

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Gordon E. Welch, Inc., a Texas corporation, being the owner of the following described real property located in El Paso County, Texas (the "Property"), to-wit:

Lots 1 to 5, Block 1 and Lots 1 to 15, Block 2, River Run Estates, an addition to the City of El Paso, El Paso County, Texas according to the plat thereof on file in the plat records of El Paso County, Texas;

hereby covenants, agrees and declares that the Property will hereinafter be subject to the covenants, conditions, restrictions, limitations and uses of these Covenants, Conditions and Restrictions, which will run with the land and will be binding upon and inure to the benefit of Declarant, its successors and assigns, and any person or entity acquiring any right, title or interest in the Property, or any part thereof, their heirs, devisees, successors and assigns from the date of the recordation hereof in the Official Public Records of El Paso County, Texas.

**ARTICLE I
DEFINITIONS**

"Declarant" shall mean and refer to Gordon E. Welch, Inc., its successors and assigns if such successors or assigns should acquire more than one vacant lot from the Declarant for the purpose of resale.

"Code" shall mean the El Paso Municipal Code

"Lot" shall mean each of those specific lots comprising the Property as shown on the Plat.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is part of the Property, including any purchaser under Contract of Sale, but excluding those having such interest merely as security for the performance of an obligation.

"Panhandle Lot(s)" shall mean individually or collectively Lots 2, 4, 6, 7 and 8, Block 2.

"Permittees" shall mean shall mean the employees, agents, contractors, customers, tenants, vendors, suppliers, visitors, invitees, licenses, subtenants and concessionaires of each respective Owner.

"Plat" shall mean the plat of the Property filed in the Real Property Records of El Paso County, Texas.

**ARTICLE II
ON SITE PONDING COVENANTS**

Section 1 - Each Lot is subject to and must at all times comply with the Residential On Site Ponding requirements of Section 19.16.060 of the Code. The maximum depth of lot ponding will be one (1) foot based on a one hundred (100) year storm.

Section 2 - Declarant will place permanent elevation markers on each Lot to define the levels to be maintained to ensure the effectiveness of on site ponding in accordance with the applicable provisions of the Code. OWNERS ARE PROHIBITED FROM MOVING, COVERING OR ALTERING THE PERMANENT ELEVATION MARKERS.

Section 3 - No Owner may fill or change the grading of a Lot or permit a Lot to be filled or changed to an elevation greater than established by the permanent elevation marker(s) for the Lot. Any grading of a Lot related to a new expansion or renovation of a Dwelling must be reviewed and approved by the Building Services Department of the City of El Paso for compliance with Section 19.16.060 of the Code.

Section 4 - Declarant grants to the City of El Paso a perpetual easement for ingress and egress on and across each Lot for the purpose of inspecting and measuring the Lot elevation and the permanent elevation markers.

Section 5 - No Owner will impair or permit any person to impair the functionality of the on site ponding capacity of a Lot. No more than fifty percent (50%) of the area of any Lot may be covered by improvements, either permanent or temporary, which shed storm water onto the Lot, including, but limited to, buildings, driveways, patios or landscaping underlaid with plastic sheeting or other impermeable material.

Section 6 - In the event that the functionality of the on site ponding ability or capacity of a Lot becomes impaired, whether by act of man or nature, the Owner of the Lot will perform all corrective actions required to restore the functionality of the onsite ponding ability or capacity of the Lot within a reasonable time after the discovery of the impairment, but not less than forty-five (45) calendar days after receipt of written notice from the City of El Paso or any other Owner.

Section 7 - FAILURE BY OWNER TO MAINTAIN PROPER ON SITE PONDING CAN RESULT IN DAMAGE TO ANY IMPROVEMENTS FROM FLOODING, SETTLING AND/OR EROSION ON THE LOT AND ADJOINING LOTS. Each Owner for himself, his successors and heirs waives any claim against and releases the Declarant, the City of El Paso and their officials, agents and employees from any claim or cause of action against Declarant, the City of El Paso and their officials, agents and employees, for any death, injury or property damage resulting from the alteration of the ponding capacity of a Lot.

Section 8 - Each deed conveying a Lot will disclose in conspicuous language that the Lot is subject to on site ponding requirements, maintenance of elevation markers, standing water on the Lot, ingress and egress for inspection and the other restrictions in this Section.

ARTICLE III PANHANDLE LOTS

Section 1- On each Panhandle Lot, an easement is reserved as shown on the Plat for: (i) the

installation, construction, operation and maintenance of utilities to each adjoining Panhandle Lot; and (ii) for pedestrian and vehicle access, ingress and egress to and from each adjoining Panhandle Lot on the platted utility easement to the adjoining street for the benefit of each adjoining Panhandle Lot Owner and its Permittees.

Section 2-The easement for ingress and egress will be nonexclusive and may be used by each Owner of adjoining Panhandle Lots and no such Owner will, by action or omission, hinder, inhibit, or block the easement, or deprive the other Owners of full access and use of the Easement. Each Owner of the adjoining Panhandle Lots will jointly maintain the paving or other surface improvements and all costs of maintenance, repair and improvements of the easement shall be split equally by the Owners of the adjoining Panhandle Lots. If any Owner should fail to pay for its share of the cost of maintenance, repair and improvement of the road improvements on the easement, the other Owner(s) will be entitled to advance the funds needed and shall have a lien against the property of the defaulting Owner until all amounts are paid in full. The lien described herein shall at all time be subordinate to any lien on the property of the defaulting Owner of any lender existing at the time of the default and all renewals and extensions thereof.

Section 3-No wall, fence, building or other obstruction will be erected or maintained on any part of any area designated as an utility or access easement on a Panhandle Lot. No Owner will interfere with the other Owner's use of an easement, except for temporary interferences required for repair or maintenance of the roadway or utilities.

ARTICLE IV GENERAL PROVISIONS

Section 1 - If any of the provisions of these Covenants, Conditions and Restrictions or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity will not affect the validity of the remainder of these Covenants, Conditions and Restrictions, and the application of any provisions, paragraph, sentence, clause, phrase or word in any other circumstances will not be affected thereby.

Section 2 - The On Site Ponding Covenants in Article II may not be changed or amended, without the prior written consent of the City of El Paso.

Section 4 - Any Owner, holder of a first lien mortgage on any Lot or the City of El Paso will have the right to enforce by a proceeding at law or in equity against or seek recovery of damages from any person or persons violating or attempting to violate these Covenants, Conditions and Restrictions. In the event any party seeking to enforce these Covenants, Conditions and Restrictions applies for injunctive relief no bond or other security will be required. Any person who prevails in obtaining injunctive relief against or recovers damages from any person or persons violating or attempting to violate these Covenants, Conditions and Restrictions will be entitled to recover his reasonable attorneys' fees, expert fees and court costs. Any failure or delay by any Owner to enforce any of these Covenants, Conditions and Restrictions will in no event be deemed a waiver of the right to do

