

GF# 133510 MAR

**THIRD AMENDMENT TO
AGREEMENT OF NEGATIVE RECIPROCAL COVENANTS**

This Third Amendment to Agreement of Negative Reciprocal Covenants ("Third Amendment") is made effective as of the 3 day of September, 2013, by and between John T. Jaques and Kamela A. Jaques (individually and collectively, "Jaques") and Millican DPC Partners L.P. ("Millican"); Jaques and Millican are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, the Parties entered into that certain Agreement of Negative Reciprocal Covenants ("Agreement") dated August 14, 2009, and recorded in Volume 9286, Page 85, Official Records of Brazos County, Texas,

WHEREAS, the Parties predecessors entered into that certain First Amendment to Agreement of Negative Reciprocal Covenants ("First Amendment") dated December 17, 2010, and recorded in Volume 9980, Page 107, Official Records of Brazos County, Texas,

WHEREAS, the Parties predecessors entered into that certain Second Amendment to Agreement of Negative Reciprocal Covenants ("Second Amendment") dated February 25, 2011 and recorded in Volume 10051, Page 292, Official Records of Brazos County, Texas,

WHEREAS, the Parties desire to amend the above-referenced Agreement to assign the duties of the Oversight Committee to The Creek Community Foundation,

WHEREAS, Section 6.08 of the Agreement states that the Agreement may be amended by an amendment approved by the Owners holding at least seventy-five percent (75%) of the Property by acreage as of the first day of the month in which such amendment is made effective,

WHEREAS, the Parties own at least 147.63 of the 181.93 acres which makes up the Property, as defined in the Agreement, therefore, the parties own more than 75% of the Property, by acreage, and have the authority to amend the Agreement.

NOW, THEREFORE, for and in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Jaques, and Millican do hereby agree as follows:

1. The Agreement is hereby amended as follows:

The Parties, hereby approve the assignment of the duties of the Oversight Committee to The Creek Community Foundation (the "Foundation").

2. The definition in Section 1.12 of "RAE" in the Agreement is hereby amended to read as follows:

1.12 "RAE" shall mean the Access and Utility Easement dated September ____, 2013 which is recorded in Volume 11593, Page 215 of the Official Records of Brazos County, Texas.

3. The following Article 7 shall be added to the Agreement to subject the Property to mandatory membership in the Foundation and to provide a mechanism for collecting assessments to maintain the Easements:

**ARTICLE 7
THE FOUNDATION**

7.01 Membership. Every person who is an Owner of any Tract (whether one or more persons or entities) which is subject to an Assessment shall be a Member of the Foundation. Membership shall be appurtenant to and may not be separated from ownership of any Tract. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation.

7.02 Voting Rights.

(a) **Membership in the Foundation.** Each Owner, whether one or more persons or entities, of a Tract shall, upon and by virtue of becoming such Owner, automatically become a Member of the Foundation and shall remain a Member thereof until his ownership ceases for any reason as stated above but there shall only be one (1) vote per acre.

(b) **Transfer of Voting Rights.** The right to vote may not be severed or separated from the ownership of the Tract to which it is appurtenant. Any sale, transfer or conveyance of such a Tract to a new Owner or Owners shall operate automatically to transfer the appurtenant vote to the new Owner(s).

(c) **Suspension of Voting Rights.** The Foundation has the right, subject to Texas Property Code Section 209.0059, to suspend the voting rights of a Member during the period he is in default in excess of thirty (30) days in the payment of any Foundation charge, fee, penalty, and/or assessment against an Owner's Tract. The aforesaid rights of the Foundation shall not be exclusive, but shall be cumulative of and in addition to all other rights and remedies which the Foundation may have in this Agreement and any amendment thereto or in its By-Laws or at law or in equity on account of any such default or infraction.

(d) **Proxy Voting.** Any Owner may give a revocable written proxy to any person, authorizing such person to cast the Owner's votes on any matter. Such written proxy shall be in such form as may be prescribed by the Bylaws, but no such proxy shall be valid for a period of greater than eleven (11) months, and shall not be valid unless filed with the Secretary of the Board of Directors in the manner required by the Bylaws.

(e) **Quorum for Membership Action.** With respect to any annual or special "general" membership meeting of the Foundation, at the first call of such meeting, the presence at the meeting in person or by proxy of sixty-six percent (67%) of the total votes of the membership shall constitute a quorum. If the required quorum is not forthcoming, at such meetings, the meeting may be adjourned and recalled on the same day, and the required quorum at such meeting shall be one-half (1/2) the required quorum at such meeting immediately preceding. This procedure shall be continued until a quorum has been obtained; provided however, that such reduced quorum shall not be applicable at a subsequent meeting held more than sixty (60) days following the originally scheduled meeting.

