

Hidalgo County  
Arturo Guajardo Jr.  
County Clerk  
Edinburg, Texas 78540

Document No: 2951062

Billable Pages: 25

Recorded On: September 18, 2018 04:14 PM

Number of Pages: 26

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COUNTY OF HIDALGO

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Arturo Guajardo Jr.  
County Clerk  
Hidalgo County, Texas

<b><u>DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LUMEN SUBDIVISION PHASE B</u></b>
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<b>DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR LUMEN SUBDIVISION PHASE B</b>
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STATE OF TEXAS           §  
  §           **KNOW ALL MEN BY THESE PRESENTS**  
COUNTY OF HIDALGO   §

WHEREAS, LOS LAGOS DEVELOPMENT, LLC (DEVELOPER), hereinafter referred to as “Declarant”, is the owner in fee simple of certain real property located in Hidalgo County, Texas, and known by official plat designation as LUMEN SUBDIVISION PHASE B hereinafter referred to as the “Subdivision”, and recorded under Clerk’s File No. 2844940.

WHEREAS, Declarant desires to subject all of the above-described property to the protective covenants, conditions, restrictions, liens and charges as hereinafter set forth, pursuant to an established general plan for the improvement and development of said property; and,

WHEREAS, the City of Edinburg has granted a variance to Developer providing that the streets, alleys, sidewalks and other elements of the Common Area are not required to be dedicated for the benefit of the general public or the City of Edinburg. However, the City of Edinburg only retains the right to enter the Subdivision for the purposes of police protection, fire protection, and for sanitary and health related purpose so that the ingress and egress to the Subdivision may be restricted by the residents or owners of lots within the subdivision being responsible for the maintenance of the streets, alleys, sidewalks and other common Elements which would normally be the responsibility of the City of Edinburg upon the recordation of the subdivision plat and the acceptance of such improvements by the City of Edinburg; and,

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and shall be binding on all parties having any right, title or interest in or to the above-described property or any part thereof, and their heirs, successors and assigns, and which easements, restrictions, covenants and conditions shall inure to the benefit of each Owner thereof.

**ARTICLE I.**  
**DEFINITIONS**

Section 1.     “Association” shall mean and refer to LUMEN HOMEOWNERS ASSOCIATION, LLC, a Texas limited liability company, its successors and assigns, which was formed by the Declarant for the purpose of enforcing the covenants, restrictions and agreements set forth herein.

Section 2.     “Common Area” shall mean and refer to all real property located within the boundaries of the Subdivision which are not otherwise located within or a part of any Lot, as set forth on the plat or map of the Subdivision as recorded in the Map Records of Hidalgo

County, Texas, together with any improvements located thereon, including, but not limited to, all streets, sidewalks, alley, utilities, common green area and entranceway, which may include a guardhouse, located within the Subdivision.

Section 3. “Declarant” shall mean and refer to LOS LAGOS DEVELOPMENT, LLC, in its capacity as the initial developer of the Subdivision, and their successors and/or assigns, provided that in order to be a successor assignee Declarant, the subsequent developer must acquire all of the remaining lots which have not been initially sold by the initial developer.

Section 4. “Lot” shall mean any of the plots of land shown on the recorded subdivision map referred to above with the exception of the common area. If a numbered plot of land lies between two (2) other numbered Lots and said middle numbered plot of land is acquired in fractions by the two (2) adjoining property Owners, then the expanded plot of land containing the initial numbered area, plus the additional fraction, shall still be considered to be as if the same were one for the purposes of voting (See Article II Section 3).

Section 5. “Maintenance” shall mean and refer to the exercise of reasonable care to keep buildings, streets, sidewalks, alleys, curbs, fences, sprinklers, fountains, signs, landscaping, lighting and other related improvements and fixtures, whether enumerated or not, in the common area in a condition comparable to their original condition. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a health, weed free environment for optimum plant growth.

Section 6. “Member” shall mean and refer to every person or entity who holds membership in the Association.

Section 7. “Mortgage” shall mean and refer to a conventional mortgage or a deed of trust.

Section 8. “Mortgagee” shall mean and refer to a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

Section 9. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the property, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

Section 10. “Residence” shall mean a detached building designed for and used as a dwelling by a Single Family and constructed on one or more lots.

Section 11. “Single Family” shall mean a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in the Residence.

Section 12. “Structure” shall mean any improvement on a Lot (other than a Residence), including a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

Section 13. “Subdivision” shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

Section 14. “Fairway Lot” shall mean any of the plots of land shown on the recorded subdivision map referred to above with the exception of the common area that share a boundary line with golf course fairway.

**ARTICLE II.**  
**ASSOCIATION MEMBERSHIP VOTING**  
**RIGHTS AND POWERS**

Section 1. Membership. Every Owner of a Lot shall be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. Voting Rights. The Association shall have two (2) classes of voting members as follows:

**Class A.** Class A members shall be all Owners with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a given Lot, all such persons shall be members and the vote for such Lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any Lot owned by Class A members.

**Class B.** The Class B members shall be Declarant, who shall be entitled to exercise five (5) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

Section 3. Partial Lot Voting. Any Owner acquiring additional property or properties immediately adjacent to its initial numbered Lot, as provided in Article I, Section 4, shall not be entitled to additional votes as result of such additional properties, save and except the acquisition of more than fifty percent (50%) of such adjacent Lot, in which case, Owner shall be entitled to one additional vote for said additional property. Any Owner who has sold a minor portion of its Lot, but in any event less than fifty (50%) of its Lot, with prior written approval of the Committee as provided for herein, shall be entitled to a full vote as a result of such ownership.

