer flowers
<i>Ilex cornuta</i> 'Burfordii'	Burford Holly	sun, dwarf varieties
<i>Ilex cornuta</i> 'rotunda'	Dwf. Chinese Holly	
<i>Ilex vomitoria</i>	Yaupon Holly	sun/DR
<i>Ilex vomitoria</i> 'Nana'	Dwarf Yaupon Holly	sun/shade
<i>Jasminum humile</i>	Italian Jasmine	
<i>Jasminum mesnyi</i>	Primrose Jasmine	sun, yellow flowers
<i>Juniperus</i> sp.	Juniper	sun
<i>Lantana horrida</i>	Texas Lantana	sun/shade, summer colors
<i>Leucophyllum candidum</i>	Sierra Bouquet Cenizo	
<i>Leucophyllum frutescens</i>	Texas Sage	sun/DR, lavender flowers
<i>Leucophyllum frutescens</i> 'Convent'	Convent Cenizo	
<i>Ligustrum sinense</i> 'variegatum'	Privet	white fly problem
<i>Lindera benzoin</i>	Spicebush	sun/drought/DR
<i>Mahonia swaseyi</i>	Texas Mahonia	sun/drought/DR
<i>Malpighia glabra</i>	Barbados Cherry	
<i>Malvaviscus drummondii</i>	Turks Cap	sun/drought/DR
<i>Myrica cerifera</i>	Wax Myrtle	shade
<i>Myrica pusilla</i>	Dwarf Wax Myrtle	sun/shade
<i>Nandina domestica</i>	Nandina 'Harbor Dwarf'	moist/DR, berries, fall color
<i>Nerium oleander</i>	Oleander	sun, summer flowers
<i>Nolina lindheimeriana</i>	Devil's Shoestring	sun/shade
<i>Nolina texana</i>	Bear Grass	sun/shade
<i>Opuntia phaeacantha</i>	Prickly Pear	cacti
<i>Philadelphus texensis</i>	Texas Mock Orange	
<i>Photinia serrulata</i>	Chinese Photinia	sun/shade

Podocarpus macrophyllus	Japanese Yew	
Prunus rivularis	Creek Plum	
Prunus reverchonii	Reverchon Hog Plum	moist
Punica granatum	Pomegranate	sun/shade, bears fruit
Raphiolepis indica	Indian Hawthorn	sun
Rhus aromatica	Fragrant Sumac	sun
Rhus virens	Evergreen Sumac	DR, red fall color
Rosa sp.	Rose	antique/old fashioned suggested
Rosmarinus officinalis	Rosemary	drought/DR
Sabal minor	Dwarf Palmetto	sun/shade
Sophora affinis	Eve's Necklace	DR, spring bloom/fall fruit
Symphoricarpos	Coralberry	sun/shade
Teucrium laciniatum	Dwarf Germander	
Trachycarpus fortunei	Windmill Palm	sun
Viburnum dentatum	Arrowwood	sun/shade, spring flowers
Viburnum rufidulum	Rusty Blackhaw Viburnum	sun/drought
Washingtonia filifera	California Fan Palm	sun
Yucca aloifolia	Spanish Dagger	
Yucca arkansana	Arkansas Yucca	
Yucca pallida	Pale Leaf Yucca	DR
Yucca rigida	Blue Yucca	
Yucca rupicola	Twisted-leaf Yucca	sun/drought/DR

4. PERENNIALS – TALL (4'+)

Artemesia 'Powis Castle'	Artemesia	
Callicarpa americana	Beautyberry	shade tolerant
Caesalpinia gillisei	Bird of Paradise	
Dalea greggii	Dalea	
Erythrina herbacea	Coralbean	shade tolerant
Hamelia patens	Firebush	sun to partial shade
Lantana camara	Pink Lantana	
Lavendula stachys	Spanish Lavender	
Muhlenbergia dumosa	Bamboo Muhly Grass	
Piper sanctum	Hoja Santa	
Salvia leucantha	Lollie Jackson Mexican Sage	shade tolerant
Tecoma stans 'angustata'	Yellowbells	
Teucrium fruticans	Silver Bush Germander	

5. PERENNIALS – MEDIUM (2'-4')

Agapanthus orientalis	Lily of the Nile	
Aloysia macrostachya	Wooly Bee Brush	
Asclepias curassavica	Tropical Milkweed	
Capsicum annuum	Chile Petin	shade tolerant
Cuphea micropetala	Cigar Plant	sun/shade
Gaura lindheimeri 'Siskiyou Pink'	Pink Gaura	
Hibiscus coccineus	Texas Star Hibiscus	
Lantana 'Irene'	Irene Lantana	
Lantana sp. 'New Gold'	New Gold Lantana	
Leucanthemum vulgare	Ox-eye Daisy	
Monardia pringlei	Pringle's Beebalm	
Pavonia lasiopetala	Peruvian Rock Rose	

