

**UNANIMOUS CONSENT IN LIEU OF SPECIAL MEETING  
OF THE BOARD OF DIRECTORS OF  
THE AVIARY HOMEOWNERS ASSOCIATION, INC.**

November 5, 2007

The undersigned, constituting all of the members of the Board of Directors of **The Aviary Homeowners Association, Inc.**, a Texas non-profit corporation (the "Association"), pursuant to Article 1396-9.10 of the Texas Non-Profit Corporation Act, do hereby consent to and adopt in all respects the following actions by unanimous written consent, said actions to have the same force and effect as a unanimous vote by the undersigned at a special meeting of the Board of Directors duly called and held.

**WHEREAS**, the Declaration of Covenants, Conditions and Restrictions – The Aviary Addition (the "Declaration") recorded as Document #2001-0055208, the First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions – The Aviary Addition (the "First Modification") recorded as Document #2001-0114172, the Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions –The Aviary Addition (the "Second Modification") recorded as Document #2001-0114173, the Supplemental Declaration of Protective Covenants – The Aviary Addition (the "Supplemental Declaration") recorded as Document #2001-0145859, the Supplemental Declaration of Protective Covenants – The Aviary Addition (the "Supplemental Declaration") recorded as Document #2004-0077634, the Third Modification and Amendment of Declaration of Covenants, Conditions and Restrictions –The Aviary Addition (the "Third Modification") recorded as Document #2006-0718000995900 and the Supplemental Declaration of Protective Covenants – The Aviary Addition (the "Supplemental Declaration") recorded as Document #2006-0718000995880 of the Official Records of Collin County, Texas, contemplates the payment of annual assessments on January 1 of each year in accordance with the Declaration; and

**WHEREAS**, the Declaration also contemplates that the Board of Directors of the Association will set annual assessments for subsequent years on or before November 30th of each year beginning in 2001; and

**WHEREAS**, the Board of Directors desire to enter into, consent to and adopt the following resolutions for purposes of setting the annual assessments which will be due and payable on January 1, 2008 for calendar year 2008; and

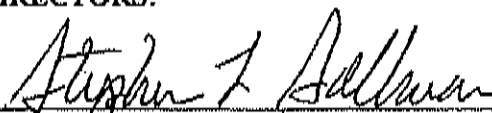
**RESOLVED**, that after taking into consideration anticipated revenues and expenditures for calendar year 2007, the annual assessment for calendar year 2008 shall be **\$400.00** per lot. Such annual assessments shall be due and payable by each Owner (as such term is defined in the Declaration and herein so called) on January 1, 2008; and

**FUTHER RESOLVED**, that Stephen L. Sallman, as President of the Association, or his duly appointed attorney-in-fact, be and he is hereby authorized and directed to deliver notice of the setting of the annual assessment for calendar year 2008 to each Owner, advising each Owner of that such annual assessment shall be due and payable in advance on January 1, 2008, and containing such other terms and provisions as said officer in such officer's judgment deems necessary, desirable or appropriate; and

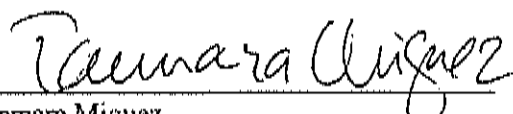
**FURTHER RESOLVED**, that this consent may be executed in a number of counterparts and each counterpart hereof shall be deemed an original, but all of such counterparts taken together shall constitute but a single instrument.

**IN WITNESS WHEREOF**, the undersigned have executed this consent to be effective as of, although not necessarily on November 5, 2007.