Section 4. Powers. The Association, in addition to the powers its already possesses in its charter, shall have the power to own real and personal property, to open bank accounts, to enforce this Declaration as herein provided, to obtain a policy or policies of insurance insuring the Association and its members, to make physical improvements to the Common Area as the Association shall deem to be in the best interest of the Subdivision and Owners, to contract for

legal, accounting and other professional services, to borrow funds, to employ employees directly or through an operator, to bring an action(s) for injunctive relief and/or damages against any Owner for failure to comply with any Article and/or Section herein, and to otherwise do that which it believes necessary to protect or defend the Common Area and facilities located therein, the Association and or any of its properties from loss or damages, but suit or otherwise.

### ARTICLE III. ASSESSMENTS

Section 1. Liens and Personal Obligation of Assessments. Declarant hereby covenants for each Lot within the Subdivision, and each Owner of a Lot is hereby deemed to covenant by acceptance of his deed for such Lot, whether or not it shall be expressed in his deed, to pay to the Association (1) annual assessments and (2) special assessments as provided for herein. Such assessments will be established and collected as hereinafter provided. The annual fee is \$350.00 and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and a continuing lien on each Lot against which such an assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them. However, all future transferees of Lots shall have the obligation, prior to purchase, to verify with the Association and/or Declarant that such assessments have been paid to date and that the property to be acquired is free and clear of all assessed indebtedness.

Section 2. Purchase of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the health, safety, welfare and recreation of the residents in the Subdivision, and for the improvement, security, preservation, operation and maintenance of the Common Area and/or of improvements situated within same or within the control of the Association. Annual assessments shall include, and the Association shall acquire and pay for out of the funds derived from annual assessments, the following:

- (a) Maintenance and repair of the Common Area to the extent not performed by governmental authority or an Owner. It is specifically provided that the Subdivision is being developed as a private subdivision so that access to the Subdivision is intended for Owners, their guests or invitees and governmental authorities and, as a result thereof, the City of Edinburg does not have maintenance responsibilities for streets, sidewalks and other Common Area elements and all Owners of Lots shall be responsible, individually and collectively through the Association, for such maintenance.
- (b) Water, sewer, garbage, electrical, lighting, telephone, gas and other necessary utility service for the Common Area.
- (c) Acquisition of furnishings and equipment for the Common Area as may be determined by the Association.

- (d) Maintenance and repair of all structures in the Common Area including, but not limited to, sidewalks, alleys, fences, sprinkler systems, storm drains, sanitary sewers, street lighting, traffic markers, signs and private streets within the confines of the street lighting, traffic markers, signs and private streets within the confines of the Subdivision, and any maintenance and repair required by the City of Edinburg.
- (e) Fire insurance covering the full insurable replacement value of the Common Area with extended coverage.
- (f) Liability insurance insuring the Association against any and all liability to the public, or any Owner, or to the invites or tenants of any Owner arising out of their occupation and/or use of the Common Area. The policy limits shall be set by the Association and shall be reviewed at least annually and increased or decreased in the discretion of the Association.
- (g) Workmen's compensation insurance to the extent necessary to comply with applicable law, and any other insurance deemed necessary by the Board of Directors of the Association.
- (h) A standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in an amount to be determined by the Board of Directors.
- (i) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration or by Law, or which shall be necessary or proper in the opinion of the Board of Directors of the Association for the operation of the Common Areas, for the benefit of Lot Owners, or for the enforcement of these restrictions.
- (j) In addition to the maintenance of the Common Area, the Association shall provide exterior maintenance on each Lot as follows. In the event an Owner of any Lot, his family, guests, invitees, agents or others using the Lot premises, shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Declarant or the Committee shall have the right, but not the obligation, through their agents and employees, to enter upon said Lot and repair, maintain and restore the Lot and exterior of the buildings and any other improvements erected thereon, all at the expense of Owner, and such expense of maintenance or repair shall be added to and become part of the assessment to which said Lot is subject.

- (k) Maintenance and repair of all structures or improvements, formerly within the Common Area, if any, and which may be situated in an area dedicated and/or transferred to the public use in the future, as set forth in Article IV, Section 1(b), for which the Association reserves the right to continue the operation and concurrently has the obligation to maintain and repair.

Section 3. Fixing of and Maximum Annual Assessments.

- (a) Until September 1, 2019, the maximum annual assessment per Lot shall be Three Hundred and Fifty Dollars (\$350.00) per Lot, prorated monthly, subject to Section 6 below.
- (b) Commencing on September 1, 2019, and continuing thereafter, all assessments shall be fixed by the Board of Directors of the Association in advance of January 1<sup>st</sup> of each calendar year, after giving due consideration to the anticipated cost of all Common Area maintenance obligations, and other costs of operating the Association. The Association shall have the right to collect such assessments in advance on either an annual or quarterly basis. If at any time the Association determines that the assessments for that fiscal year are insufficient to discharge all assessments to be incurred or payable during that assessment year by the Association, the Association may increase the assessments to cover such costs (incurred or to be incurred), and such increase shall become effective at the beginning of the next annual or quarterly assessment period. If required, assessment shall be prorated for the period from the assessment period. If required, assessment shall be prorated for the period from the commencement thereof to the end of the then current calendar year of the Association.
- (c) From and after January 1, 2020 to December 31, 2020, the maximum annual assessment may be increased each year not more than Ten percent (10%) above the maximum assessment for the previous year without a vote of the members.
- (d) From and after January 1, 2021, the maximum annual assessment may be increased from not more than twenty-five percent (25%) by the vote or written assent of a majority of each Class of members.
- (e) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum prescribed herein.

Section 4. Special assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement (including, but not limited to, streets, alleys, lighting, utilities and guardhouse) on the Common Area,

including fixtures and personal property related thereto. Any such assessment must be approved by a majority of each Class of members.