Penstemon cobeia	Wild Foxglove	
Penstemon tenuis	Brazos Penstemon	shade tolerant
Plumbago auriculata	Blue Plumbago	sun/shade, low-growing
Salvia blepharophylla	Purple Leaf Sage	
Salvia chamaedryoides	Gray Shrub Sage	
Salvia coccinea	Tropical Sage	shade tolerant
Salvia farinacea	Mealy Cup Sage	
Salvia greggii	Autumn Sage	
Salvia 'Indigo Spires'	Indigo Spires Sage	
Salvia regia	Mountain Sage	shade tolerant
Tagetes lemmonii	Copper Canyon Daisy	
Viguiera stenoloba	Skeleton Leaf Goldeneye	
Vitex rotundifolia	Beach Vitex	
Wedelia texana	Zexmenia	

6. PERENNIALS - LOW GROWING (0-2')

Achillea millefolium	Yarrow	shade tolerant
Aquilegia hincleyana	Hinckley's Gold Columbine	shade tolerant, spring flowers
Callirhoe involucrata	Winecup	
Calyophus drummondianus	Compact Gold Calylophus	
Chasmanthium latifolium	Inland Sea Oats	shade tolerant
Eupatorium greggii	Gregg's Mistflower	
Gaura lindheimerii	White Gaura	
Iris sp.	Bicolor Iris	shade tolerant
Pentemon baccharifolius	Rock Penstemon	shade tolerant, summer blooms
Penstemon digitalis 'Husker Red'	Husker Red Penstemon	
Rivina humilis	Pigeonberry	shade
Rosmarinus officinalis	Prostrate Rosemary	sun/shade
Salvia greggii 'Nuevo Leon'	Nuevo Leon Sage	shade tolerant
Salvia sinaloensis	Bicolor Sage	shade tolerant
Stachys coccinea	Texas Betony	shade tolerant
Tetrameuris scaposa	Four Nerve Daisy	
Verbena canadensis 'Homestead purple'	Homestead Verbena	
Verbena sp.	Moss Verbena	
Zephyranthes candida	White Rain Lily	sun/shade

7. PERENNIALS - FLOWERING

Artemisia 'Powis castle'	Artemisia	sun, aromatic foliage
Asclepias tuberosa	Butterfly Weed	sun/shade
Aster oblongifolius	Fall Aster	sun/shade, autumn flowers
Chrysactinia mexicana	Damianita	sun, low-growing
Chrysanthemum leucanthemum	Oxeye Daisy	sun, summer flowers
Cooperia pedunculata	Rain Lily	
Coreopsis lanceolata	Coreopsis	sun, spring/fall flowers
Coreopsis tinctoria	Goldenwave	
Delphinium carolinianum	Blue Larkspur	
Echinacea purpurea	Purple Coneflower	sun/shade, spring/summer
Hemerocallis fulva	Daylily	sun, funnel-shaped flower
Hibiscus cardiophyllus	Heartleaf Hibiscus	sun/shade, flowers all summer
Hymenoxys scaposa	Hymenoxys	sun, small yellow daisy
Liatris spp.	Gayfeather	sun, flower spikes in autumn

<i>Lobelia cardinalis</i>	Cardinal Flower	
<i>Melampodium leucanthum</i>	Blackfoot Daisy	sun, summer flowers
<i>Oenothera missouriensis</i>	Yellow Evening Primrose	
<i>Penstemon</i> spp.	Pecos Penstemon	
<i>Penstemon baccharifolius</i>	Rock Penstemon	
<i>Penstemon havardii</i>	Harvard Penstemon	
<i>Penstemon triflorus</i>	Hill Country Penstemon	
<i>Plumbago</i> sp.	Plumbago	blue flowers
<i>Poliomenantha longiflora</i>	Mexican Oregano	sun/DR
<i>Ratibida columnaris</i>	Mexican Hat	
<i>Rudbeckia hirta</i>	Black-eyed Susan	sun/shade, summer flowers
<i>Ruellia nudiflora</i>	Wild Petunia	shade, March to December
<i>Salvia coccinea</i>	Scarlet Sage	sun/shade, spring-fall
<i>Salvia engelmannii</i>	Engelmann Sage	
<i>Salvia farinacea</i>	Mealy Blue Sage	shade tolerant, spring/summer
<i>Salvia leucantha</i>	Mexican Bush Sage	sun, tall flower spikes
<i>Salvia lyrata</i>	Lyre-leaf Sage	
<i>Salvia roemeriana</i>	Cedar Sage	shade, reseeds freely
<i>Scutellaria suffretescens</i>	Pink Skullcap	sun/shade, summer flowers
<i>Sisyrinchium</i> spp.	Blue-eyed Grass	
<i>Stachys byzantina</i>	Lamb's Ear	sun, low growing
<i>Tagetes lucida</i>	Mexican Marigold Mint	sun/shade, fall flowers
<i>Tecoma stans</i>	Yellow Bells/Esperanza	sun, blooms summer-fall
<i>Verbena Blue Princess</i>	Blue Princess Verbena	sun, light blue flowers
<i>Verbena peruviana</i>	Peruvian Verbena	sun, pink, purple, red or white
<i>Wissadula holosericea</i>	Native Mallow (velvet leaf)	
<i>Zexmenia hispida</i>	Zexmenia	shade, May to November