**DIRECTORS:**

  
\_\_\_\_\_  
Stephen L. Sallman

\_\_\_\_\_  
Steve Parsons

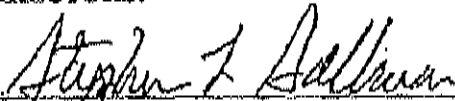
  
\_\_\_\_\_  
Tamara Miguez

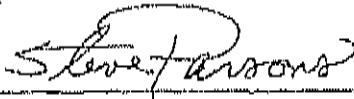
**FUTHER RESOLVED**, that Stephen L. Sallman, as President of the Association, or his duly appointed attorney-in-fact, be and he is hereby authorized and directed to deliver notice of the setting of the annual assessment for calendar year 2008 to each Owner, advising each Owner of that such annual assessment shall be due and payable in advance on January 1, 2008, and containing such other terms and provisions as said officer in such officer's judgment deems necessary, desirable or appropriate; and

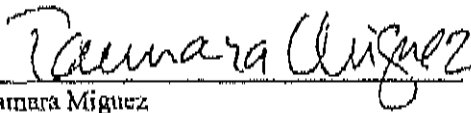
**FURTHER RESOLVED**, that this consent may be executed in a number of counterparts and each counterpart hereof shall be deemed an original, but all of such counterparts taken together shall constitute but a single instrument.

**IN WITNESS WHEREOF**, the undersigned have executed this consent to be effective as of, although not necessarily on November 5, 2007.

**DIRECTORS:**

  
\_\_\_\_\_  
Stephen L. Sallman

  
\_\_\_\_\_  
Steve Parsons

  
\_\_\_\_\_  
Tamara Miguez



**THIRD MODIFICATION AND AMENDMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**THE AVIARY ADDITION**

STATE OF TEXAS §  
  §  
COUNTY OF COLLIN §

**KNOW ALL MEN BY THESE PRESENTS THAT:**

THIS THIRD MODIFICATION AND AMENDMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Second Modification") is made effective as of the date hereinafter specified by Dublin Murphy Estates, Ltd., a Texas limited partnership ("Declarant") and Dublin Road Estates, L.P., a Texas limited partnership ("Supplemental Declarant").

**WITNESSETH:**

WHEREAS, Declarant and/or Supplemental Declarant caused that certain Declaration of Covenants, Conditions and Restrictions dated as of March 13, 2001, to be filed as County Clerk's Document No. 2001-0055208 in Volume 4916, Page 3319 of the Official Records of Collin County, Texas, as modified and supplemented by that (i) certain First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 17, 2001, filed as County Clerk's Document No. 2001-0114172 in Volume 5000, Page 1850 of the Official Records of Collin County, Texas, (ii) that certain Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 24, 2001, filed as County Clerk's Document No. 2001-0114173 in Volume 5000, Page 1854 of the Official Records of Collin County, Texas, (iii) that certain Supplemental Declaration of Protective Covenants dated September 12, 2001, filed as County Clerk's Document No. 2001-0145859 in Volume 5046, Page 0319 of the Official Records of Collin County, Texas, (iv) that certain Supplemental Declaration of Protective Covenants dated as of May 26, 2004, filed as County Clerk's Document No. 2004-0077634 in Volume 5678, Page 01816 of the Official Records of Collin County, Texas, and (v) that certain Supplemental Declaration of Protective Covenants dated as of July 17, 2006, filed as County Clerk's Document No. 2006-~~0718000~~ 995880 of the Official Records of Collin County, Texas (collectively, the "Declaration");

WHEREAS, the Declaration pertains to certain property located in Collin County, Texas (the "Property"), together with any additional property thereafter added to the Declaration pursuant to a Supplemental Declaration of Protective Covenants;

WHEREAS, in accordance with Section 9.03 of the Declaration, Declarant and Supplemental Declarant desire to modify and amend the Declaration as the owner of more than fifty-one percent (51%) of the Tracts within the Subdivision;

NOW, THEREFORE, Declarant and Supplemental Declarant as the owner of more than fifty-one percent (51%) of the Tracts within the Subdivision, does hereby modify and amend the Declaration as hereinafter provided.

