

Seven Creeks Gateway Restrictions and Easements

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BURNET §

This **Seven Creeks Gateway Restrictions and Easements** (this “**Agreement**”) is made by **Burnet Bros, LLC**, a Texas limited liability company (“**Declarant**”), as follows:

RECITALS:

- A. Declarant owns Lots 1-12, 7 CREEKS RANCH, a subdivision in Burnet County, Texas, according to the plat (the “**Plat**”) recorded under Document No. 201703772, Official Public Records of Burnet County, Texas (the “**Property**”). Declarant also owns Lots 13-49, 7 CREEKS RANCH, a subdivision in Burnet County, Texas, according to the Plat (the “**Private Road Property**”). The Private Road Property is benefitted by various common areas, including private roads, gates and other facilities, managed by BC Seven Creeks Maintenance Company, a Texas non-profit corporation (the “**Company**”). The Private Road Property is subject to the Seven Creeks Restrictions and Easements (the “**7 Creeks Declaration**”) recorded under Document No. 2017_____, Official Public Record of Burnet County, Texas.
- B. Portions of the Property border a public road known as Burnet County Road 200A, which dead-ends into the Private Road Property, and portions of the Property border a public road known as Burnet County Road 200. Burnet County Road 200A and Burnet County Road 200 may be referred to herein as the “**Adjacent Public Roads.**” Declarant is implementing a uniform plan for improving, developing and selling the Property for the benefit of the present and future owners of the Property, and will convey the Property subject to the covenants, easements and restrictions in this Agreement.
- C. The Private Road Property is benefitted by certain of the provisions contained herein, and after the Control Transfer Date (defined below) the Company will have the rights set out herein.

NOW THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant declares: (i) all the Property will be held, sold, conveyed, and occupied subject to the easements, restrictions and covenants in this Agreement, which will run with the Property, (ii) this Agreement will bind all parties with any right, title, or interest in or to any of the Property, as well as their heirs, successors, and assigns as Owners (defined below), (iii) this Agreement will benefit each Owner; and (iv) each contract or deed executed after this Agreement as to any portion of the Property will be held, executed, delivered, and accepted subject to the easements, covenants and restrictions in this Agreement regardless of whether set out or referred to in the contract or deed.

1. **Definitions.** The following words and phrases when used in this Agreement shall have the meanings hereinafter specified:

1.1 Control Transfer Date. “**Control Transfer Date**” means the date Declarant no longer owns or has any legal or equitable interest in any of the Property or the Private Roads Property. As long as Declarant is the beneficiary of any deed of trust or vendor’s lien against any of the Property or Private Roads Property Declarant has an equitable interest in a portion of the Property or Private Roads Property, as applicable.

1.2 Improvement. “**Improvement**” means every structure and appurtenance to a structure of every type and kind within the Property. “Improvement” includes but is not limited to, buildings, barns, pens, sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, Landscaping, poles, signs, exterior air conditioning or water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telecommunication or other utilities.

1.3 Landscaping. “**Landscaping**” means any modification of a Lot, including but not limited to berms, irrigation systems, subsurface drainage systems, paving, introduced gravel or rock, nonstructural retaining walls, and introduced vegetation.

1.4 Lot. “**Lot**” or “**Lots**” means a parcel of land out of the Property shown as a subdivided lot on the Plat, together with all Improvements located thereon.

1.5 Owner. “**Owner**” or “**Owners**” means any Person, including Declarant, owning a fee simple interest in any Lot.

1.6 Person. “**Person**” or “**Persons**” means any individual or entity with the legal right to hold title to real property.

1.7 Public View. “**Public View**” means, as to a Lot, visibility of a location on that Lot from an Adjacent Public Road or another Lot.

1.8 Visible Location. “**Visible Location**” means a location on a Lot in Public View.

2. Restrictions. All of the Property will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

2.1 Division and Consolidation. Excluding Lots owned by Declarant (which may be divided and/or reconfigured as Declarant may elect), no Lot shown on the Plat may be divided to create additional Lots without obtaining Declarant’s prior written approval. An Owner of adjacent Lots may combine the adjacent Lots into one Lot, in which instance the consolidated lots will be treated as a single Lot.

2.2 Hazardous Activities; Hunting. No activity shall be conducted on the Property that is or may be unsafe or hazardous to persons or property or which violates a regulation or code of any applicable governmental authority. Hunting is prohibited.