Section 5. Special Assessment of Lot Maintenance. In addition to the annual assessments authorized above, the Association may levy a special assessment on any lot without a home yet constructed in order to cover the costs of maintaining the lot and yard in a neat and orderly manner, and to provide a water sprinkler system and water for the yard in the event owner fails to provide the same as required by Article VI, Section 17.

Section 6. Special Assessments for indemnification of the City of Edinburg. In addition to the annual assessments and special assessments authorized above, the Association may levy in any assessment year, a special assessment to provide for indemnification and hold harmless of the City of Edinburg relating to any condition of lack of maintenance or repair or otherwise relating to any claim based on any Common Element made by any member of the Association or any third party which can be asserted against the City of Edinburg. The Association and every Lot Owner, individually, will hold the City of Edinburg and Declarant harmless and indemnify them from any and all liability from claims from any of the Common Elements or from any other cause relating to the obligations of the Association or Lot Owners hereunder.

Section 7. Notice and Quorum for Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized by Section 3 or 4 shall be sent to all members not less than three (3) nor more than ten (10) days in advance of such meeting. In the event the proposed action is favored by a majority of the votes cast at such meeting, but less than the requisite majority of each Class of members, members who were not present in person or by proxy may give their assent in writing within three (3) days after the date of such meeting.

Section 8. Uniform Rate of Assessment. Except as provided in this Section, both annual and special assessments must be fixed at a uniform rate for all Lots, except where additional real estate is added to the additional amount of land annexed. Notwithstanding the foregoing, no assessments, charges or levies shall be assessed with respect to Lots owned by Declarant or any successor to Declarant as a result of foreclosure or deed in lieu thereof, under any security agreement between Declarant and such successor.

Section 9. Commencement and Collection of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on January 1, 2018. The first annual assessments shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (3) days in advance of the due date thereof and shall fix the date such amounts become due. Notice of the annual assessments shall be sent to every Owner subject thereto. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment against a specific Lot has been paid and may, on or before February 15 of each year, cause to be recorded in the Office of the County Clerk of Hidalgo County, Texas, a list of delinquent assessment as of that date.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall be assessed a \$25.00 late fee in addition to 10% annual interest. The Association may bring an action at Law against the Owner personally obligated to pay the same, or may foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provide for herein by nonuse of the Common Area or abandonment of his Lot.

Section 11. Subordination of Assessment Lien to Mortgages. The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu of thereof, shall extinguish the assessment lien as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE IV. PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner of a Lot shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to such Lot, subject to the following rights of the Association.

- (a) The right to suspend the right of use of recreational facilities and the voting rights of any Owner for periods during which assessments against his Lot remain unpaid, and the right, after hearing by the Board of Directors, to suspend rights for a period not exceeding three hundred sixty-five (365) days for any infraction of the published rules and regulations of the Association.
- (b) The right to dedicate or transfer all or pay of the Common Area, including any improvements, to any municipality, public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument executed by two-third (2/3) of each Class of members agreeing to such dedication or transfer has been duly recorded.

Section 2. Delegation of Use. Subject to such limitations as may be imposed by the Bylaws, each Owner may delegated his right of enjoyment in and to the Common Areas and facilities to the members of his family, his guests, tenants and invitees.

Section 3. Easements of Encroachment. There shall exist reciprocal appurtenant easements as between adjacent Lots and between each Lot and any portion or portions of the Common Area adjacent thereto for any encroachment due to the un-willful placements, setting or shifting of the improvements constructed, reconstructed or altered thereon, provided such construction, reconstruction or alteration is in accordance with the terms of this Declaration. Such easement shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between adjacent Lots, and between each Lot and adjacent portion of

the Common Area, along a line perpendicular to such boundary at such point. No easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of any Owner.

Section 4. Other Easements.

- (a) Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision map. With these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may damage, interfere with or change the direction of flow of drainage facilities in the easements. The easement area of each Lot and all improvements therein shall be continuously maintained by the Owner of such Lot, except for improvements for maintenance of which a public authority or utility company is responsible.
- (b) No dwelling unit or other structure of any kind shall be built, erected or maintained on any such easement, reservation or right of way and such easement, reservations and rights of way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements, reservations or rights of way be reserved.
- (c) There shall exist appurtenant easements of access to all private streets, alleys and, as necessary, lots within the Subdivision to the City of Edinburg for the use of city personnel and equipment on city business.

Section 5. Right of Entry. The Association, through its duly authorized employees, contractors and delegated agents, shall have the right, after reasonable notice to the Owner thereof, to enter any Lot at any reasonable hour on any day to perform such maintenance as may be authorized herein, save and except in case of any emergency which threatens either life or property, in which case advance notice shall not be required.

Section 6. No Partition. There shall be no judicial partition of the Common Area, nor shall Declarant, or any Owner or any other person acquiring any interest in the Subdivision or any construed to prevent judicial partition of any Lot owned in co-tenancy.

**ARTICLE V.**  
**ARCHITECTURAL CONTROL**

**Section 1. Architectural Control Committee.** Declarant shall designate and appoint the initial Architectural Control Committee (the "Committee") consisting of three (3) adult persons (at the sole discretion of Declarant), which Committee shall serve until January 1, 2019. If any member becomes unable or unwilling to continue to serve during such term, Declarant, his successor or assigns, shall appoint a successor to finish the respective term, Declarant, his successor or assigns, shall appoint a successor to finish the respective term. A majority of the Committee may designate a representative to act for it. Neither the members of the Committee shall automatically transfer, without any further formality, to the Association. Further, any and all of the duties, rights, powers and authority of the Committee may be assigned at any time, upon the unanimous decision of the Committee, to the association. From and after the date of such assignment, the Association shall have full right, authority and power and shall be obligated to perform the functions of the Committee as provided herein.