1. Quorum. Declarant and Supplemental Declarant do hereby modify and amend the Declaration by (a) deleting the words "fifty-one percent (51%)" contained in the first sentence of Section 2.03(a) of the Declaration, and (b) substituting in lieu thereof "twenty percent (20%)."

2. **Annual Assessments.** Declarant and Supplemental Declarant do hereby modify and amend the Declaration by (a) deleting the phrase "March 1" contained in the fourth sentence of Section 3.03 of the Declaration, and (b) substituting in lieu thereof "February 1." Declarant and Supplemental Declarant intend for any unpaid annual assessments to become delinquent on February 1 of the year in which assessed.

3. **Maintenance.** Declarant and Supplemental Declarant do hereby modify and amend the Declaration by adding a new Section 6.19 of the Declaration as follows:

"6.19 **Maintenance.** Without limiting any other requirements or provisions of this Declaration, the Owner of a Tract within the Subdivision shall comply with the following obligations with regard to such Owner's Tract:

- (a) All yards and lawns shall be kept and well maintained and all grass, weeds and vegetation on each Tract shall be kept mowed at regular intervals;
- (b) Trees, shrubs, vines and plants which die shall promptly be removed from each Tract and replacements of equal quality or value promptly installed;
- (c) Lawns must be properly maintained and fences must be repaired and maintained and no objectionable or unsightly usage of Tracts will be permitted which is visible to public view; and
- (d) Building materials shall not be stored on any Tract and any excess materials not needed for construction and any building refuse shall promptly be removed from each Tract.

If, at any time, and from time to time, an Owner shall fail to control weeds, grass or unsightly growth exceeding eight (8) inches in height, or otherwise fails to comply with the provisions of this Declaration, including, this Section 6.19, the Association shall have the right to go onto such Tract or direct a third-party service to go onto such Tract for the purpose of mowing and cleaning such Tract and enforcing compliance and shall have the authority and right to assess and collect from the Owner of such Tract the reasonable costs incurred in connection with such mowing or cleaning and otherwise enforcing compliance with this Declaration, including this Section 6.19."

4. **Approval of Plans.** Declarant and Supplemental Declarant do hereby modify and amend the Declaration by (a) deleting the reference to "ten (10) days" contained in Section 7.02 of the Declaration, and (b) substituting in lieu thereof "thirty (30) days."

5. **Binding Effect.** Except as modified and amended hereby, the terms and provisions of the Declaration shall remain in full force and effect as written.

6. **Capitalized Terms.** Except as provided herein to the contrary, capitalized terms used herein shall have the meanings ascribed thereto in the Declaration.

IN WITNESS WHEREOF, this Third Modification and Amendment of Declaration of Covenants, Conditions and Restrictions has been executed to be effective as of, although not necessarily on, July 17, 2006.

**DECLARANT:**

**Dublin Murphy Estates, Ltd.,**  
a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

By: Stephen L. Sallman  
Stephen L. Sallman,  
a Manager

By: \_\_\_\_\_  
Steve Parsons,  
a Manager

**SUPPLEMENTAL DECLARANT:**

**Dublin Road Estates, L.P.,**  
a Texas limited partnership

By: Warner Group, Inc.,  
a Texas corporation,  
General Partner

By: Stephen L. Sallman  
Stephen L. Sallman,  
a Member

IN WITNESS WHEREOF, this Third Modification and Amendment of Declaration of Covenants, Conditions and Restrictions has been executed to be effective as of, although not necessarily on, July 17, 2006.