2.3 Waste Water. Before occupying any residential dwelling on a Lot, the Owner must construct a septic system on the Lot in compliance with all applicable regulations of governmental authorities and arrange, at such Owner's expense, for the regular servicing and repair of such system. All septic systems must be kept in good working order, odor free at all times. If an Owner uses a recreational vehicle or other temporary structure as a temporary dwelling, the Owner must either install such a septic system on the Lot to service such vehicle or structure, or use a holding tank to contain the wastewater generated from such vehicle or structure, and arrange for the regular servicing and emptying of any such holding tank at the Owner's expense. In no event may wastewater be discharged onto the Lot.

2.4 Mining and Drilling. None of the Property may be used to mine, quarry or otherwise remove minerals, rocks, stones, sand, gravel, aggregate, earth or water, except that water wells may be installed on a Lot to provide water only to the residences, animals or livestock located on such Lot. Withdrawal of water for use for any commercial purpose is prohibited, and the transport of water off the Property is prohibited. The bore of any water well may not exceed 5" in diameter.

2.5 Animals. No kennels, boarding facilities, feed lots or other commercial facilities for the care, breeding or maintenance of animals may be operated from the Property, except cattle, goats, horses and other livestock may be bred or maintained on a Lot so long as the number of animal units on a Lot does not exceed that recommended for livestock management by Texas Parks and Wildlife or the Burnet County Extension Office. Except as a part of a 4-H project or for household consumption, no swine may be raised on the Property. No vicious or dangerous animals are allowed on the Property.

2.6 Rubbish, Debris and Odors. No rubbish or debris of any kind, including lumber, grass, plant waste, shrub or tree clippings, metals, chemicals, bulk materials, scrap, refuse, trash, or piles of weeds, brush or other natural materials, shall be placed, released, discharged or allowed to accumulate on the Property except that piles of brush for wildlife habitat may be maintained to support wildlife ad valorem tax valuations (so long as any such piles are located outside of Public View on a Lot). No odors shall be permitted to arise from rubbish or debris so as to render any of the Property unsanitary, unsightly, offensive, or detrimental to other areas of the Property, other land or the occupants of either. Refuse, garbage, and trash must be kept at all times in covered, animal-proof containers out of Public View (except as required to make same available for collection, and then only as reasonably necessary to effect such collection). Each Owner must enter into a contract for the regular removal of trash from the Lot at the expense of such Owner.

2.7 Signs. No sign of any kind shall be displayed in Public View on any Lot without Declarant's prior written approval, except 1 sign of no more than 6 square feet advertising the Lot for sale.

2.8 Temporary Structures. No tent, shack, or other temporary building, improvement or structure may be placed in a Visible Location on a Lot without Declarant's prior written approval.

2.9 Vehicles. No vehicle may be kept on a Lot in a Visible Location. No vehicle, travel trailer or recreational vehicle may be parked on an Adjacent Public Road at any time. Any such vehicle or item present on the Property in violation of this Section may be towed or otherwise removed by or at the request of Declarant at the sole expense of the Owner of the Lot on which or for whose benefit or enjoyment the vehicle or item is present. If such towing or removal occurs, neither Declarant, the Company or any employee or agent or either will be liable or responsible to the Owner for trespass, conversion or damage incurred incident to such removal, or for the cost of such removal, or otherwise, nor will Declarant, the Company or any employee or agent of either be guilty of any criminal act or have any civil liability by reason of such towing or removal, and such towing and removal shall not be grounds for relief by such Owner of any kind.

2.10 Mobile Homes and Manufactured Housing. No mobile homes or manufactured housing are permitted on the Property. Except for outbuildings that are not in Public View, all buildings must be of new materials and constructed on-site. All fences will be of a material specified by Declarant.

2.11 Construction Debris. During initial construction of a dwelling structure on a Lot, and if required by Declarant, during any remodeling of a structure on a Lot, the Owner must provide on the Lot an enclosed trash storage area or dumpster at least 8' by 8'. Such storage area or dumpster must be removed promptly after construction or remodeling is completed.