**Section 2. Function.** The Committee shall perform the functions provided for and consistent with the provisions of this Declaration.

**Section 3. Powers.** The Committee shall have and exercise the powers and rights provided for in and consistent with the provisions of this Declaration. Each Committee member shall have one (1) vote. Except in those instances in this Declaration where the unanimous action of all Committee members is required for the Committee to make a decision or take an action, no action shall be taken or any decisions made by the Committee members; however, a designated representative approved unanimously by all three (3) Committee members shall have the sole power to act on behalf of the Committee. The designated representative's power may be revoked by a written communication to all Lot Owners. Each Committee member shall be entitled to receive (but may waive) not less than five (5) days written notice of each meeting of the Committee and each meeting of the Committee and of each action proposed to be taken and decision proposed to be made by the Committee (where or not at a meeting). The Committee may adopt such Bylaws to govern the performance of its functions under this Declaration as the Committee members may deem appropriate, provided that no provision of such Bylaws, shall be contrary to any provision of this Declaration.

**Section 4. Approval of Plans and Specifications.** No building, structure, fence, wall, or other improvements shall be commenced, erected, constructed, placed or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the detailed plans and specification therefore shall have been submitted to and approved in writing as to compliance with minimum structural and mechanical standards, location and situation on the Lot, and as to harmony of external design or locating in relation to property lines, building lines, easements, grades, surrounding structures, walks, and topography (including the orientation of the front and rear of any such building with respect to the Lot lines), by the Architectural Control Committee constituted as provided herein. The committee shall have broad, discretionary authority to interpret and apply these standards.

- (a) The submitted plans and specification shall specify, in such form as the Architectural Control Committee may reasonable require, structural, mechanical, electrical, and plumbing detail and the nature, kind, shape, height, exterior color scheme, materials to be incorporation into, and located of the proposed improvements or alterations thereto.
- (b) In the even said Architectural Control Committee fails to approve or disapprove such plans and specification within thirty (30) days after said plans and specification have been submitted to it, approval will not be required and the provisions of this Section will be deemed to have been fully complied with provided, however, that the failure of the Architectural Control Committee to approve or disapprove such plans and specifications within such thirty (30) day period shall not operate to permit any structure to be commenced, erected, placed, constructed or maintained on any Lot in the Properties in a manner inconsistent with any provision of this Declaration.
- (c) Without limitation of the powers herein granted, the Architectural Control Committee shall have the right to specify a limited number of acceptable exterior materials, and/or finishes that may be used in the constructions, alteration, or repair of any improvement on any Lot. It also shall have the right to specify requirements for each Lot as follows: minimum setbacks; the location, height, and extent of fences, walls, or other screening devices; and the orientation of the residential structure with respect to garage access and major entry frontage.

## ARTICLE VI. USE RESTRICTIONS

Section 1. Residential Use. All Lots, and each and every one thereof, are for single-family residential purposes only. No building or structure intended for or adapted to business purposes and no apartment house, double house, lodging house, rooming house, hospital, sanatorium or doctor's office or other multiple-family dwelling shall be erected, placed, permitted or maintained on such premises, or on any part thereof, save and except the business of Declarant and the transferee of Declarant in developing all of the Lots as provided in Section 18 below. No improvement or structure whatsoever, other than a quality private dwelling house, patio walls, swimming pool, garage, carport or servants' quarters may be erected, altered, placed, maintained or permitted to remain on any Lot in the Subdivision without the express written consent of the Architectural Control Committee (the "Committee", as defined in Article V). No dwelling shall exceed two stories in height.

Section 2. Construction Specifications. Any residence constructed on the Lots must have a minimum living area of One Thousand Eight Hundred (1,600) square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. Any two-story residence constructed on the Lots must have a ground floor living area of a minimum of One Thousand Four Hundred (1,400) square feet, exclusive of open and screened porches, terraces, patios, driveways, carports and garages. The exterior walls of any residence shall consist of stucco,

stone or brick construction unless the unanimous consent of the Architectural Control Committee is obtained.

The roof shall be constructed of a 30-year warranty composition, standing steam metal, cement tile, or clay tile only. Flat roofs are acceptable. However, sloped roofs must have a minimum slope of 3:12 and a maximum of 8:12 unless approved by the Architectural Control Committee. All roofs with clay or cement are to be pitched at 9:12. The plate, as used in construction must be at least Nine (9') feet in height.

No structure higher than two stories shall be constructed on the Lots. In addition, no underground structure shall be constructed, including but not limited to, a basement, wine cellar, and/or any below ground living coolers.

No evaporative cooler or air conditioner shall be placed, installed or maintained on the roof or wall of any building or structure. All coolers and air conditioners shall be concealed from view.

Construction on the Lot(s) shall only take place between the hours of 7 a.m. and 7 p.m.

Section 3. Setbacks. All building, structures, fences, hedges, outbuildings and appurtenances are subject to the setback restrictions noted in the Subdivision plat. If two (2) or more Lots, or fractions thereof, are consolidated into a single building site in conformity with the provisions of Section 3 herein, these setback provisions shall be applied to such resultant building site as if it were on original, platted Lot.

Section 4. Consolidation and Partial Lots. None of said Lots shall be re-subdivided in any fashion, except that any person owning two (2) or more adjoining Lots may consolidate such Lots into a single building site, with the privilege of constructing improvements thereon as permitted by Sections 2, 3 and 4 herein. However, any sale of a portion or fraction of a Lot must be approved by unanimous vote of the Committee, and then only if the remaining portion is of sufficient square footage to viably be used as an independent Lot for the construction of a residence within the other limitations set forth herein, or if said remaining portion is to be utilized by the adjoining Lot Owner to augment both larger properties (i.e. one on each side of the property being purchased in fractions).