**DECLARANT:**

**Dublin Murphy Estates, Ltd.,**  
a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

By: \_\_\_\_\_  
Stephen L. Sallman,  
a Manager

By: Steve Parsons  
Steve Parsons,  
a Manager

**SUPPLEMENTAL DECLARANT:**

**Dublin Road Estates, L.P.,**  
a Texas limited partnership

By: Warner Group, Inc.,  
a Texas corporation,  
General Partner

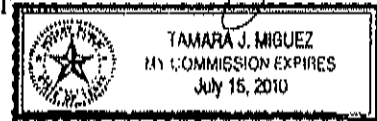
By: \_\_\_\_\_  
Stephen L. Sallman,  
a Member

STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

This instrument was acknowledged before me on July 17, 2006, by Stephen L. Sallman, a Manager of Dublin Murphy, L.L.C., a Texas limited liability company, General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal)

Tamara Miguez  
Notary Public, State of T

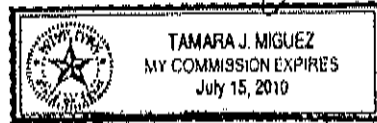


STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

This instrument was acknowledged before me on July 17, 2006, by Steve Parsons, a Manager of Dublin Murphy, L.L.C., a Texas limited liability company, General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal)

Tamara Miguez  
Notary Public, State of Texas

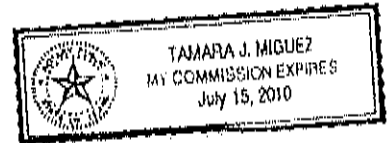


STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

This instrument was acknowledged before me on July 17, 2006, by Stephen L. Sallman, a Member of Warner Group, Inc, a Texas corporation, General Partner of Dublin Road Estates, L.P., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal)

Tamara Miguez  
Notary Public, State of Texas



After recording, return to:

Stephen L. Sallman  
Warner Group, Inc.  
4925 Greenville Avenue, Suite 1020  
Dallas, Texas 75206

Filed and Recorded  
Official Public Records  
Branda Taylor, County Clerk  
Collin County, TEXAS  
07/18/2006 10:07:17 AM  
\$32.00 FOSTER  
20060718000995900



Branda Taylor





**SUPPLEMENTAL DECLARATION OF PROTECTIVE COVENANTS**

**THE AVIARY ADDITION**

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

**KNOW ALL MEN BY THESE PRESENTS THAT:**

**THIS SUPPLEMENTAL DECLARATION OF PROTECTIVE COVENANTS** (this "Supplemental Declaration") is made effective as of the date hereinafter specified by **DUBLIN MURPHY ESTATES, LTD.**, a Texas limited partnership ("Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant owns that certain unimproved property located in Murphy, Collin County, Texas (the "Additional Property") described in that certain plat (the "Phase 4 Plat") recorded as County Clerk's Document No. 2006-60714010003030 of the Plat Records of Collin County, Texas;

**WHEREAS**, Declarant proposes to divide and subdivide the Additional Property as part of **THE AVIARY ADDITION** (the "Subdivision");

**WHEREAS**, Declarant desires to burden and benefit the Additional Property with the provisions of that certain Declaration of Covenants, Conditions and Restrictions dated as of March 13, 2001, recorded as County Clerk's Document No. 2001-0055208 in Volume 4916, Page 3319 of the Official Records of Collin County, Texas, as modified and supplemented by that (i) certain First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 17, 2001, filed as County Clerk's Document No. 2001-0114172 in Volume 5000, Page 1850 of the Official Records of Collin County, Texas, (ii) that certain Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 24, 2001, filed as County Clerk's Document No. 2001-0114173 in Volume 5000, Page 1854 of the Official Records of Collin County, Texas, (iii) that certain Supplemental Declaration of Protective Covenants dated September 12, 2001, filed as County Clerk's Document No. 2001-0145859 in Volume 5046, Page 0319 of the Official Records of Collin County, Texas, and (iv) that certain Supplemental Declaration of Protective Covenants dated as of May 26, 2004, filed as County Clerk's Document No. 2004-0077634 in Volume 5678, Page 01816 of the Official Records of Collin County, Texas (collectively, the "Declaration");

**WHEREAS**, in accordance with Article XI of the Declaration, Declarant desires to extend the Declaration (except as modified or amended by this Supplemental Declaration) to the Additional Property; and

**WHEREAS**, it is deemed to be in the best interests of Declarant and any other persons who may purchase a Tract in the Subdivision, that there be established and maintained a consistent, harmonious and uniform plan for the improvement and development of the Subdivision, including the Additional Property, as a highly restricted and modern subdivision of the highest quality and for protecting the value of the Subdivision.

