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2003-0005290

**FIRST AMENDMENT TO DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR BIRMINGHAM**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions for Birmingham (the "**Amendment**"), is made on the date hereinafter set forth by Fox & Jacobs Homes, an assumed business name of Centex Homes, a Nevada general partnership (the "**Declarant**").

**RECITALS**

WHEREAS, a certain instrument entitled Declaration of Covenants, Conditions, and Restrictions for Birmingham was recorded on November 1, 2002, in Volume 05288, Page 06420 in the Real Property Records of Collin County, Texas (the "**Declaration**");

WHEREAS, Declarant desires to amend the Declaration pursuant to Section 11.2 of the Declaration;

WHEREAS, the Declaration may be amended by a 67% vote of Declarant and by the recordation of a written instrument setting forth such amendment pursuant to Section 11.2 of the Declaration, and

WHEREAS, Declarant has more than 67% of the votes and Declarant has voted and hereby consents to amend the Declaration as provided herein;

WHEREAS, Declarant desires to amend the description of the Restricted Common Area as provided herein.

**AMENDMENT**

1. **Modifications to Declaration.**

- a. **Modify Restricted Common Area.** The Restrictive Common Area is hereby modified by deleting the first two sentences of Section 8.6 in their entirety and inserting the following in place thereof: "**Restricted Common Area.** Declarant hereby discloses that the Restricted Common Area is subject to: (i) U.S. Army Corps of Engineers Nationwide General Permit No. 39 (Project Number 200100318), (ii) U.S. Army Corps of Engineers Nationwide General Permit No. 39 (Project Number 200100380) and (iii) Notice of Restriction recorded as Instrument No.020161125 in the Real Property Records of Collin County, Texas. The governing board of the Birmingham Homeowner's Association acknowledges receipt of copies of the Corps Permits, including, without limitation, the Revised Mitigation Reports, prepared by Carter Burgess, dated July 16, 2002 and October 4,

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2002, and authorization letters from the Department of Army, dated July 18, 2002 and October 25 2002."

- b. **Exhibit D - Replaced.** Exhibit "D" of the Declaration of Covenants, Conditions, and Restrictions for Birmingham is hereby deleted in its entirety and replaced with the following:

**TRACT 1**

Lot 36, Block Q of Birmingham Farms, Phase 2A, an addition to the City of Wylie, Collin County, Texas, according to the map or plat thereof, recorded in Cabinet N, Page 887, as Document No. 2002-0083923, Plat Records of Collin County, Texas.

**TRACT 2**

Lot 39, Block J of Birmingham Farms, Phase 2A, as addition to the City of Wylie, Collin County, Texas, according to the map or plat thereof, recorded in Cabinet N, Page 887, as Document No. 2002-0083923, Plat Records of Collin County, Texas.


2. **Defined Terms.** Unless otherwise indicated herein, all initial-capped terms used herein shall have the same meanings as ascribed to them in the Contract.
3. **Full Force and Effect.** Except as specifically amended herein, the Declaration shall remain and continue in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this Amendment as of the date written below.

**DECLARANT:**  
**CENTEX HOMES,**  
a Nevada general partnership  
d/b/a Fox & Jacobs Homes

By: Centex Real Estate Corporation,  
a Nevada corporation  
its managing general partner

Date: December 12<sup>th</sup>, 2002

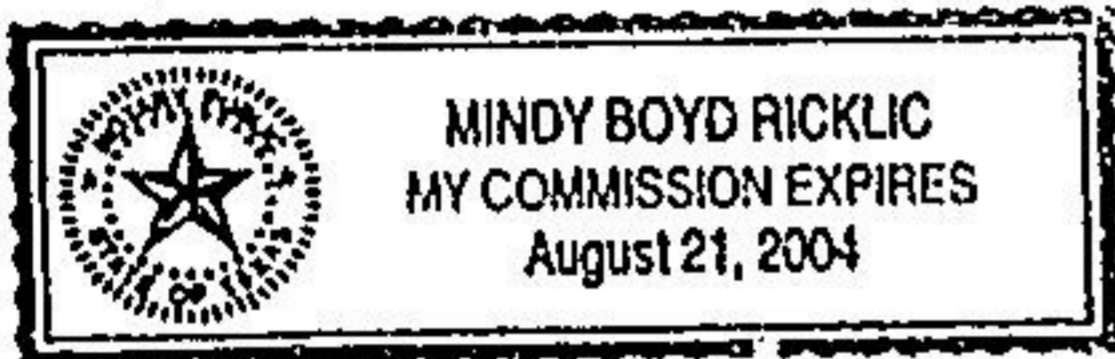
By:   
Name: Robert J. Romo  
Title: Regional Vice President

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STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 12<sup>th</sup> day of December, 2002, by Robert J. Romo (personally known to me), Regional Vice President of Centex Real Estate Corporation, a Nevada corporation, on behalf of the corporation in its capacity as managing general partner of Centex Homes, a Nevada general partnership.



Mindy Boyd Ricklic  
Notary Public, State of Texas  
Notary's printed name: Mindy Boyd Ricklic  
My Commission expires: August 21, 2004

The Association hereby consents to foregoing Amendment.

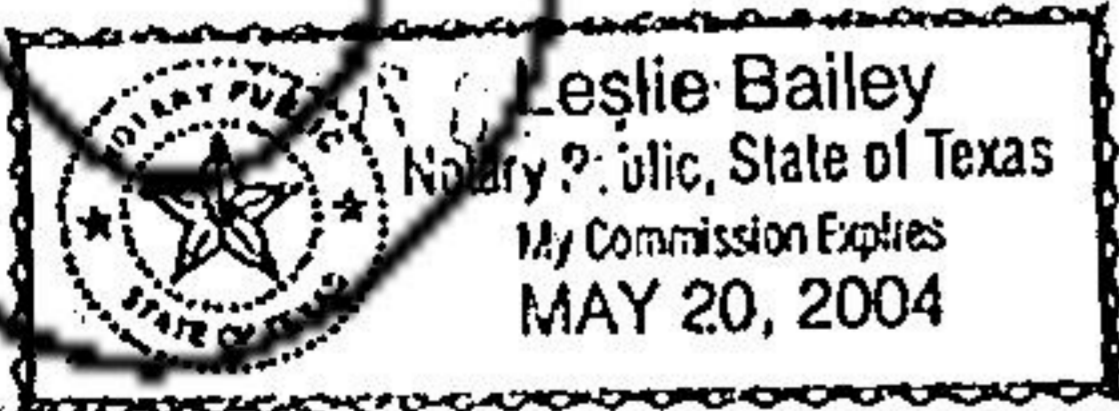
**Birmingham Homeowners' Association**

By: Kelly Reynolds  
Kelly Reynolds  
Its: President

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 10<sup>th</sup> day of December, 2002, by Kelly Reynolds (personally known to me), President of Birmingham Homeowners' Association, on behalf of the Association.



Leslie Bailey  
Notary Public, State of Texas  
Notary's printed name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

AFTER RECORDING RETURN TO:  
Centex Homes  
2800 Surveyor  
Carrollton, Texas 75006  
Attention: Carla Dixon

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Unofficial

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 (THE STATE OF TEXAS) (COUNTY OF COLLIN)  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Collin County, Texas on

JAN 10 2003

Brenda Taylor



Filed for Record in:  
Collin County, McKinney TX  
Honorable Brenda Taylor  
Collin County Clerk

On Jan 10 2003  
At 10:37am

Doc/Num : 2003- 0005290

Recording/Type:AM 15.00  
Receipt #: 1142