Section 5. Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Subdivision plat. Not utility company, water district, political subdivision or other authorized entity using the easement herein referred to shall be liable for any damage done by them or their assigns, agents, employees or servants to shrubbery, trees or flowers, or to other property of the Owners situated within any such easement.

Section 6. Noxious or Offensive Activities Prohibited. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, save and except Section 19 below.

Section 7. Occupancy. No private dwelling house erected upon any Lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed, except as herein required. Nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein and all other covenants, conditions, reservation and restrictions herein set forth. No temporary outbuilding, trailer home or other temporary garage, or other temporary structure shall be placed or erected upon any Lot either permanently or temporarily unless approved in writing by the Committee. Rental of any servant's quarters is prohibited, the occupancy thereof being limited to either guests or servants of the Owner of said Lot save and except Section 18 below.

Section 8. Signs and Mailboxes. No signs of any character shall be allowed on any Lot except on (1) sign of not more than five (5') square feet advertising the property for sale or rent; provided, however, that Declarant and any other persons or entity engaged in the construction and sale of a residence within the Subdivision shall have the right, during construction and sales period, to construct and maintain such facilities as may be reasonably necessary for such construction and sale, including signs and storage areas, but not including a temporary residence or office, save and except Section 19 below.

All mailboxes shall be 24" x 53" and the exterior shall be constructed with stucco or stone only. Mailboxes must be approved in writing by the Architectural Control Committee

Section 9. Garbage Tanks, Equipment, Etc. No Lot shall be used or be maintained as a dumping ground for rubbish, trash, garbage or other waste. All trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No elevated tanks of any kind shall be erected, placed or permitted on any part of such premises. All garbage cans, equipment, coolers, wood piles or storage piles shall be walled or fenced in to conceal them from the view of the neighboring Lots, roads or streets. No clotheslines are permitted. Plans for all enclosures of this nature must be approved by the Committee prior to construction

Section 10. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or on any portion of the Common Area except that dogs, cats and other common household pets, not to exceed three (3) adult animals, may be kept, but they shall not be bred or kept for commercial purposes.

Section 11. Fences, Walls and Hedges. Fences, walls and hedges must be approved by the Architectural Control Committee in every respect, including size, color, type, style finish, character, material and location. No fence, wall, or hedge shall be placed or permitted to remain on any Lot nearer to the street or streets adjoining such Lot than is permitted for the main residence on such Lots.

Front Fence: All fences on the front of a Lot shall be out of the stucco of the same finish and color of the single family residence on its respective Lot. Said Fence(s) shall be a Minimum six (6') feet and maximum seven (7') feet. The seven (7') foot stucco fence can be capped with the proper capping of no more than six (6") inches in height, with metal (aluminum, wrought iron) door. All fences and walls must be approved in advance by the Architectural Control Committee.

Sides Fence: All fences on the sides of a Lot shall be constructed of horizontally place boards of cedar or treated pine. Said cedar or treated pine boards shall be six (6") or eight (8") inch thick boards, with a minimum height of five (5') feet and maximum six (6') feet with tops lipped of no more than two (2") inches in height. All fences shall be approved in writing by the Architectural Control Committee before construction of fence can take place.

Non-Fairway Back Fence: All fences on the sides of a Lot shall be constructed of horizontally place boards of cedar or treated pine. Said cedar or treated pine boards shall be six (6") or eight (8") inch thick boards, with a minimum height of five (5') feet and maximum six (6') feet with tops lipped of no more than two (2") inches in height. All fences shall be approved in writing by the Architectural Control Committee before construction of fence can take place.

Fairway Lot Back Fence: All fences shall be constructed of black shiny/glossy metal (aluminum, wrought iron) with minimum of four (4') feet and maximum of six (6') feet. All fences shall be approved in writing by the Architectural Control Committee before construction of fence can take place.

Section 12. Trucks, Buses, Trailer, and Vehicles No truck, bus, motor home, trailer, commercial vehicle, boat or other equipment shall be left parked or placed in the street in front of any Lot except for construction and repair equipment while the residence or residences are being built or repaired on such Lot; and no truck, bus, boat or trailer shall be parked in the driveway or any portion of the Lot in such manner as to be visible from the street. Trucks with tonnage in excess of one and one-half (1.5) tons and any commercial vehicle with painted advertisement shall no be permitted to park overnight on the Lot except those used by a builder during the construction of improvements.

No vehicle of any size which transports flammable or explosive cargo may be kept on the Lot at any time.

Section 13. Prohibited Activities. No professional business or commercial activity to which the general public is invited shall be conducted on any lot.

Section 14. Utility Lines and Antennas. All electrical service and telephone lines shall be placed underground. No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed or maintained on any of the Lots, but these restrictions may be waived by the Committee. Any waiver of these restrictions shall not constitute a waiver as to other lots, lines or antennas. Satellite receivers are authorized but shall require site location approval by the Committee.

Section 15. Garage. No garage or other outbuilding for less than two (2) cars shall be placed, erected or maintained upon any part of such premises, except for the use in connection with a residence already constructed or under construction at time that such garage or other outbuilding is placed or erected upon the Lot. Nothing herein shall be construed to prevent the incorporation and construction of a garage as a part of such dwelling house. All garages must be side entry.

**Section 16. Driveways and sidewalks.** Driveways must be constructed of concrete, brick or other material receiving the approval of the Committee only. Each residence shall have a four (4') foot sidewalk across the front of the Lot constructed of concrete to be approved by the Committee. Owners are responsible for the maintenance of their driveways and sidewalks. If Owners fail to maintain said driveways and sidewalks, the Association may use any remedies set forth in this Declaration.