2.12 Location of Improvements. No Improvements (except Landscaping and entry drives) will be located on any Lot nearer to a front, side or rear Lot line than 50', except that on Lots exceeding 5 acres in size, no Improvements (except Landscaping and entry drives) will be located nearer to the front Lot line than 100'. No fence may be placed closer to an Adjacent Public Road than 20'.

2.13 Drainage. No Owner may change the established drainage patterns on the Property unless adequate provision is made for proper drainage and Declarant gives prior written approval of the change.

2.14 Unfinished Structures. No structure may remain unfinished for more than 12 months after construction has begun. The exterior of any structure must be completed within 6 months after construction begins.

2.15 Minimum Residence Size/Timing of Construction. The primary residence erected on each Lot shall contain not less than 1,600 square feet of living space, inclusive of porches, balconies, decks and garages ("**Living Area**"). Any guest house erected on a Lot shall contain at least 600 square feet of Living Area. Guest houses may not be built until construction has been completed on the primary residence for a Lot. No outbuildings may be built on a Lot until construction commences on the primary residence for a Lot.

2.16 Review of Proposed Construction. Declarant's approval must be obtained before any Improvement is built or installed within the Property. Declarant may consider all plans and specifications for a proposed Improvement and all other facts it deems relevant in its discretion. No Improvement will be allowed on any Lot Declarant considers incompatible with development

within the Property whether due to size or architectural design or the Landscaping, color schemes, exterior finishes and materials or other features, and all decisions of Declarant will be final and binding when made in good faith. Declarant will not review, and is not responsible for reviewing, any proposed Improvement, and approval of any plans or specifications will not be considered approval of, structural safety, engineering soundness, or conformance with building or other codes of governmental entities or utility providers. If Declarant does not respond to a request for approval of plans and specifications within 30 days of receipt of all required information (including additional information requested by Declarant), Declarant shall be deemed to have approved such plans and specifications. Declarant's approval or consent to any plans or specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of Declarant will not waive Declarant's right to withhold approval or consent for other plans or specifications or other matters whatever, subsequently or additionally submitted for approval or consent by the same or a different Person. Declarant, in Declarant's discretion, may modify any of the provisions of this Section 2 that govern the construction of Improvements as to any particular Improvement, but such modification must be in writing and signed by Declarant.

3. **Residential Use.** All Lots will be improved and used only for single family residential use (including garages, fences and such other Improvements customarily incident to residential uses). Except for livestock operations that comply with Section 2.5, no Lot or Improvements on a Lot may be used to produce income or for civic or commercial purposes except an Owner or occupant may conduct business activities incidental to the primary residential use of the Lot so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the building structures; (b) the business activity conforms to all legal requirements and other provisions of this Agreement; (c) the business activity does not involve visitation to the Lot by clients, customers, vendors or other business invitees or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property (as determined by Declarant). The lease of an entire Lot for single family residential purposes is not conducting a trade or business from a Lot but the term of any such lease shall be at least 6 months.

4. **Repair and Maintenance Obligations.** Each Owner shall keep all Improvements on the Owner's Lot in good, attractive condition and repair, and adequately painted or otherwise maintained. Maintenance obligations include, but are not limited to, maintaining all visible exterior surfaces of Improvements; prompt removal of paper, debris, and refuse; removal of dead or diseased trees and Landscaping from the Property; prompt replacement of dull and/or peeling paint from the exterior of Improvements; mowing, watering, fertilizing, weeding, pruning, replanting and replacement of Landscaping as needed; and during construction, cleaning of dirt, construction debris, and other construction-related refuse from street and storm drains and inlets as deemed necessary by Declarant. Each Owner must follow Declarant's recommendations as to tree disease control (including without limitation recommendations for the control of oak wilt) immediately. If an Owner does not comply with its maintenance obligations within 30 days after notice from Declarant (or such longer period of time as Declarant may agree is required to so comply), Declarant may enter any Lot at any reasonable time to perform an Owner's maintenance obligations in this Section at the expense of the Owner, in which instance the Owner must reimburse Declarant for the cost incurred by Declarant, together with interest at the rate of 18% per annum from the date Declarant incurred the cost until the date the cost is repaid.

