

\*\*\*\*\* Electronically Recorded Document \*\*\*\*\*

# Midland County

**Alison Haley**  
**County Clerk**

**Midland County Clerk Unofficial Copy**

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**Midland**

\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*

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



State of Texas  
County of Midland

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the named RECORDS of Midland County, Texas as stamped hereon.

*Alison Haley*  
County Clerk  
Midland County, Texas

**Midland**

**DECLARATION OF COMMUNITY GUIDELINES, COVENANTS,  
CONDITIONS, AND RESTRICTIONS ON AND FOR  
LONE STAR TRAILS SECTION 14**

STATE OF TEXAS           §  
  §  
COUNTY OF MIDLAND   §

Date: March 27<sup>th</sup>, 2019

KNOW ALL MEN BY THESE PRESENTS:

The guidelines, covenants, conditions, and restrictions cited herein contain provisions by which buyers of lots (hereinafter called "Lots" or "Lot" or "Subject Lots") in the subdivision hereinafter called "Lone Star Trails," consisting of Lots 1-11 Block 30 all-inclusive and Common Area S Block 21, Lone Star Trails, Section 14, waive certain important rights which otherwise might be applicable, and agree to certain limitations on their remedies in the event of a breach of any of the provisions set forth herein. Specific provisions set forth herein (in particular, the WAIVER OF IMPLIED WARRANTIES FOR HOMES CONSTRUCTED which immediately follows) should be reviewed prior to purchasing a Lot or Lots in Lone Star Trails.

**WAIVER OF IMPLIED WARRANTIES FOR HOMES CONSTRUCTED**

Each Lot shall be sold subject to the limitation that in such sale all express and implied warranties regarding the Lot and the improvements constructed thereon (including, without limitation, all warranties of habitability, merchantability and fitness for a particular purpose) are disclaimed and released by the parties to any such sale, except for any express written warranties provided by the seller to the buyer in the transaction and for any warranty of title contained in the deed conveying the Lot. This limitation shall apply not only to the initial sale of a Lot and improvements by the Declarant named below but also to each and every subsequent sale of such Lot and improvements during the term of this deed and its provisions.

Any controversy or claim between Declarant and any owner of a Lot or Lots, arising from or relating specifically to the provisions of this "WAIVER OF IMPLIED WARRANTIES FOR HOMES CONSTRUCTED," shall be settled by arbitration, and judgments on any awards rendered by arbitrator(s) may be entered in any court having jurisdiction thereof. Any such arbitration shall be administered by the American Arbitration Association under its then-current arbitration rules or guidelines specific to the real estate industry, provided, however, that in the event of the unavailability of arbitration through said American Arbitration Association, same shall be administered by a similar organization or by a specific arbitrator(s) agreed to by the parties or appointed by a court having appropriate jurisdiction. In any such arbitration, each party shall bear its own costs and expenses incurred with respect to same, including arbitrator's and attorney's fees, except that if any party to such a claim or controversy fails to submit to arbitration following a proper demand to do so, that party shall bear all costs and expenses, including reasonable attorney's fees, incurred by the party compelling the arbitration. All such arbitration will be governed by applicable State and Federal law.

By acceptance of a deed to a Lot, the buyer thereof is conclusively deemed to have agreed to the provisions of this paragraph the same as if such provisions were set forth in the deed conveying the Lot and improvements to such buyer.

**DECLARATION OF GUIDELINES, COVENANTS, CONDITIONS,  
AND RESTRICTIONS**

THIS DECLARATION OF COMMUNITY GUIDELINES, COVENANTS, CONDITIONS, AND RESTRICTIONS (as such may be hereafter amended, modified or restated, this "Declaration") is made and effective as of the 27th day of March, 2019, by BETENBOUGH HOMES, LLC., a Texas Limited Liability Company. BETENBOUGH HOMES, LLC., a Texas Limited Liability Company is sometimes referred to herein as "Declarant".