**NOW, THEREFORE**, Declarant declares that the Additional Property is to be held, sold and conveyed subject to the easements, restrictions, covenants and conditions set forth in the Declaration, except to the extent modified or amended by this Supplemental Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision. The Declaration and

the easements, covenants, restrictions, conditions and other provisions thereof, except to the extent modified or amended by this Supplemental Declaration, run with the Additional Property and shall be binding upon all parties having or acquiring any right, title or interest in the Additional Property or any part thereof, and their heirs, legal representatives, successors and assigns and shall inure to the benefit of each Owner thereof and their heirs, legal representatives, successors and assigns.

## ARTICLE I

### DEFINITIONS

**1.01 General.** Except as otherwise provided in this Supplemental Declaration, capitalized terms used herein shall have the meanings ascribed thereto in the Declaration.

**1.02 Common Area.** For purposes of the Declaration and this Supplemental Declaration, "Common Area" shall have the meaning set forth in Section 1.04 of the Declaration and shall also include the easements and easement rights described in Section 8.02 of this Supplemental Declaration, including the fencing and masonry wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, any entry area landscaping, irrigation, walls and signage and other improvements which may be located within such easements. Although the drainage easements located on Lots 9 - 19, Block L and Lots 6 - 9, Block M of the Additional Property are not part of the Common Area, to the extent the maintenance and operation of such drainage easements are not assumed by the City, the Association shall be responsible for the maintenance and operation thereof. Declarant confirms that such additional Common Area is intended and devoted for the common use, enjoyment and benefit of the Members of the Association and the Subdivision.

**1.03 Property.** For purposes of the Declaration and this Supplemental Declaration, "Property" means and refers to (i) Lots 1 - 52, Block A, Lots 1 - 5, Block B, Lots 1 - 29, Block C, Lots 11 - 21, Block D, Lots 12 - 15, Block F, Lots 4 - 5, Block F, Lots 15 - 23, Block G and Lots 1 - 2, Block X of The Aviary Phase 1 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2000-0094107 in Cabinet M, Page 13 of the Plat Records of Collin County, Texas, (ii) Lots 64 - 96, Block H, Lots 13 - 24, Block O, and Lots 42 - 46, Block N of The Aviary Phase 2 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2001-0012264 in Cabinet M, Page 477 of the Plat Records of Collin County, Texas, (iii) Lots 24 - 31, Block G, Lots 1 - 46, Block H, Lots 1 - 7, Block J, Lots 20 - 34, Block J, Lots 20 - 34, Block L, Lots 10 - 19, Block M, Lots 1 - 41, Block N and Lots 1 - 12, Block O of The Aviary Phase 3 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2003-0121317 in Cabinet P, Page 13 of the Plat Records of Collin County, Texas, and (iv) Lots 1 - 3, Block F, Lots 6 - 11, Block F, Lots 16 - 21, Block F, Lots 1 - 14, Block G, Lots 32 - 39, Block G, Lots 1 - 27, Block I, Lots 8 - 19, Block J, Lots 1 - 34, Block K, Lots 1 - 19, Block L, Lots 35 - 39, Block L and Lots 1 - 9, Block M of The Aviary Phase 4 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2006-60714010003030 of the Plat Records of Collin County, Texas.

