

**FOURTH SUPPLEMENTARY DECLARATION OF COVENANTS, RESTRICTIONS,  
AND CONDITIONS ADDING PHASE 6, THE BROOKS AT CUMBERLAND PARK**

THE STATE OF TEXAS                 §                                 KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF SMITH                 §

This Fourth Supplementary Declaration of Covenants, Restrictions and Conditions Adding Phase 6, The Brooks at Cumberland Park ("Supplementary Declaration") is made by SHACKELFORD CREEK LAND COMPANY, LLC, a Texas limited liability company (the "Declarant") this 16<sup>th</sup> day of January, 2019, as follows:

WHEREAS, on January 29, 2003, recorded in Volume 6885, Page 1, Smith County Official Public Records, Broadway South Development, "M" No. 1, Ltd. a Texas limited partnership, executed a Declaration of Covenants, Restrictions, and Conditions (the "Restrictive Covenants") which imposed covenants, restrictions, and conditions upon the property described as certain tracts or parcels of land described in a certain Plat of The Brooks at Cumberland Park, Phase 1, recorded in Cabinet D, Slide 129-A, of the Plat Records of Smith County, Texas, (the "Property"); and

WHEREAS, on December 16, 2003, recorded in Volume 7403, Page 248, Smith County Official Public Records, Broadway South Development, "M" No. 1, Ltd., a Texas limited partnership, entered into an Amendment to Declaration of Restrictive Covenants which amended the Restrictive Covenants referred to above; and

WHEREAS, on March 15, 2005, recorded in Volume 7743 Page 837, Smith County Official Public Records, Broadway South Development, "M" No. 1, Ltd., a Texas limited partnership, entered into a First Supplementary Declaration of Covenants, Restrictions and Conditions which amended the Restrictive Covenants referred to above; and

WHEREAS, on October 4, 2006, recorded in County Clerk's File No. 2006-R00049509, Smith County Official Public Records, Broadway South Development, "M" No. 1, Ltd., a Texas limited partnership, entered into a Second Amendment to the Declaration of Restrictive Covenants which amended the Restrictive Covenants referred to above; and

WHEREAS, on June 27, 2008, recorded in County Clerk's File No. 2008-R00030679, Smith County Official Public Records, Conaway Land Group, LLC, a Texas limited liability company, entered into a Second Supplementary Declaration of Covenants, Restrictions and Conditions, which amended the Restrictive Covenants referred to above; and

WHEREAS, on March 21, 2013, recorded in County Clerk's File No. 2014-00011755, Smith County Official Public Records, The Brooks at Cumberland Park Owners Association, Inc., a Texas non-profit corporation, entered into an Amendment to Declaration of Restrictive Covenants which amended the Restrictive Covenants referred to above; and

WHEREAS, on April 2, 2018, recorded in County Clerk's File No. 20180100011989, Smith County Official Public Records, Conaway Land Group, LLC, a Texas limited liability company and Shackelford Creek Land Company, LLC, a Texas limited liability company, entered into a Third Supplementary Declaration of Covenants, Restrictions and Conditions, which amended the Restrictive Covenants referred to above; and

WHEREAS, on January 4, 2019, recorded in County Clerk's File No. 20190100000212, Smith County Official Public Records, Shackelford Creek Land Company, LLC, a Texas limited liability company, entered into a Fourth Amendment of Covenants, Restrictions and Conditions, which amended the Restrictive Covenants referred to above only insofar as they applied to Phases 4 and 5; and

WHEREAS, Article II, Section 2.3 of the Restrictive Covenants authorizes the Declarant to add additional properties to the Subdivision by filing a supplementary declaration of covenants, restrictions and conditions. The purpose of this Supplementary Declaration is to add the lots in Phase 6 of the Subdivision (the "New Lots") to the Subdivision (such New Lots being more particularly described in the final plat showing The Brooks at Cumberland Park, Phase 6, a copy of which is attached hereto as Exhibit "A") and to impose the covenants, restrictions and conditions as contained herein and in the Restrictive Covenants on the New Lots. Capitalized terms as used herein shall have the same meanings ascribed to them in the Restrictive Covenants unless otherwise specified herein.

HOWEVER, Article XII, Section 13.2 of the Restrictive Covenants provides that the Restrictive Covenants may be amended or changed in whole or in part unilaterally by the Declarant at the sole discretion of the Declarant until the Declarant initially sells all of the Lots; and

WHEREAS, the Declarant is desirous of amending the Restrictive Covenants to increase the minimum square footage to 1,750 square feet of heated and cooled space for each lot, only insofar as they affect the lots in Phase 6; and

WHEREAS, the Declarant is desirous of amending the Restrictive Covenants to not assign any lot types to Phase 6 and all lots will be treated on an equal basis; and

WHEREAS, the Declarant is desirous of amending the Restrictive Covenants to amend the setbacks for each lot only insofar as they affect the lots in Phase 6:

NOW THEREFORE, Declarant declares the New Lots in Phase 6 of The Brooks at Cumberland Park to be a part of the Subdivision and that they shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in the Restrictive Covenants. However, Declarant does hereby AMEND the above-referenced Restrictive Covenants in the following respects only insofar as they affect the lots in Phase 6:

1. Article V, Section 5.1 is hereby amended to read as follows:

5.1 Minimum Floor Areas. Each dwelling shall have a floor area, exclusive of porches (open or closed), patios, garages, carports, balconies, or decks, with a minimum of 1,750 square feet of heated and cooled space.