WHEREAS, BETENBOUGH HOMES, LLC. is the sole owner of all that certain real property located in the City of Midland, Midland County, Texas described Lots 1-11 Block 30 all-inclusive and Common Area S Block 21, Lone Star Trails, Section 14, an addition to the City of Midland, Midland County, Texas, according to the map or plat thereof, recorded in No. 2019-711, Cabinet L, Page 118, Official Public Records of Midland County, Texas.

**DECLARATION**

Declarant hereby declares that the Property are and shall be owned, held, mortgaged, transferred, sold, conveyed and occupied subject to the guidelines, covenants, conditions, and restrictions hereinafter set forth. Such restrictions shall constitute covenants running with the land, and shall be binding on all parties, grantees, and persons claiming under the Declarant as hereinafter set forth.

**SUBROGATION WAIVER**

Each owner of any Lot hereby waives all rights of subrogation against any previous owner of said Lot for any insurance and/or other claims filed and/or paid by any insurer or other third party.

**LAND USE AND BUILDING TYPE**

All of the Subject Lots shall be used, known, and described as residential lots. Lots may NOT be further subdivided. No building shall be erected, altered, placed or permitted to remain on any Lot, other than one detached single-family dwelling per Lot (not to exceed two stories in height) with an attached garage, plus any outbuilding used in connection with the single family dwelling.

Each single family dwelling constructed or existing on any Lot shall be constructed in such a manner that at a total of at least seventy percent (70%) of the exterior walls on all sides of the first floor, exclusive of door and window areas, are masonry or brick veneer construction. Masonry or brick veneer construction shall include only clay brick, stucco, synthetic stucco, synthetic stone veneer, or natural stone. Concrete block, cinder block or asbestos siding shall not be permitted to be visible in or on any structure. In addition, the main roof of each single family dwelling and garage shall be a minimum of 6/12 pitch built with either wood shingles having a natural wood color (and shall not be painted), or clay or concrete tile or asphalt composition shingles. Replacement shingle must also meet these restrictions. No dwelling or garage shall ever be built having a roof of crushed stone, gravel or roll roofing. No portable or "move-in" houses shall be allowed on any Lot. All residential Lots have a 10' rear property setback that must not be encroached upon by any structure or pool.

The term "outbuilding" shall include its customary and usual accessory structures, provided any such outbuilding is used for the convenience and pleasure of the family living in the single family dwelling. Any outbuilding shall be constructed such that the highest point of its roof shall not exceed the highest point of the roof of the dwelling. The outside wall height of any such building shall not exceed 9 feet in height and the exterior walls and roof of any such outbuilding shall be constructed of the same materials as the primary residence, in accordance with the limitations set forth in this paragraph.

A "storage building" will be allowed as long as its total height does not exceed 11 feet, and the total floor space of such storage building does not exceed 200 square feet. Any building other than the primary dwelling that exceeds 200 square feet of floor space will be considered an outbuilding and will be subject to the requirements placed on an outbuilding.

Any outbuilding or storage building must be in the back yard of the lot and must be completely screened from any street with a fence that meets all of the requirements in the "Fences" section of this document except in the event that the building has an overhead door and in that case an opening can be left in the screening fence to access the overhead door. All outbuildings and storage buildings shall comply with relevant ordinances established by the City of Midland; provided, however, that in the event the requirements of this paragraph are more restrictive than those established by the City of Midland, the requirements of this "Land Use and Building Type" provision shall prevail.