## ARTICLE II

### MEMBERSHIP; VOTING RIGHTS; POWERS AND DUTIES

**2.01 Voting Rights.** Any term or provision of the Declaration to the contrary notwithstanding, for purposes of the Additional Property and the Declaration, which is supplemented by this Supplemental Declaration, Class B Members are only those individuals or entities who are herein defined as Declarant

(including the original partners or joint venturers individually comprising Declarant), and for each Tract owned Declarant is entitled to five (5) votes on each matter coming before the Members at any meeting or otherwise. Except as modified by this Section 2.01, Article II of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

### ARTICLE III

#### COVENANT FOR ASSESSMENTS

**3.01** The terms and provisions of Article III of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property, and specifically the provisions of Article III of the Declaration which specify an initial annual assessment of \$400.00 for each Tract within the Subdivision (except for the exempt property described in Section 3.01 of the Declaration or elsewhere in the Declaration).

### ARTICLE IV

#### INSURANCE

**4.01** The terms and provisions of Article IV of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

### ARTICLE V

#### USE OF COMMON AREA

**5.01** The terms and provisions of Article V of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

### ARTICLE VI

#### PERMITTED USES AND RESTRICTIONS

**6.01** General. The Additional Property and each Tract located therein shall be constructed, developed, occupied and used as provided in Article VI of the Declaration, except as modified and amended by this Article VI of this Supplemental Declaration. No use shall be permitted on the Additional Property which is not allowed under applicable public codes, ordinances and other laws either already adopted or as may be adopted by the City or other controlling public authorities. Each Owner, occupant or other user of any portion of the Additional Property, shall at all times comply with the Declaration, as modified by this Supplemental Declaration, and with any and all laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or their agencies having jurisdictional control over the Additional Property, specifically including, but not limited to, applicable zoning restrictions placed upon the Additional Property as they exist from time to time. **IN SOME INSTANCES GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH GOVERNMENTAL REQUIREMENTS AND ANY REQUIREMENTS OF THE DECLARATION IS MANDATORY, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, THE MOST RESTRICTIVE REQUIREMENTS SHALL PREVAIL, EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH APPLICABLE GOVERNMENTAL REQUIREMENTS IS MANDATORY, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, EVEN THOUGH**

SUCH COMPLIANCE MAY RESULT IN NON-COMPLIANCE WITH PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION. WHERE A GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, THE PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, SHALL PREVAIL AND CONTROL.

**6.02 Fences and Walls.** Declarant hereby supplements, modifies and amends the terms and provisions of Section 6.15 of the Declaration to the extent such Section 6.15 applies to the Additional Property to read as follows:

(a) In all cases, fences must have specific approval from the Architectural Committee prior to construction. No fencing shall be permitted in front yard areas or side yard areas extending beyond the building facade by more than two feet (2'). Perimeter chain link fences are strictly prohibited. Chain link fences for dog runs are permitted so long as they are placed at the rear of a Tract in a manner not to be offensive to neighbors and providing the Owner agrees to plant climbing roses, hedges or other evergreen shrubbery along the outside of the fence so that the fence is totally and permanently screened throughout the year from public view and adjacent property.

(b) Declarant and/or the Association shall have the right, but not the obligation, to erect and install, fences, walls and/or screening landscaping (i) within that portion of any Tract situated along the perimeter of the Subdivision, or (ii) on any portion of the Subdivision not comprising any portion of a Tract or dedicated street or alley. The Association shall have the obligation to maintain, repair and/or replace fences, walls and/or screening landscaping (i) within that portion of any Tract situated along the perimeter of the Subdivision, or (ii) on any portion of the Subdivision not comprising any portion of a Tract or dedicated street or alley. Any fence, wall or sprinkler system shall be the property of the Owner of the Tract on which such fence, wall or sprinkler system is erected or installed, subject to the easements and rights of Declarant and the Association set forth herein.