8. ANNUALS, BIENNIALS AND SHORT-LIVED PERENNIALS

<i>Asclepias asperula</i>	Antelope, Antelope Horns
<i>Castilleja indivisa</i>	Indian Paintbrush
<i>Centaurea beyrichii</i>	Mountain Pink
<i>Cosmos bipinnatus</i>	Cosmos
<i>Eustoma grandiflorum</i>	Texas Bluebell
<i>Gaillardia pulchella</i>	Gaillardia "Indian Blanket"
<i>Helianthus maximiliani</i>	Maximillian Sunflower
<i>Linum rubrum</i>	Scarlet Flax
<i>Lupinus texensis</i>	Bluebonnet
<i>Monarda citriodora</i>	Horsemint
<i>Verbena bipinnatifida</i>	Prairie Verbena

9. ANNUALS (partial list only)

Winter/Spring:	Spring/Summer	Summer/Fall
<i>Calendula</i>	Geranium	<i>Acalypha</i>
<i>Daffodil</i> (bulb)	Marigold	<i>Ageratum</i>
<i>Hyacinth</i> (bulb)	Periwinkle	<i>Alyssum</i>
Ornamental Kale	Petunia	<i>Amaranthus</i>
Pansy		<i>Begonia</i>
Poppy		<i>Caladium</i>
Primula		<i>Chrysanthemum</i>
ANNUALS (continued)		

Winter/Spring:
Snapdragon
Tulip (bulb)
Ornamental Pepper
Dianthus

Spring/Summer

Summer/Fall
Coleus
Impatiens
Marigold
Ornamental Pepper
Periwinkle
Phlox
Portulaca
Purslane

10. GROUNDCOVERS

Achillea millefolium
Adiantum capillus-veneris
Ajuga reptans
Aquilegia canadensis
Aspidistra elatior
Calypocarpus vialis
Cyrtomium falcatum
Dryopteris spp.
Hedera canariensis
Hedera helix
Juniperus conferta 'Blue Pacific'
Juniperus sp.
Lantana montevidensis
Liriope muscari
Nolina texana
Ophiopogon japonicus
Pavonia lasiopetala
Phlox drummondii
Phlox subulata
Rosmarinus officinalis 'Prostratus'
Salvia greggii
Salvia romeriana
Santolina chamaecyparissus
Santolina virens
Thelypteris ovata
Trachelospermum asiaticum
Trachelospermum jasminoides
Tradescantia spp.
Verbena bipinnatifida
Verbena elegans asperata
Vinca major
Vinca minor

Yarrow
Maidenhair Fern
Ajuga
Columbine
Cast Iron Plant
Horseherb
Holly Fern
Wood Fern
Algerian Ivy
English Ivy
Shore Juniper
Trailing Juniper
Purple Trailing Lantana
Liriope
Beargrass
Monkey Grass
Pavonia
Drummond's Phlox
Thrift
Trailing Rosemary
Cherry Sage
Cedar Sage
Gray Santolina
Green Santolina
River Fern
Asiatic Jasmine
Confederate Jasmine
Spiderwort
Prairie Verbena
Hardy Verbena
Bigleaf Periwinkle
Littleleaf Periwinkle

sun/shade/DR
moist areas/shade
shade/DR
shade
shade, broad strap leaves

shade/moist/DR
shade/moist/DR

shade, self climbing vine
sun/DR
not suitable in wet/humid areas
sun/shade, summer-fall
sun/shade
sun/DR
shade/DR
sun/shade
sun
sun
sun/DR
sun/DR, summer blooms
sun/DR
sun/drought
sun/drought tolerant

sun/shade, evergreen
evergreen
shade
sun/DR
sun/DR
dry shade
shade, blue flowers

11. ORNAMENTAL GRASSES

Andropogon gerardii
Andropogon glomeratus
Andropogon scoparius
Aristida purpurea
Aristida wrightii
Bouteloua curtipendula