**LOTS ADJACENT TO OIL WELLS**

All lots within the 250' radius of an adjacent well head shall be subject to the restrictions as specified in the attached "LAND DEVELOPMENT/USE AGREEMENT", Midland County Clerk recording number 2860. Any Lot in which the 250' encroaches into the Lot, no structure or pool will be allowed within that radius. (SEE EXHIBIT A and EXHIBIT B)

**LANDSCAPING**

Landscaping of front yard and side yard shall be required on all Lots and shall be completed no later than one year after final transfer of ownership to owner, weather permitting. Landscaping must: (1) permit reasonable access to public and private utility lines and easements for installation and repair; (2) provide an aesthetically pleasing variety of trees, shrubs, ground cover and plants or a xeriscaping plan that incorporates aesthetically pleasing variety of trees, shrubs, natural organic and inorganic mulches, and plants; and (3) provide for landscaping of all portions of the Lot not enclosed by solid fencing and not covered by the Improvements. Except for typical garden hoses and common portable sprinklers that may be attached to such hoses, no pipes, hoses, sprinklers or other parts of any irrigation system for watering of landscaping on a Lot shall be visible above ground.

**USE OF PREMISES**

No building or structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted, or maintained on any lot, or any part thereof, save and except those related to development, construction, and sales purposes of the Dedicators or any homebuilder who has received Dedicators' permission for temporary construction or sales facilities. Further, no occupation of any kind shall be allowed on any lot which requires any structural alteration of or to any dwelling or room on the lot, or that requires the installation of machinery or equipment, or that requires exterior storage of equipment or materials. No professional, business, or commercial activity to which the general public is invited shall ever be conducted on any lot save and except

activities related to development, construction, and sales purposes of the Declarants or any homebuilder who has received Declarants' permission.

**DWELLING SIZE**

Each single family dwelling built on Lots 11 Block 30 all-inclusive and Common Area S Block 21, Lone Star Trails, Section 14, an addition to the City of Midland, Midland County, Texas, shall contain a minimum of 1,000 square feet of heated and air conditioned floor space measured over brick, exclusive of garages and open porches.

**GARAGES**

All Subject Lots shall have an attached garage sufficient in size to accommodate no less than two (2) automobiles. The exterior of each attached garage shall be constructed of materials of substantially the same composition, and of compatible color and style, as the materials with which the exterior of the home served by said garages constructed. The roof of every garage shall comply with the restrictions set forth in "LAND USE AND BUILDING TYPE" above regarding allowable roof materials.

**SETBACKS**

Each primary dwelling shall face the street which abuts the front of the Lot upon which the dwelling is to be situated. No Structure shall be placed within any setbacks requirement imposed by the City of Midland, Texas.

**SIDEWALKS**

All sidewalks shall be five feet (5') in width abutted to the curb or be separated from the back of curb by a 2 foot parkway.

**FENCES**

All fences installed within, or around the perimeter of, all Lots shall comply with relevant ordinances established by the City of Midland; provided, however, that in the event the requirements of this paragraph are more restrictive than those established by the City of Midland, the requirements of this "Fences" provision shall prevail.

Fences may be built of the following materials: 1) wood, in which case the wood may be allowed to age naturally, without stain or paint, or may be stained or painted, provided, however, that only stain or paint resulting in a natural, wood-like or earth-tone appearance shall be used; 2) brick, in which case the brick shall be substantially the same color and type, or a compatible color and type, as the brick and/or stone used in construction of the home; 3) natural stone, in which case the stone shall be substantially the same color and type, or a compatible color and type, as the brick and/or stone used in construction of the home; 4) vinyl, in which case the vinyl shall be only white or earth-tone in color. Use of stucco in fence construction is allowed, providing that the color of such stucco shall be wood-like or earth-tone; 5) Concrete "Rock Face" or "Split Face" Block may be used providing the "Rock Face" or "Split Face" is visible to the neighborhood from any view. Regular concrete block, also known as cinder block, shall not be used in the construction of any fence. Gates shall be constructed of material of the same type and color as the adjacent fence or fences, except for necessary hardware.

No fence constructed of metal, chain link, or wire materials, including but not limited to those intended for pens, shall be installed within, nor around the perimeter of, any Lot unless such fence is in the back yard and is not, under normal circumstances, visible from outside the Lot on which such fence is constructed. This provision shall not prohibit use of metal hardware for fences and gates.

Fences shall not be allowed in the front yard of any Subject Lot. In no case shall chain link or wire or metal fences be installed in the front yard of said Lots.