5. **Easements.**

5.1 **Reserved Easements.** All dedications, limitations, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights made before the Property was subject to this Agreement are incorporated herein by reference and made a part of this Agreement for all purposes. Declarant reserves the right to modify, release and/or add to such easements and rights-of-way so as to most efficiently and economically develop the Property. Declarant reserves the right, without the joinder of any Owner or other Person, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including without limitation, gas, water, electricity and telecommunications) and storm water drainage in favor of any Person along any front, rear, or side boundary line of any Lot, which said easements shall have a maximum width of 20' from such Lot line.

5.2 **Installation and Maintenance.** Declarant establishes an easement upon, across, over, and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities and storm water drainage systems, including but not limited to, water, sewer, gas, telecommunications, and electric lines and appurtenances thereto to the extent such utilities are now or in the future available. This easement allows utility companies, governmental agencies and other service providers to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility and/or drainage easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. No Owner may relocate electric lines, water lines, or other utilities, storm water drainage facilities or appurtenances without Declarant's prior written approval. Any utility company furnishing service may remove trees within the utility easements shown on the Plat or established in this Agreement and may trim overhanging trees and shrubs located on portions of the Property abutting such easements.

5.3 **Drainage Easements.** Each Owner must provide easements on its Lot for drainage and water flow, as contours of land and the arrangement of Improvements thereon require. No Owner may perform any act that would alter or change the course of drainage within the Property so as to divert, increase, accelerate or impede the flow of water over and across such easements. Without limiting the generality of the preceding sentence, no Owner may:

5.3.1 Alter, change or modify the existing natural vegetation or design of the drainage easement so as to affect the flow of surface water through same;

5.3.2 Alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without Declarant's prior written approval (who may require the Owner, at the Owner's expense, to provide a written report from a licensed civil engineer establishing the proposed action will not adversely affect any other portion of the Property);

5.3.3 Construct, erect or install a fence or other structure of any type or nature in or on the easement area (but Declarant may approve a fence if proper openings are incorporated to accommodate the flow of water over said easement (as established by a written report from a licensed civil engineer approved by Declarant and obtained at the Owner's expense, and as authorized by all applicable governmental agencies);

5.3.4 Store anything, whether temporarily or permanently, within the easement area; or

5.3.5 Place, store or allow accumulation of trash, garbage, leaves, limbs or other debris within or upon the easement area, either on a temporary or permanent basis.

6. **Miscellaneous Provisions.**

6.1 Term. This Agreement, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2070, unless amended as herein provided. After December 31, 2070, this Agreement, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of 10 years each, unless amended or extinguished by a written instrument executed by the Owners of at least 80% of the Lots then subject to this Agreement.

6.2 **Amendment.**

6.2.1 This Agreement may be amended by Declarant until the Control Transfer Date. No amendment by Declarant is effective until a written amendment executed and acknowledged by Declarant is recorded in the Official Public Records of Burnet County, Texas.

6.2.2 In addition to the method in Section 6.2.1, this Agreement may be amended by recording a written amendment in the Official Public Records of Burnet County executed and acknowledged by the Owners of at least 80% of the Lots.

6.3 **Nonliability.** Neither Declarant, or after the Control Transfer Date, the Board (nor any member thereof) will be liable to any Owner or any other Person for any loss, damage, or injury arising out of their being in any way connected with the performance of Declarant's or the Board's duties under this Agreement unless due to the willful misconduct, gross negligence or bad faith of Declarant, the Board or its member.

6.4 **Execution of Declarant.** Notwithstanding any other provision of this Agreement, Declarant, in Declarant's discretion, may divide or subdivide any Lot, re-subdivide Lots created by the Plat in such sizes, locations and configurations as Declarant may elect, modify easements and rights of way, and/or market and develop all or any of the Property without the consent of any Owner. Declarant's rights include, but are not limited to, the right to excavate and grade, to alter drainage patterns and facilities, to construct any and all types of Improvements, to install and maintain construction, sales and leasing offices and similar facilities, to maintain construction

staging areas, and to post signs incidental to construction, marketing, sales, and leasing anywhere within the Property.

6.5 Assignment of Declarant. Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Agreement to any other Person, and may permit the participation, in whole or in part, by any other Person, in any of its privileges, exemptions, rights, and duties hereunder. Any assignment by Declarant will be effective only when an instrument executed and acknowledged by Declarant evidencing such assignment is recorded in the Official Public Records of Burnet County, Texas. On the Control Transfer Date, Declarant's rights under this Agreement will transfer automatically to the Board.