**Section 17. Yards.** Each Lot shall be seeded or sodded for a grass lawn. Because of close proximity to the golf course, all Lots must be planted with Tifway 419 grass or similar type grass as approved by the Architectural Control Committee. Every lot shall have a functioning sprinkler system installed to insure proper watering and a neat and orderly appearance.

Once an Owner purchases a Lot, that owner is charged with the duty to maintain the Lot to preserve the integrity and beauty of the Subdivision. This entails all time of ownership whether before, during, or after construction of the residence. Maintaining the Lot, includes but is not limited to, cutting and/or trimming all forms of grass and vegetation, removing any left-over construction debris, etc., essentially anything required to keep the Lot in suitable condition to preserve the beauty of the Subdivision.

**Section 18. Insurance.** Noting shall be done or kept on a lot or on the Common Area which would increase the rate of insurance relating thereto without the prior written consent of the Association, and no Owner shall permit anything to be done or kept on his Lot or the Common Area which would result in the cancellation of insurance on any residence or on any residence or on any part of the Common Area or which would be in violation of any law.

**Section 19. Declarant's Special Rights.** Declarant or the transferee of Declarant shall undertake the work of developing all Lots included within the Subdivision. The completion of that work, and the sale, rental or other disposal of residential units is essential to the establishment and welfare of the Subdivision as an ongoing residential community. In order that such work may be completed and the Subdivision established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to:

- (a) prevent Declarant, Declarant's transferee or the employees, contractors or subcontractors of Declarant or Declarant's transferee from doing on any part or parts of the Subdivision owned or controlled by Declarant or Declarant's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work; or,
- (b) prevent Declarant, Declarant's transferee or the employees, contractors or subcontractors of Declarant or Declarant's transferee from constructing and maintaining on any part or parts of the Subdivision property, owned or controlled by Declarant, Declarant's transferee or their representatives, such structures as may be reasonably necessary for the completion of such

work, the establishment of the Subdivision as a residential community and the disposition of Lots by sale, lease or otherwise; or,

- (c) prevent Declarant, Declarant's transferee or the employees, contractors or subcontractors of Declarant or Declarant's transferee from conducting on any part or parts of the Subdivision property owned or controlled by Declarant or Declarant's transferee or their representatives, the business of completing such work, of establishing the Subdivision as a residential community and the disposing of Lots by sale, lease or otherwise; or,
- (d) prevent Declarant, Declarant's transferee or the employees, contractors or subcontractors of Declarant or Declarant's transferee from maintaining such sign or signs on any of the Lots owned or controlled by any of them as may be necessary in connection with the sale, lease or otherwise of Subdivision Lots.

As used in this Section, the words "its transferee" specifically exclude purchasers of Lots improved with completed residences.

Section 20. Maintenance. If an Owner of any Lot fails to maintain the premises in a neat and orderly manner, the Developer or the Architectural Control Committee shall have the right, through its agents and employees, to enter the Lot in order to repair, maintain, and restore the Lot, including landscaping, and the exterior of any building and other improvements located on all lot, at a all the expense of the Owner.

Section 21. Oil Drilling. No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in or on the Lot, nor shall oil wells, tank, tunnels, mineral excavations or shafts be permitted upon or in any part of the Lot. No derrick or other structure designed for the use in quarrying or boring for oil, natural gas, or other mineral shall be erected, maintained or permitted on the Lot.

Section 22. Adjacent Golf Course. Each Owner acknowledges that the Lots are located within close proximity or immediately adjacent to Los Lagos Golf Club (the "Golf Course"). Accordingly, each Owner agrees to the following:

- (a) Each Owner understands that although owning a residence adjacent to or in close proximity to the Golf Course may be desirable to some, such location may be subject Owners' residence, its occupants, guests, invitees and licensees to the risk or injury from events and activities inherent in the maintenance and use of the Golf Course, including , but not limited to: (1) the flight and impact of errant golf balls; (2) possible entry of golfer onto Owner's patio and/or yard areas to retrieve errant golf balls; (3) golf course maintenance operation (e.g. pruning, mowing grass, replanting, fertilizing, and the use of loud machinery) which might be conducted during early morning or late afternoon hours; (4) bright lighting and loss of privacy; and (5) obstructed views of the Golf Course as the Gold Course matures and if the Golf Course owner elects to erect screens, fences, or additional landscaping on the Golf Course property.

(b) Each Owner further acknowledges and understands that the Golf Course will be irrigated with reclaimed or treated wastewater. Reclaimed water is not approved for drinking purposes and its use is solely for irrigation purposes. The standards for reclaimed water and its suitability or irrigation purposes are determined by applicable governmental agencies, which standards may vary from time to time. Owners are advised that Lots adjacent to the Golf Course may be subject to overspray from the Golf Course's irrigation systems. Owner understand that such lots, landscaping, fencing, or other yard improvements, and nay personal property or improvements located thereon may be adversely affected by such overspray.

(c) Owners further acknowledge and understand that the maintenance of the Golf Course will require the use of pesticides, herbicides and fertilizers and may be temporarily cause unpleasant odors, create a hazardous condition or have an adverse impact on landscaping and other improvement on the Lots.

(d) Owners further acknowledge and understand the Golf Course is not owned or controlled by Declarant or the Association and it may cease being used as a golf course and is subject to future development; accordingly, the zoning and use of the golf course property is subject to change, and therefore future development or the continued use of such property as a golf course cannot be predicted with accuracy.

(e) Owners agree that the Association, the Declarant, the Developer its subsidiaries, parent or affiliated companies, its officers, directors, agents, representatives and employees (collectively, the "Parties") shall not be liable for any cost, expense, loss, damage, injury (including death), or claim or any kind or character, including but not limited to, cause of action for negligence, nuisance, trespass, assault or battery, to any person or property arising from or related to the Golf Course and Owners fully and unconditionally indemnify and hold harmless the Parties from any claims or injury, fatality, property damage or loss resulting or relating to the Golf Course, it being understood that the risk of loss and injury is not placed upon or assumed by the Parties.