7.05 Board of Directors and Officers. The affairs of the Foundation shall be conducted by a Board and such officers as the Board may elect or appoint, in accordance with the Certificate

of Formation and Bylaws, as the same may be amended from time to time. The Board shall have the power to select one or more advisory directors from the Owners of the Property to serve for such periods of time as the Board shall deem appropriate, for the purpose of providing advice and counsel to the Board, provided that such advisory directors shall have no right to act on behalf of the Foundation. An officer, director, or committee member of the Board shall not be liable to the Foundation or any Owner for any action or omission occurring in such person's capacity as an officer, director, or committee member so long as such action or omission is made or taken in good faith or pursuant to the business judgment rule.

7.04 Duties of the Foundation. The Foundation shall have the obligation, subject to and in accordance with this Agreement, to perform each of the following duties for the benefit of the Owners:

- (a) To enforce and administer the Agreement governing the Property contained herein, including without limitation the Easements;
- (b) To collect and disburse all Assessments and charges deemed necessary for such maintenance, administration and enforcement;
- (c) To perform such other services as may be deemed desirable to benefit the Owners all as hereinafter provided.
- (d) To adopt, amend and repeal, subject to the provisions of this Agreement, Residential Restrictions and Rules of general application governing the occupancy, use and maintenance of the Property. Without limiting the generality of the foregoing, such rules may set dues and fees and prescribe the regulations governing the operation of the Easement Area.
- (e) To notify Owners pursuant to Section 7.11 that they have violated this Agreement.
- (f) To record a management certificate in the Real Property Records of the County, pursuant to Texas Property Code §209.004.
- (g) The Foundation will handle the all duties assigned to the Oversight Committee in this Agreement.
- (h) To make the books and records of the Foundation, including financial records, reasonably available to an Owner.
- (i) To carry out the duties of the Foundation set forth in this Agreement, the Articles and the By-Laws.
- (j) To hold meetings as provided for in the Bylaws for the members of the Foundation, such meetings to occur at least annually.
- (k) To enforce on its own behalf and on behalf of all Owners, this Agreement, as beneficiary of said covenants, conditions and restrictions; and to perform all other acts, whether or not anywhere expressly authorized herein, as may be reasonably necessary to enforce any of the provisions of the Residential Restrictions and Rules. The Board shall be authorized to institute litigation, settle claims, enforce liens, levy fines, and take all such action as it may deem necessary or expedient to enforce the provisions of the Residential Restrictions and Rules.

7.05 Powers and Authority of the Foundation. The Foundation shall have all the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such powers

as are expressly set forth in the Articles, the By-Laws, or this Agreement. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Foundation under and by virtue of this Agreement, the Articles, and the By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Foundation set forth in this Article 7 or elsewhere in this Agreement. Without in any way limiting the generality of any of the foregoing provisions, the Foundation shall have the power and authority at any time to do the following:

(a) **Assessments.** To levy Assessments on the Owners of the Tracts, and to enforce payment of such Assessments.

(b) **Legal, Accounting and other Professional Services.** To retain and pay for legal, accounting, engineering, biological, and other professional services necessary or proper in the operation, preservation and maintenance of the Property, or any part thereof, enforcement of this Agreement or in performing any of the other duties or rights of the Foundation.

(c) **Right of Entry and Enforcement.** The Foundation shall enforce the provisions hereof relating to the building plans, specifications. The Foundation reserves the right to perform onsite visits to ensure compliance. If for any reason whatsoever, the Owner violates this Agreement or the Residential Restrictions and Rules, the Foundation has the right to enter at any time in an emergency, or in a non-emergency after Notice and Hearing as required by Sections 7.11 and 7.12 upon any portion of the Property for the purpose of enforcing this Agreement, Residential Restrictions and Rules or for the purpose of maintaining or repairing any area, to conform to the restrictions herein established, at the expense of the Owner thereof. Notwithstanding the foregoing, the Foundation will not enter a Dwelling without the permission of the Owner. An emergency shall exist where circumstances result in an immediate threat to Property, or the health and welfare of persons. Any such entry upon a Tract shall not be deemed a trespass. The Foundation reserves the right to immediately halt and prevent further activity pertaining to any clearing and/or construction deemed in violation of this Agreement until such time the violation has been remedied and in compliance. Any cost related to the stop of the clearing and/or construction including but not limited to any cost associated with the delay in the clearing and/or construction will be the sole responsibility of the Owner. Should the Foundation be required to enforce the provisions hereof by legal action, the recovery of attorney's fees, and costs incurred, whether or not judicial proceedings are involved shall be collectible from the Owner and shall constitute an Individual Assessment against the Tract as provided in Section 7.06 herein. The Foundation, or its agents or employees, shall not be liable to the Owner for any damages or injury to the Tract or any Improvements thereon resulting from any action taken pursuant to this Section.