Big Bluestem
Bushy Bluestem
Little Bluestem
Purple Threeawn
Wright's Threeawn
Sideoats Grama

tall seed heads

Bouteloua gracillis
Bouteloua rigidiseta
Bouteloua trifida Thurb.
Bromus unioloides
Dichanthelium oligosanthes
Eragrostis intermedia
Erioneuron pilosum
Festuca glauca
Festuca spp. 'Arid'
Hilaria belangeria
Leptochloa dubia
Miscanthus sinensis 'Zebrinus'
Muhlenbergia capillaris
Muhlenbergia lindheimeri
Muhlenbergia reverchonii
Muhlenbergia rigens
Panicum virgatum
Scleropogon brevifolius
Setaria leucopila
Sorghastrum nutans
Sporobolus cryptandrus
Stipa tenuissima
Tripsacum dactyloides

12. LAWN GRASSES

Buchloe dactyloides

13. VINES

Ampelopsis arborea
Antigonon leptopus
Bignonia capreolata
Bougainvillea sp.
Campsis radicans
Clematis paniculata
Clematis pitcheri
Ficus pumila (repens)
Gelsemium sempervirens
Ipomoea quamoclit
Ipomoea tricolor
Lonicera fragrantissima
Lonicera sempervirens
Mauranda antirrhinniflora
Parthenocissus quinquefolia
Parthenocissus tricuspidata
Passiflora incarnata
Polygonum aubertii
Rosa banksia
Rosa x bracteata

Blue Grama
Texas Grama
Red Grama
Rescue Grass
Wright's Threecawn
Plains Lovegrass
Hairy Tridens
Blue Fescue
Tall Fescue
Common Curly Mesquite
Green Sprangletop
Zebra Grass
Gulf Coast Muhly
Big Muhly
Seep Muhly
Deer Muhly
Switchgrass
Burro Grass
Plains Bristlegrass
Indian grass
Perennial Dropseed
Mexican Feathergrass
Eastern Gamagrass

drought tolerant

ornamental
drought
shade/drought

seed, dormant in winter

clump

moist

Buffalo Grass
var. "609"
var. Prairie
var. Stampede

full sun/drought, sod only
full sun/drought, sod only
sod only

Pepper Vine
Queen's Wreath
Crossvine
Bougainvillea
Trumpet Vine
Sweet Autumn Clematis
Leather Flower
Fig ivy
Carolina Yellow Jessamine
Cypress Vine
Perennial Morninglory
Honeysuckle
Coral Honeysuckle
Snapdragon Vine
Virginia Creeper
Boston Ivy
Passionflower
Silverlace vine
Lady Banksia
Climbing Rose

late summer/fall
evergreen
evergreen
aggressive
shade tolerant
delicate
evergreen
evergreen/shade tolerant
annual

shade tolerant
delicate
shade
4' apart/deciduous
sun/shade, summer

spring bloom
vigorous climber

Senecio confuses	Mexican Flame Vine	
Smilax bona-nox	Greenbriar	
Trachelospermum jasminoides	Confederate Jasmine	evergreen
Vitis spp.	Champanel Grapes	deciduous
Vitis spp.	Black Spanish Grapes	deciduous

14. SHADE TOLERANT/MOIST AREA PLANTS

Adiantum capillu-veneris	Maidenhair Fern
Bacopa repens	Bacopa, Creeping Waterhyssop
Carex spp.	Carex Sedges
Carex amphibala	
Carex pauciflora	Star Sedge
Cyrtandra pupukeaensis	Pukea
Eleocharis montevidens	Spike Rush
Melica nitens	Three Flowered Melic
Pontederia cordata	Pickereel Weed
Spartina pectinata	Prairie Cordgrass
Spilandes spp.	Spilandes
Elymus canadensis	Canada Wildrye

Legend:

Full sun/sun:	A sun-loving plant
Shade:	A shade-loving plant
Moist:	A moisture loving plant
Drought/drought tolerant:	Plants generally able to survive on less supplemental water and better able to withstand droughts
Color:	Autumn leaf color
DR:	Deer-resistant plants unpalatable enough to be left alone as long as other food is available
Ornamental:	A showy plant
Clump:	Non-spreading basal growth habit
Understory:	Ornamental tree or shrub, which prefers partial shade of canopy tree

Filed for Record in:
Hays County
On: Jun 07, 2007 at 12:19P
Document Number: 70016560
Amount: 148.00
Receipt Number - 172492
By:
Rose Robinson, Deputy
Linda C. Fritscher, County Clerk
Hays County