**OWNERS AGREE TO INDEMNIFY AND HOLD HARMLESS THAT PARTIES FROM ANY AND ALL DAMAGES, CLAIMS OR LOSSES, INCLUDING ATTORNEYS FEES AND PERSONAL INJURIES, PROPERTY DAMAGE OR IT IS THE EXPRESS INTENTION OF THE OWNERS THAT THE INDEMNITY PROVIDED FOR HEREIN INCLUDES INDEMNITY BY OWNERS TO INDEMNIFY AND PROTECT THAT PARTIES FROM THE CONSEQUENCES OF BUYER'S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS THE SOLD OR CONCURRING CAUSE OF BODILTY INJURY, SICKNESS, DISEASE, PROPERTY DAMAGE OR DEATH.**

Owners have read and understand the foregoing provision related to the Golf Course. Each owner acknowledges that their decision to purchase a residence in the Development and by acceptance of title to a Lot each Owner expressly acknowledges the inherent risks commonly understood in owning property adjacent to the Golf Course and willfully accepts the covenants, conditions, restrictions, rights, limitation, responsibilities and indemnities set forth in this Declaration.

Section 23. Construction Within One Year. Any construction of any Improvement, structure, and/or building which is commenced on any Lot must be completed on or before **THREE HUNDRED SIXTY FIVE (365) DAYS** after the commencement of same. [Commencement of construction of a building requiring a foundation is deemed to be the date on which the foundation is poured and/or laid. Completion includes the following:

- (a) All exterior construction of the residential structure, garage, porches, and any other appurtenances or appendages of every kind and character on any Lot;
- (b) All interior construction, including, but not limited to, having all:
  - (1) Electrical outlets in place and functional,
  - (2) Plumbing fixtures installed and operational,
  - (3) Cabinet work completed,
  - (4) Interior walls, ceilings and doors completed and covered by paint, wallpaper, paneling or the like; and,
  - (5) Floors covered by wood, carpet, tile or other similar floor covering.

Any request for a time extension must be submitted to the Architectural Control Committee in writing 30 days before the expiration of the **(365) day** period mention above. This is section is to preserve the property value of the community and to protect the aesthetic integrity of the Development.

Section 24. Residential Landscaping. Front yards of all dwellings which are not composed of sidewalks or areas consisting of shrubs, hedges, ground covers and trees shall be covered by Tifway 419 grass or similar grass subject to the approval of the Architectural Control Committee. Front yards shall be landscaped in a professional manner, with shrubs, hedges and or ground covers and trees including but not limited to two (2) live oak trees of a minimum of two (2) inch diameter and a minimum of ten (10') foot height. In addition to the live oaks, each Front yard shall have either one (1) blue berry tree; or (2) fox tail palms. Each Owner shall maintain grass, trees and shrubbery and keep them disease free and healthy, and if any such trees either dies or become diseased or of unhealthy appearance they shall be removed and new trees shall be planted in their place. The cost of all grass, trees and shrubbery shall be paid by the Owners. Front yards must be equipped with automatic irrigation systems and shall be installed in a professional manner.

The Declarant and/or the Association reserves the right to develop a "landscaping plan" for the Subdivision and Lots that all Owner's will be obligated to follow.

No Owners shall allow his Lots or Lots, whether vacant or not, to remain overgrown with grass or weed vegetation or natural wild vegetation, and each Owner shall be responsible for the timely maintenance, care and removal of grass, weedy, or natural vegetation, by mowing, shredding, cutting and removing the same. Additionally, the Architectural Control Committee or its agent(s) shall have the right at its option, to mow shred or out said vegetation, and to charge the Owners a reasonable fee. In the event that said fee remain unpaid for the period of thirty (30)

days, the Declarant, Architectural Control Committee, or its agents shall have a valid and subsisting lien for said payment and said lien may be perfected by filing an affidavit establishing said lien in the real estate records of Hidalgo County, Texas, and may bring suit to enforce the payment of said fees or for foreclosure of its lien, or both, and shall be entitled to reasonable attorney fees and cost of suit for prevailing in such action.

Section 25. Community Enhancement Fee. In addition to the regular annual assessment, as a condition to the sale for every Lot, every purchaser and seller, (other than the Declarant and the Developer), shall be assessed a community enhancement fee of \$100.00 that shall be paid by each seller and purchaser at every closing (the "Community Enhancement Fee"). The Community Enhancement Fee shall be for the sole benefit of the Association.

Section 26. Development Period. Declarant reserves the right to make amendments to this Declaration. The Development Period begins on the date which this Declaration is file of record, and ends on January 1, 2020. This reservation is made so that Declarant can facilitate the development, construction, and marketing of the Subdivision; and to direct the size, shape, and composition of the development.

#### **ARTICLE VII.** **OWNERS' OBLIGATION TO REPAIR**

Each Owner shall, at his sole cost and expense, repair his residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

#### **ARTICLE VIII.** **OWNERS' OBLIGATION TO REBUILD**

If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair or reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs unless prevented by causes beyond the control of the Owner or Owners. All plans for rebuilding must be approved by the Committee.

#### **ARTICLE IX.** **GENERAL PROVISIONS**

Section 1. Enforcement. Declarant, the Association or any Owner shall have the right to enforce, by and proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure to Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendments. As the Development Period, Declarant reserves the right to amend this Declaration until January 1, 2020, thereafter said covenants and restrictions of this Declaration may be amended by duly recording an instrument executed and acknowledged by not less than sixty seven (67%) percent vote of the Class members.