7.06 Assessments

a. **Purpose of Assessments.** In general, the Assessments levied by the Foundation shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property, for enforcement of this Agreement and for the improvement, conservation oversight, and maintenance of the Easement Area.

b. **Annual Assessment.** An Annual Assessment, calculated on a per Tract basis, shall be levied to provide for and assure the availability of the funds necessary to establish a reserve for capital improvements and pay common expenses, which shall include, but not be limited to, the following: (i) expenses incurred for the repair, maintenance, preservation, protection and improvement of the Easement Area, including without limitation, storm water drainage, swales, landscaping,

mowing, irrigation, signage, fencing, walls, lighting and controlling vegetation growth; (ii) expenses incurred for utility services for the common safety and welfare of the residents of The Creek, including without limitation, all subsurface and surface drainage improvements; catch basins, swales and drainage ditches, wells, lighting; (iii) expenses incurred in the administration of the business of the Foundation including without limitation, necessary and appropriate fees for services rendered by engineers, accountants and attorneys; (iv) expenses incurred for doing any other thing necessary or desirable, which in the judgment of the Foundation may be of general benefit to the Owners and the Property. Subject to the provisions set forth relating to the rate at which the Annual Assessment imposed herein shall be paid on the Tract, each and every Tract is hereby severally subjected to and impressed with a regular Annual Assessment of One thousand five hundred and no/100dollars (\$1,500.00) which shall run with the land, subject to increase and decrease and payable as provided herein. On a year-to-year basis, the Annual Assessment shall not increase more than 15%, unless the construction of new facilities, or the implementation of new services, necessitates an additional increase in the Annual Assessment to cover the actual increase in maintenance expenses. The Foundation may waive, in whole or in part any Assessment due from any Owner, at the sole and absolute discretion of the Board of Directors (the "Board") of the Foundation.

- c. **Special Assessment.** In addition to the Annual Assessment authorized above, the Board 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 enforcement action pursuant to this Agreement or new construction, reconstruction, repair or replacement of a capital improvement in the Easement Area, including fixtures and personal property and the financing of same. In addition, the Board reserves the right to borrow funds with interest from a financial institution, and/or third party for the purposes of amortizing, in whole or in part, the cost related to any of the Special Assessment items described above.
- d. **Individual Assessments.** In addition to any other Assessments for which provisions are made in this Agreement, the Board shall have the authority to levy and collect, after written notice and hearing as provided in Sections 7.11 and 7.12 of this Agreement, against an Owner an Individual Assessment for:
- i. Costs and expenses incurred by the Foundation in bringing a particular Owner's Tract into compliance with the provisions of this Agreement, including any action taken, cost or expense incurred by the Foundation to cure and eliminate any violation of or noncompliance with the provisions of this Agreement, following the failure of such Owner to cure or remedy such violation or noncompliance.
 - ii. Costs and expenses, including attorneys' fees as provided in Section 7.15 hereof, whether or not suit is brought, incurred by the Foundation in the enforcement of the provisions of this Agreement against a particular Tract or the Owner of such Tract.
 - iii. Costs and expenses incurred by the Foundation in furnishing or providing labor, services and materials which benefit a particular Tract or the Owner of a particular Tract provided that such labor, services or materials can be accepted or rejected by such particular Owner (provided that Owner shall

bring his/her Tract into compliance as provided in this Agreement) in advance of the Foundation's furnishing or providing the same and that such Owner's acceptance of any such labor, services or materials shall be deemed to have been such Owner's agreement that the costs and expenses associated therewith shall be a lien against said Tract and shall be levied and collected as an Individual Assessment against such particular Owner and his/her particular Tract.