6.6 No Warranty of Enforceability. While Declarant has no reason to believe that any of the covenants, terms and provisions of this Agreement are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. ***Any Owner acquiring a Lot in reliance on one or more of such covenants, terms, or provisions assumes all risks of the validity and enforceability thereof and, by acquiring the Lot, will indemnify and hold Declarant harmless therefrom.***

6.7 Enforcement; Nonwaiver. Except as otherwise provided herein, any Owner at such Owner's expense, Declarant (or after the Control Transfer Date, the Company), may enforce any and all provisions of this Agreement. This right of enforcement includes both damages for, and injunctive relief against, the breach of any such provision. The failure to enforce a provision of this Agreement at any time will not waive the right thereafter to enforce any such provision or any other provisions of this Agreement. The prevailing party in any action under this Agreement may recover all costs of the action, including reasonable attorney's fees, from the other party.

6.7 Dispute Resolution. No Owner (a "**Complaining Owner**") may commence any judicial action or process against Declarant until and unless (i) the Complaining Owner notifies Declarant that the Complaining Owner intends to institute a judicial action against Declarant (which notice will reference this Section 6.7), and (ii) Declarant does not elect to submit the dispute to non-binding mediation by notice to the Complaining Owner delivered within 30 days after the Complaining Owner's notice of intent to institute judicial action. If no election is made within said 30-day period, the Complaining Owner may proceed to institute a judicial action against Declarant. If Declarant elects to submit the dispute to non-binding mediation, however, Declarant shall so notify the Complaining Owner within said 30-day period, which notice of election shall include the name of 3 qualified mediators acceptable to Declarant, and no judicial action or process may be commenced against Declarant until the mediation has concluded. A qualified mediator shall be any attorney-mediator with experience in mediating disputes involving real estate who does not reside within the Property, work for any party involved in the dispute or have any conflict of interest with any party involved in the dispute. The Complaining Owner shall have 5 days within which to accept one of the three mediators so named in the notice of election and to so notify Declarant. If the Complaining Owner does not timely notify Declarant of the Complaining Owner's acceptance of a mediator, Declarant may select one of the named mediators as the sole

mediator for the mediation. The mediation shall take place within 30 days after the mediator is determined. The cost of such mediator shall be paid equally between the parties.

(Signature Line Appears on Following Page)

IN WITNESS WHEREOF, Declarant has executed this Agreement on May ____, 2017.

DECLARANT:

BURNET BROS., LLC, a Texas limited liability company

By: Three Land Bros, LLC, a Texas limited liability company, Manager

By: _____
David Carpenter, Managing Member

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me, the undersigned authority, on this day personally appeared David Carpenter, Managing Member of Three Land Bros, LLC, a Texas limited liability company, Manager of BURNET BROS, LLC, a Texas limited liability company, on behalf of said companies, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this _____ day of May, 2017.

[SEAL]

My Commission Expires:

NOTARY PUBLIC, State of Texas
Print Name: _____

First Texas Bank, Lampasas (“**First Lender**”), as the owner and holder of a certain deed of trust (the “**First Deed of Trust**”) to Mike L. Adams, Trustee, dated March 21, 2017, recorded under County Clerk File No. 201702815 of the Official Records of Burnet County, Texas, and of a first and superior vendor’s lien (the “**First Vendor’s Lien**”) retained in a deed recorded under County Clerk File No. 201702812 of the Official Records of Burnet County, Texas, creating a first and superior lien upon the Property (among other property), expressly agrees that the First Vendor’s Lien and the lien of the First Deed of Trust, and all of First Lender’s rights thereunder shall be and remain and are hereby expressly made SUBORDINATE AND INFERIOR to this Agreement and also agrees that this Agreement shall be and remain PRIOR AND SUPERIOR to said First Vendor’s Lien and First Deed of Trust lien and to all of the rights of First Lender thereunder.

EXECUTED this _____ day of May, 2017.

FIRST TEXAS, BANK, LAMPASAS

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF LAMPASAS §

Before me, the undersigned authority, on this day personally appeared _____, _____, of FIRST TEXAS BANK, LAMPASAS, a Texas _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he / she executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this _____ day of May, 2017.

[SEAL]

NOTARY PUBLIC, State of Texas

My Commission Expires:

Print Name: _____