No fence shall be more than eight (8) feet in height.

All fences shall be maintained in such a manner as to prevent and remedy any unsightly deterioration or disrepair.

**SEPTIC SYSTEMS**

No cesspool, outhouse or outside toilet shall be permitted on any Lot. Toilets located in any Structure shall be connected to an approved public sewage disposal system. Sewage disposal facilities must comply in all respects with all applicable state, county and/or governmental laws, rules and regulations.

**EASEMENT**

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Right-of-Way for ingress and egress shall be had at all times over any dedicated easements, and for the installation, operation, maintenance, repair, or removal of any utility, together with the right to remove any obstruction that may be placed in or on such easements which would constitute interference with the use, maintenance, operation, or installation of such utility.

All power and utility lines, TV cables, and all other like wires and lines shall be brought underground from the street servicing each lot to the dwelling, garage, or outbuilding on such lot, unless otherwise indicated on the Plat and this document.

**NUISANCES**

No noxious or offensive activity shall be conducted on any Lot, nor shall anything be done thereon which would or may become an annoyance to the neighborhood.

No recreational vehicles, including but not limited to boats, mobile trailers, and camping vans, shall be parked, maintained, stored or kept on any Lot, unless such vehicle is maintained in the rear portion of a Lot, on a concrete paved surface, and within the rear yard fence, and additionally, shall be located no closer to a side street or public right-of-way than ten (10) feet to the Lot line, and shall be located no closer than five (5) feet to an exterior Lot line.

The parking of recreational vehicles will be subject to relevant ordinances established by the City of Midland; provided, however, that in the event the requirements of this paragraph are more restrictive than those established by the City of Midland, the requirements of this provision shall prevail.

No bus, commercial truck, nor commercial trailer, nor any other like vehicle or equipment, shall be parked in the street in front of any Lot or be parked on the driveway or on any portion of any Lot in such manner as to be visible from the street, except for construction and repair equipment while a dwelling is being built or repaired.

No junk vehicles or abandoned vehicles shall be stored or parked in the street in front of any Lot or be parked on the driveway or on any portion of any Lot in such manner as to be visible from the street. For the purposes of this provision, any vehicle which is in a non-operating condition for five (5) consecutive days, or any such vehicle which does not have a current state inspection sticker or license plate, shall be in violation of this restriction.

The owner of each Lot (and adjacent easements/right-of-way) shall keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event permit the accumulation of garbage or rubbish of any kind thereon. In the event of default by the owner regarding any such requirements, the Declarant may, without liability to the owner, in trespass or otherwise, enter upon said Lot or easement, cut or cause to be cut such weeds and grass, remove or cause to be removed such garbage, trash, rubbish and other materials as to place said Lot in a neat, attractive, healthful and sanitary condition, and may bill and collect the cost for same from the owner, who agrees by the purchase of such Lot to pay the cost of any such work immediately upon receipt of a statement or invoice for same.

Any activity or non-activity which, as a result thereof, violates the provisions of these covenants, conditions and restrictions, entitled "Nuisances", shall be considered as offensive and shall be and is hereby deemed a nuisance.

**TEMPORARY STRUCTURES**

No outbuilding, nor any structure of a temporary character such as a recreational vehicle, trailer or tent, shall ever be used on any Lot at any time as a residence, either temporarily or permanently.

**SIGNS**

No sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than five square feet, advertising the property for sale. This restriction shall not apply to signs used by the Declarant. Declarant may also permit builders to display signs of a size determined by Declarant on any Lot or Lots for the purpose of selling homes or advertising model homes, provided such permission shall be granted in writing. Such permission may be withdrawn by written notification to such builder or builders at any time at the discretion of Declarant.

No sign of any kind shall be displayed to the public view on any Lot at any time advertising the property for rent or lease.

**OIL AND MINING OPERATIONS**

No oil drilling, oil development operations, oil refining, or quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. The only exception is for the existing oil sites with producing wells specified in the attached "LAND DEVELOPMENT/USE AGREEMENT" Midland County Clerk recording number 2860 and marked EXHIBIT A.