2. Article V, Section 5.4 is hereby amended to read as follows:

5.4 Setbacks. All Permanent Improvements shall be located on each Lot in compliance with the setback lines as shown below. For purposes of this covenant, setback lines shall refer to the distance from the Dwelling foundation to the lot lines. There shall be no lot types assigned and lots shall be treated on an equal basis.

Front -20' to the front of the main structure and 20' to the front of the garage

Rear- 20'

Sides-5' each side

Corner-10'

Except as hereinabove amended, all terms, provisions, conditions, covenants and agreements of the Restrictive Covenants shall continue unmodified and in full force and effect.

EXECUTED this 16<sup>th</sup> day of January, 2019.

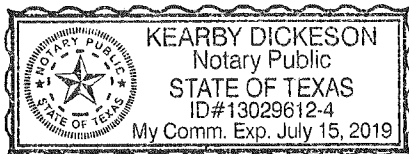
SHACKELFORD CREEK LAND COMPANY,  
LLC, a Texas limited liability company

By: *Lenard McMillin*  
LENARD MCMILLIN, Manager

THE STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on the 16<sup>th</sup> day of January, 2019, by LENARD MCMILLIN as Manager, on behalf of SHACKELFORD CREEK LAND COMPANY, LLC, a Texas limited liability company.



*Kearby Dickeson*  
NOTARY PUBLIC - STATE OF TEXAS

After recording return to:

Shackelford Creek Land Company, LLC  
2329 Oak Alley, Suite 1  
Tyler, Texas 75703

Exhibit "A"

BENJAMIN FRY SURVEY, A-355

(BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, NORTH CENTRAL ZONE NAD83 MAP DATUM)

NOTICE: BELIEVA A PORTION OF THIS ADDITION BY MEANS AND SOUND IS A VIOLATION OF CITY ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.

BRYAN MARSH FARMS LTD  
8778 A  
VOL. 1952, P. 301  
O.P.R.S.C.

LOOK FOR SUGGESTION TO VISUAL  
FOR ROAD PURPOSES PER  
1952 PLAT

BROADWAY SOUTH DEVELOPMENT CO, NO. 1, LTD.  
REVISIONS TO DATED 12/04/12  
VOL. 8571, P. 233, O.P.R.S.C.

SET 1/2" I. ROD FROM MARCH  
A 174.1 ROD FOUND FOR  
REFERENCE TO PERMITS  
2/24/11 @ 4.24'

C.F.N. 2009-130031466, EX. B-1, O.P.R.S.C.  
30' HIGH GRANITE UTILITY  
AND SANITARY SEWER EXHIBENT

SUDLERBROOK ESTATES  
C.F.N. 12, 2/16/10-0  
S.C.P.R.

APPROXIMATE LOCATION OF CLAMNET  
30' THOMPSON SANITARY SEWER EXHIBENT  
C.F.N. 2008-13000-158, EX. B(1), O.P.R.S.C.  
10' HIGH 24" DIAMETER  
SURFACE OF PROPERTY

NOTE 'W'  
10' WIDE WATER LINE EXHIBENT

SHEET 1 OF 2

INDICATES SET 1/2" I. ROD  
UNLESS OTHERWISE NOTED.

ALL NEW RODS SET ARE  
MARKED WITH A PLASTIC CAP  
PER 2111.

UNREGISTERED INSTRUMENT

PLAT RECORDED IN CABINET 'T', SLIDE 86D  
DATE RECORDED: 6-6-18

BMS TYLER SURVEYORS  
BOB MATUSH SURVEYING, INC.  
REGISTERED PROFESSIONAL LAND SURVEYORS  
2824 DENVERTON DRIVE, SUITE 107 TYLER, TEXAS 75703  
TEL: (409) 591-7267 www.bms Tyler.com  
I.P.S.I.S. FROM REG. 10042008  
JOB NO. 15-184 DATE: 4 MAY 2018 SCALE: 1"=100'

FINAL PLAT  
THE BROOKS AT  
CUMBERLAND PARK PHASE 6  
BENJAMIN FRY SURVEY, A-355  
THOMAS J. BLACKWELL SURVEY, A-112  
CITY OF TYLER  
SMITH COUNTY, TEXAS

0 100 200 300

Filed for Record in  
Smith County, Texas  
06/14/2019 11:09:06 AM  
Fee \$42.00  
20190100004955  
PLAT  
Clayton and Veronica  
Tyler County Clerk  
I solemnly swear that the said plat  
submitted was the work of the  
surveyors named herein and that I am  
Recorder of said County, Texas



BEARING BASED IN THE YEAR 2011 PLANE COORDINATE SYSTEM  
AND NORTH CENTRAL ZONE AND IS BASED ON THE 1983  
ADJUSTMENT OF THE STATE PLANE COORDINATE SYSTEM  
AND THE COUNTY OF TYLER, TEXAS  
COORDINATE SYSTEM OF 2011 ADJUSTMENT.

Filed for Record in  
Smith County, Texas  
02/14/2019 11:09:06 AM  
Fee: \$42.00  
20190100004955  
DECLARATION  
Deputy -Veronica Arteaga  
I hereby certify that this instrument was  
filed and duly recorded in the Official  
Public Records of Smith County, Texas

*Karen Phillips*  
Karen Phillips  
County Clerk