- iv. The fine assessed against any Owner for violation by any Owner, family, guests, lessees or invitees of the provisions of this Agreement or any Residential Restrictions and Rules adopted by the Foundation as provided by this Agreement.
- v. Reasonable overhead expenses of the Foundation associated with any Individual⁶ Assessment levied and collected pursuant to this Section 7.08(d).

e. **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Tract, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Foundation (a) Annual Assessments, (b) Special Assessments and (c) Individual Assessments. All such Assessments shall be a lien against the assessed Owner's Tract from the date the Foundation sets the Assessment, to be established and collected as provided in this Agreement. Each such Assessment together with interest, costs and reasonable attorney's fees in collecting said Assessment, shall also be the personal obligation of the person who was the Owner of such Tract at the time when the Assessment becomes due as well as a lien against the Tract as provided herein. An Owner may not be relieved of the personal obligation for delinquent Assessments by successors in title unless such obligation is expressly assumed by them. Notwithstanding anything stated to the contrary in this Agreement, during such time as Millican is the Owner of any unimproved Tract, Millican shall not be obligated to make proportionate payment of any Assessments hereunder.

f. **Fund.** The Foundation shall establish a fund into which shall be deposited all moneys paid to the Foundation, including all Assessments, and from which disbursements shall be made in performing the functions of the Foundation under this Agreement. The Foundation reserves the right from time to time to establish separate accounts into which deposits of money will be paid to the Foundation for special projects including but not limited to projects related to capital improvements or Special Assessments.

7.08 Notice and Quorum for any Action Authorized under Article 7. Notice of any meeting called for the purpose of taking any action authorized under Article 7 shall be sent to all Members not less than ten (10) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence at the meeting in person or by proxy of sixty-seven percent (67%) of the total votes of the membership shall constitute a quorum. If the required quorum is not present, the Foundation Board shall follow the quorum procedure described in Section 7.02(e) of this Agreement. At the duly called meeting, plans and a budget shall be presented to the Members present, and a specific Assessment amount shall be proposed.

7.09 Date of Commencement of Annual Assessments/Due Dates. The Annual Assessments provided herein shall commence upon the purchase by the Owner of a Tract. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Foundation shall fix the amount of the Annual Assessment against each Tract at least thirty (30) days in advance of each Annual Assessment period. The Annual Assessment period shall be the calendar year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board. The Foundation shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Foundation setting forth whether the Assessments on a specified Tract have been paid. A properly executed certificate of the Foundation as to the status of Assessments on a Tract is binding upon the Foundation as of the date of its issuance.

7.10 Effect of Non-Payment of Assessments: Remedies of the Foundation. Any Assessment not paid within thirty (30) days after the due date shall (i) bear interest from the due date at the maximum rate allowed by law per annum and (ii) be subject to a reasonable uniform late fee, as determined from time to time by the Foundation. All Assessments, including interest, costs of collection and attorney fees, as provided in Section 7.15 hereof, shall be a lien on the Tract from the date of Assessment. Such lien shall be effective from and after the date of Assessment until paid in full and may be, but shall not be required to be recorded in the Real Property Records of Brazos County, Texas. In the event of recording, a Claim of Lien shall be filed stating the description of the Property, the name of the Owner as shown on the books of the Foundation, the amount due and payable and the date when due. Any such Claim of Lien shall include only Assessments which are payable and due when said Claim of Lien is recorded. All such Claims of Lien shall be signed and verified by an officer or agent of the Foundation. When any such liens have been paid in full, the party making payment thereof shall be entitled to receive a satisfaction of such lien in such form that it may be recorded in the Real Property Records of Brazos County, Texas. The Board may take such action as they deem necessary to collect Assessments, by personal action or by enforcing and foreclosing said lien, and may settle and compromise the same if in the best interest of the Foundation, except to the extent that the Board's right of foreclosure is limited by Texas Property Code Section 209.009. The delinquent Owner shall pay all costs including attorney's fees, as provided in Section 7.15 hereof, incurred by the Foundation incident to the collection of such Assessments. The lien shall be deemed to cover said additional costs and advances. Filing of one action shall not be a bar to the filing of other actions. No Owner may waive or otherwise escape liability for the Assessments provided for herein by the non-use of the Easement Area or abandonment of his/her Tract.

7.11 Notice. An Owner should be notified in writing that they are in violation of this Agreement before the Foundation may file a suit against an Owner, charge an Owner for property damage, suspend an Owners right to vote on Foundation matters, or levy a fine as provided in this Agreement. The Foundation must give notice as provided this Section. The notice must:

- (a) describe the violation or property damage that is the basis for the suspension, action, charge, or fine and state any amount due the Foundation from the Owner;
- (b) inform the Owner that the Owner: (i) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the Owner was given notice and reasonable opportunity to cure a similar violation within the preceding six (6) months; and (ii) may request a hearing on or before the 30th day after the date the Owner receives the notice; and

(c) inform the Owner that attorney's fees and costs will be charged to the Owner if the delinquency or violation continues after a date certain.