**LIVESTOCK AND POULTRY**

No animals, livestock or poultry of any kind shall ever be raised, bred, or kept on any Lot, except dogs, cats or other household pets, provided that they are not kept, bred, or maintained for commercial purposes.

**GARBAGE AND REFUSE DISPOSAL**

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste; such garbage, trash and waste shall be kept in sanitary containers. All containers and other equipment for storage or disposal of such waste materials shall be kept in a clean and sanitary condition.

**ANTENNAS**

No radio, television or other antennas or satellite dishes shall extend to a height higher than the highest point of the roof of any building and no such antenna or satellite dish shall be maintained on any Lot not containing a dwelling. No antenna or satellite dish shall be placed within 60' of the front property line of any lot.

**TERM**

These covenants are to run with the land described on page one hereinabove and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date on which these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change said covenants in whole or in part. This declaration may be amended at any time by an instrument signed by not less than seventy-five per cent (75%) of all the Lot owners. Notwithstanding the above, Declarant may modify or amend any of these restrictions and /or covenants during the time Declarants own any lot affected thereby.

**ENFORCEMENT**

The Declarants, or the owner of any Lot or Lots, or the representative of the homeowners association shall have the right to enforce by any proceeding at law, or in equity, all restrictions, covenants, conditions and reservations now or hereafter imposed. Failure to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so hereafter.

**SEVERABILITY**

Invalidation of any of these covenants, conditions, or restrictions by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

**HOMEOWNERS ASSOCIATION**

The LONE STAR TRAILS HOMEOWNERS' ASSOCIATION, a Texas non-profit corporation, (the "Association") was incorporated by filing no. 801970403 with the Secretary of State of the State of Texas. Upon the sale of 90% of the lots comprising Lone Star Trails, an addition to the City of Midland, Midland County, Texas, (the "Development") Declarant shall convey, without charge, title to all Common Area D, Common Area E, Common Area F, Common Area G, Common Area M, Common Area N, Common Area O, Common Area P, Common Area Q, hereinafter referred to as the "Common Area", to the Association. Upon conveyance of title to the Common Areas to it, the Association shall hold title to and shall be solely responsible for the maintenance, upkeep, insurance and payment of all taxes for the Common Area and for the preservation of the Common Area for the intended uses and purposes thereof. Prior to the conveyance of title to the Common Areas, Declarant shall be solely responsible for the maintenance, upkeep, insurance and payment of all taxes for the Common Area and for the preservation of the Common Area for the intended uses and purposes thereof. The Common Area shall be intended for the common use and enjoyment of the Owners.

Each lot owner ("Owner") shall automatically become a member of the Association ("Member") upon the purchase of any lot in the Development. There shall be one and only one voting Member for each Lot;

and the voting Member for the Lot shall be determined from time to time by the persons who own an interest in the Lot. As a Member, each lot owner shall have the right to use the Common Area.

Each Owner/Member is personally obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. The annual assessment may vary from year to year to reflect the projected costs of the maintenance, upkeep, insurance and payment of taxes for the Common Area and for the preservation of the Common Area for the intended uses and purposes thereof. The annual assessment shall be due on the 1<sup>st</sup> day of each calendar year. From time to time, the Association may levy "Special Assessments" to fund capital improvements to the Common Area or to provide funding to repair elements of the Common Area, which Special Assessment shall be levied at a sufficient level to pay for said costs. Special assessments shall be due thirty (30) days after notice of said special assessment has been properly given to the Member. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate equal to 10% per annum, and the Association shall bring an action at law against the Owner personally obligated to pay the same and foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his or her lot. The annual assessment shall be due on the 1<sup>st</sup> day of each calendar year and shall be used to pay for the maintenance, upkeep, insurance and taxes for the Common Area and for the preservation of the Common Area for the intended uses and purpose thereof.