Section 4. Subordination. No breach of any of the conditions herein contained or reentry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the Subdivision or any Lot therein; provided, however, that such conditions shall be binding on any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

Section 5. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, Association or any member thereof for a period of thirty (30) years from the date hereof, and thereafter shall continue automatically in effect for additional periods of ten (10) years, unless otherwise agreed to in writing by the then Owners of at least three-quarters (3/4) of the Subdivision Lots.

Section 6. Compliance with Laws. At all times, each Owner shall comply with applicable federal, state, county, and municipal laws, ordinances, rule and regulations with respect to use, occupancy, and condition of their and any improvements thereon. In any provision contained in this Declaration or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

EXECUTED this 27<sup>th</sup> day of August, 2018.

LOS LAGOS DEVELOPMENT, LLC

By: [Signature]

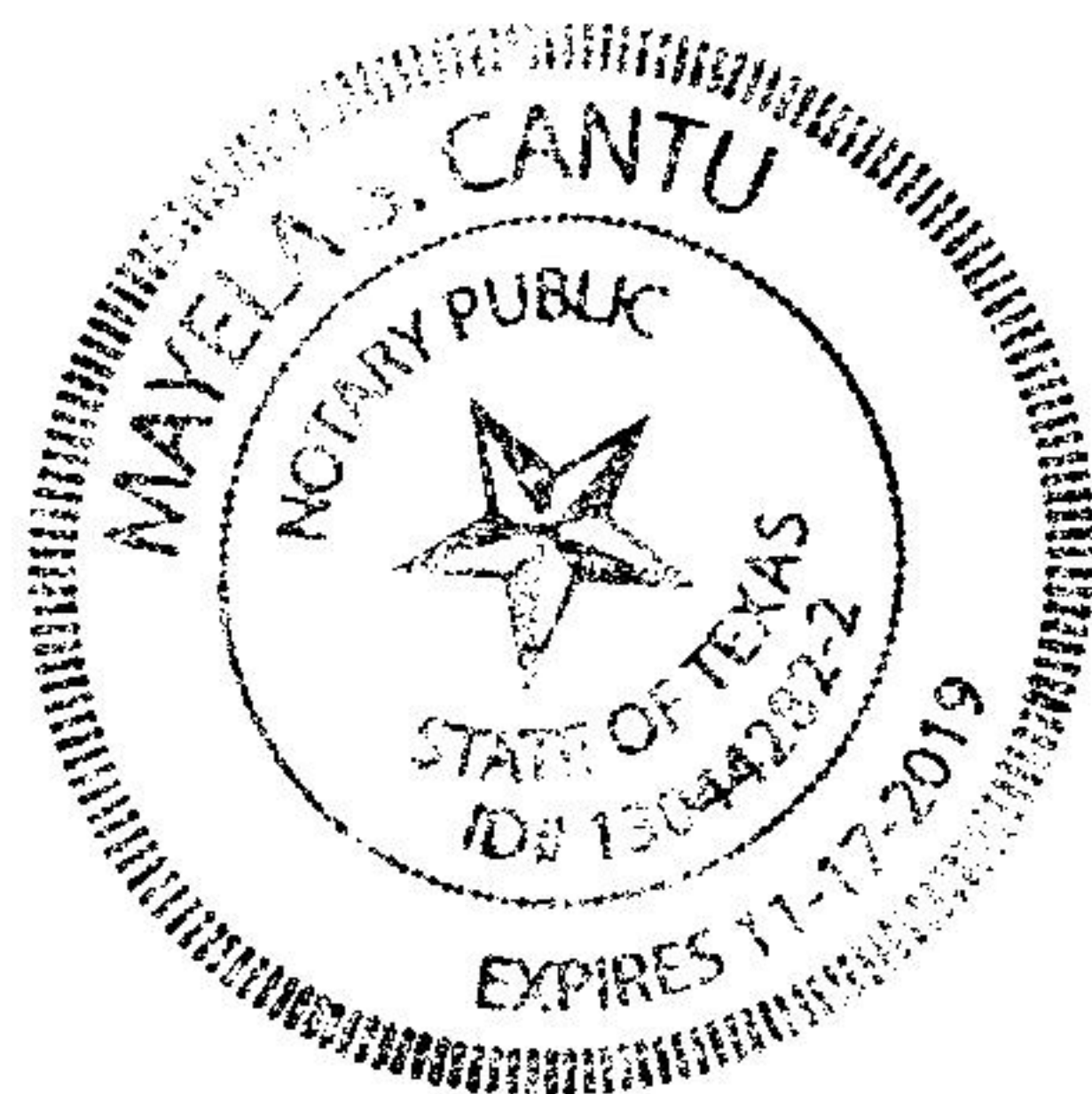
Name: Eduardo Lopez

Title: President

(Acknowledgment)

STATE OF TEXAS       §  
                                  §  
COUNTY OF HIDALGO   §

This instrument was acknowledged before me on the 27<sup>th</sup> day of August, 2018, by Eduardo Lopez, President of LOS LAGOS DEVELOPMENT, LLC, a Texas limited liability company, on behalf of said limited liability company.



[Signature]  
NOTARY PUBLIC, STATE OF TEXAS

**Lumen Homeowners Association, LLC**

**Enhancement Fee**

Article III, Section 12 of the Lumen Subdivision, Phase B, Declaration of Covenants states:

- a. In addition to the regular annual assessment, as a condition to the sale for every Lot, every purchaser and seller, (other than the Declarant and the Developer), shall be assessed a community enhancement fee of \$100.00 that shall be paid by each seller and purchaser at every closing (the "Community Enhancement Fee"). The Community Enhancement Fee shall be for the sole benefit of the Association.