If the Owner is entitled to an opportunity to cure the violation, the Owner has thirty (30) days after receipt of the notice to submit a written request for a hearing before the Board to determine whether there is noncompliance and, if so, the nature thereof and the estimated cost of correcting and removing the same.

Any notice required to be sent to any Owner under the provisions of this Agreement, shall be deemed to have been properly sent, and notice thereby given, when mailed, certified, return receipt requested, addressed to the Owner at the last known post office address of the person who appears as a Member on the records of the Foundation at the time of such mailing. Notice to one of multiple Owners of a single Tract shall constitute notice to all Owners thereof. It shall be the obligation of every Owner to immediately notify the Foundation in writing, as further provided in the Residential Restrictions and Rules promulgated by the Foundation, of any change of address.

7.12 Hearing. The Board shall hold a hearing not later than the 30th day after the Board receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. A postponement may be requested by either side for not more than ten (10) days. In the event an Owner does not request a hearing within thirty (30) days after receipt of a Notice, said Owner shall be deemed to have waived his/her right to a hearing hereunder. In the event an Owner requests a hearing hereunder, the running of any enforcement period shall be tolled until after the hearing is held and the decision of the Board is made in writing to the Owner.

7.13 Failure to Cure. If the Owner fails to cure the noncompliance either after (1) notice under Section 7.11; or (2) notice and hearing under Sections 7.11 and 7.12 determining that the Owner is in noncompliance, then the Foundation may pursue the remedies provided under Section 7.14.

7.14 Enforcement. Except as hereinafter provided, the Foundation and each Owner, jointly and severally, shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations and charges now or hereafter imposed by the provisions of this Agreement. If the Board determines after the hearing that the Owner is in noncompliance, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may pursue enforcement, remove the non-complying Improvement or remedy the noncompliance, and the Owner shall reimburse the Foundation upon demand for all reasonable expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Foundation, the Board shall levy an Individual Assessment against such Owner and improvement in question, and the land upon which the same is situated, for reimbursement, and the same shall constitute a lien upon such land and Improvement and be enforced as in this Agreement provided.

Notwithstanding the foregoing, in the event of any dispute between Owners or between the Foundation and any Owner or Owners as to any matter provided for herein, the matter may be submitted to mediation in Texas by request made in writing by any party upon the other party. With mutual consent of the parties, the mediation will be conducted generally following standard dispute resolution practices regarding cost, location, timing, mediator selection, confidentiality, ex parte communication, and voluntary participation. The mediation is not intended to nor shall it result in any express or *de facto* modification or amendment of this Agreement. Should

mediation fail to resolve the dispute within sixty (60) days after request for mediation to any party, or by such other dates as the parties may mutually agree, any party may commence litigation in a court of competent jurisdiction (including, without limitation, seeking injunctive relief) to maintain the status quo and/or resolve the dispute. Nothing herein to the contrary limits or otherwise impairs any party's right to pursue any enforcement action, including without limitation, seeking a temporary restraining order or other injunctive relief from a court of competent jurisdiction without prior mediation. The prevailing party shall be entitled to recover cost, expenses, including reasonable attorney's fees. The failure by the Foundation or any Owner to enforce any covenant or restriction herein contained for any period of time shall not be deemed a waiver or estoppel of the right to thereafter enforce the same.

7.15 Attorney's Fees. Whenever the Foundation attempts to collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the Foundation relating to collecting amounts, including damages, due the Foundation for enforcing the provisions of this Agreement, the Foundation shall give notice in the manner set forth in Section 7.11 hereof. The Owner is not liable for attorney's fees incurred by the Foundation relating to a matter providing for a hearing as set forth in Section 7.12 hereof, if the attorney's fees are incurred before the conclusion of the hearing or, if the Owner does not request a hearing, before the date by which the Owner must request a hearing. On written request from the Owner, the Foundation shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the Foundation seeks reimbursement of fees and costs.