The lien on the Lots securing the payment of the Assessments and other obligations provided for herein shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any Lot whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instrument, except for:

- (a) bona-fide first mortgage or deed of trust liens for purchase money and/or improvement purposes placed against a Lot in which event the Association's lien shall automatically become subordinate and inferior to such first lien;
- (b) liens for taxes or other public charges as are by applicable law made superior to the Association's lien; and
- (c) such other liens about which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's lien;

provided however, such subordination shall apply only to the Assessments which have been due and payable prior to the foreclosure sale (whether public or private) of such Lot pursuant to the terms and conditions of any such first mortgage or deed of trust or tax lien. Such sale shall not relieve such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien of any such subsequent Assessment. Such subordination shall not apply where the first mortgage or deed of trust or tax lien is used as a device, scheme or artifice to evade the obligation to pay Assessments and/or to hinder the Association in performing its functions hereunder.

Any conveyance of any portion of the Common Area by the Association shall not be permitted without the prior written consent of the City of Midland. Any amendment of these covenants shall not be effective without prior review and written consent of the City of Midland.

[Signatures on Following Pages]

IN WITNESS WHEREOF, these presents are signed at Midland, Texas on \_\_\_\_\_

DEDICATOR:

Betenbough Homes, LLC.

Chris Berry  
Chris Berry, Authorized Agent for Betenbough Homes, LLC.

THE STATE OF TEXAS §  
  §  
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on 27<sup>th</sup> March, 2019 by Chris Berry, Authorized Agent for Betenbough Homes, LLC. and in the capacity therein stated.

Joshua Welby  
Notary Public, State of Texas

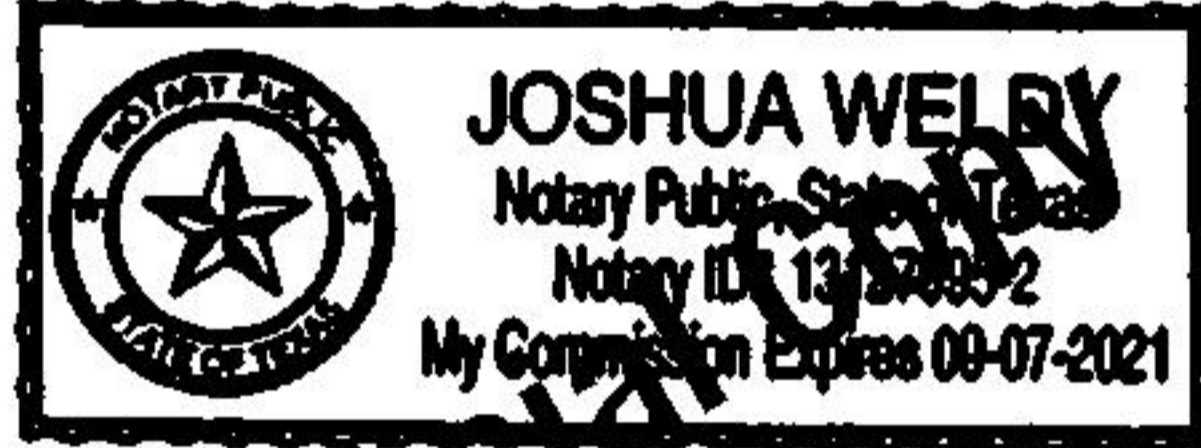
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LENDER, holder of liens of record against portions the above referenced property, joins in this dedication deed for the sole purpose of showing its consent thereto, and that it has no objection to the granting of easements and public roadways herein dedicated and subordinates its liens upon those portions of the property within the easements and roadways as shown on the attached plat.

Betenbough Companies, PBC

Bradley Nelson  
Bradley Nelson, C.F.O. and Vice President



THE STATE OF TEXAS §  
  §  
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on 27<sup>th</sup> March, 2019 by Bradley Nelson, C.F.O. and Vice President of Betenbough Companies, PBC and in the capacity therein stated.

Joshua Welby  
Notary Public, State of Texas

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