7.16 Foreclosure of Foundation Lien.

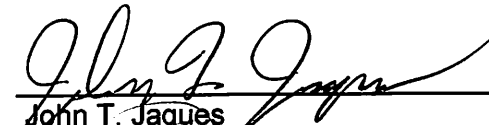
(a) In the event the Foundation takes action to enforce their lien for Assessments as provided in Article 7 hereof, such foreclosure shall be conducted under Texas law. The Board will be entitled to bid at any such foreclosure sale, and may apply as a cash credit against its bid all sums due the Foundation covered by the lien enforced. The Association may not foreclose an Assessment lien if the debt securing the lien consists solely of: (1) fines assessed by the Association; or (2) attorney's fees incurred by the Association solely related to fines assessed by the Association. Not later than the 30th day after the date of a foreclosure sale including the sale by a sheriff or constable conducted as provided by a judgment obtained by the Foundation, the Foundation shall send Owner notice, as provided in Section 7.11 hereof, stating the date and time the sale occurred and informing the Owner of the Owner's right to redeem the property under Texas Property Code §209.011. Not later than the 30th day after the Foundation sends said notice, the Foundation must record an affidavit in the Real Property Records of Brazos County, Texas, stating the date on which the notice was sent and containing a legal description of the Tract.

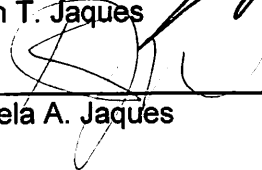
(b) As a condition precedent to any proceeding to enforce such lien for Assessments upon any Tract upon which there is a valid and subsisting first mortgage, which is known to the Foundation, the Foundation shall give the holder of such first mortgage sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage lienholder by prepaid U.S. certified mail and shall contain a statement of the delinquent Assessment upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Foundation shall acknowledge in writing its obligations to give the foregoing notice with respect to the particular Tract covered by such mortgage. Sale or transfer of any Tract shall not affect the Assessment lien. No such foreclosure shall free any Tract from securing charges thereafter becoming due and payable, nor shall any personal obligation of any Owner be extinguished by any foreclosure. No holder of any lien other than a first mortgage shall be entitled to such notice.

7.17 Precedence Over Less Stringent Governmental Regulations. In those instances where the covenants, conditions and restrictions set forth in this Agreement set or establish standards, limitations or restrictions on use in excess of governmental regulations, the covenants, conditions and restrictions set forth in this Agreement shall take precedence and prevail over less stringent governmental regulations.

- 4. All provisions of the Agreement not amended by this Second Amendment shall remain in full force and effect, and all capitalized terms not defined herein shall have the definitions ascribed to them in the Agreement.

This Second Amendment has been executed by the undersigned on the date of the taking of their acknowledgments, but the effective date of this instrument shall be deemed to be September ___, 2013, for all purposes and it shall be effective as of that date.



John T. Jaques


Kamela A. Jaques

STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 4th day of September, 2013, by JOHN T. JAQUES.

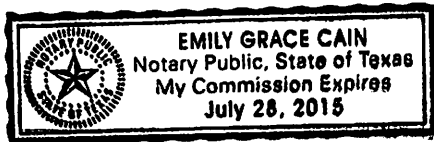




Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 4th day of September, 2013, by KAMELA A. JAQUES.

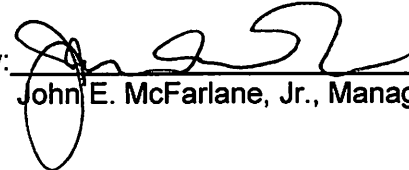




Notary Public, State of Texas

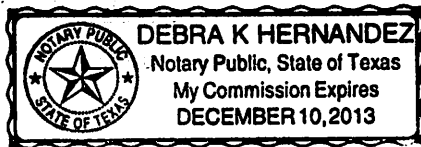
MILLICAN DPC PARTNERS, L.P.,
a Texas limited partnership

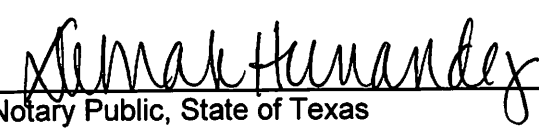
By: MILLICAN DPC PARTNERS, GP,
LLC, a Texas limited liability
company, it's general partner

By: 
John E. McFarlane, Jr., Manager

STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 5 day of September, 2013, by JOHN E. McFARLANE, JR., Manager of Millican DPC Partners, GP, LLC, a Texas limited liability company, General Partner of Millican DPC Partners, L.P. on behalf of said partnership.




Notary Public, State of Texas

AFTER RECORDING RETURN TO:
The Ellison Firm
P.O. Box 10103
College Station, Texas 77842

PREPARED IN THE LAW OFFICE OF:
The Ellison Firm
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File No. 04701.036

THIRD AMENDMENT TO NEGATIVE RECIPROCAL COVENANTS