## ARTICLE VII

### ARCHITECTURAL COMMITTEE

**7.01** The terms and provisions of Article VII of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

## ARTICLE VIII

### EASEMENTS

**8.01 General.** Except as provided hereinbelow in Section 8.02 hereof, the terms and provisions of Article VI of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

**8.02 Common Area Easements.** Declarant hereby supplements, modifies and amends the terms and provisions of Section 8.03 of the Declaration to the extent such Section 8.03 of the Declaration applies to the Additional Property to read as follows:

"Declarant for the benefit of Declarant and the Association and their successors and assigns hereby reserves wall maintenance and landscape/common area easements depicted on Exhibit A attached hereto and incorporated herein for all purposes, including, the five (5) feet wide easement along Heritage Parkway which shall be used for the benefit of the Subdivision for fencing and a masonry wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, entry area landscaping, irrigation, walls and signage, and such other uses and purposes which the Association determines in its sole discretion will benefit the Subdivision. Further, Declarant for the benefit of Declarant and the Association and their successors and assigns hereby reserves ten (10) feet wide private drainage easements depicted along Lots 9 - 19, Block L and Lots 6 - 9, Block M of the Additional Property which shall be used for the benefit of the Subdivision ."

#### ARTICLE IX

#### GENERAL PROVISIONS

9.01 The terms and provisions of Article IX of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

#### ARTICLE X

#### SPECIAL PROVISIONS REGARDING THE RIGHTS OF THE CITY

10.01 The terms and provisions of Article X of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

IN WITNESS WHEREOF, Declarant has caused this Supplemental Declaration to be executed effective as of, although not necessarily on, July 17, 2006.

#### DECLARANT:

Dublin Murphy Estates, Ltd.,  
a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

By: Stephen L. Sallman  
Stephen L. Sallman,  
Manager

By: \_\_\_\_\_  
Steve Parsons,  
Manager

"Declarant for the benefit of Declarant and the Association and their successors and assigns hereby reserves wall maintenance and landscape/common area easements depicted on Exhibit A attached hereto and incorporated herein for all purposes, including, the five (5) feet wide easement along Heritage Parkway which shall be used for the benefit of the Subdivision for fencing and a masonry wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, entry area landscaping, irrigation, walls and signage, and such other uses and purposes which the Association determines in its sole discretion will benefit the Subdivision. Further, Declarant for the benefit of Declarant and the Association and their successors and assigns hereby reserves ten (10) feet wide private drainage easements depicted along Lots 9 - 19, Block L and Lots 6 - 9, Block M of the Additional Property which shall be used for the benefit of the Subdivision."

#### ARTICLE IX

##### GENERAL PROVISIONS

9.01 The terms and provisions of Article IX of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

#### ARTICLE X

##### SPECIAL PROVISIONS REGARDING THE RIGHTS OF THE CITY

10.01 The terms and provisions of Article X of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

IN WITNESS WHEREOF, Declarant has caused this Supplemental Declaration to be executed effective as of, although not necessarily on, July 7, 2006.

#### DECLARANT:

Dublin Murphy Estates, Ltd.,  
a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

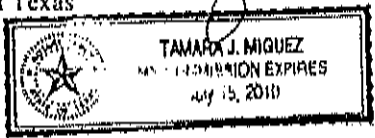
By: \_\_\_\_\_  
Stephen L. Sallman,  
Manager

By: Steve Parsons  
Steve Parsons,  
Manager

STATE OF TEXAS §  
COUNTY OF ~~COLLIN~~ <sup>DALLAS</sup> §  
§

This instrument was acknowledged before me on July 17, 2006, by Stephen L. Sallman, Manager of Dublin Murphy, L.L.C., a Texas limited liability company, the General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal) Tamara Cliguez  
Notary Public, State of Texas



STATE OF TEXAS §  
COUNTY OF ~~COLLIN~~ <sup>DALLAS</sup> §  
§

This instrument was acknowledged before me on July 17, 2006, by Steve Parsons, Manager of Dublin Murphy, L.L.C., a Texas limited liability company, the General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal) Tamara Cliguez  
Notary Public, State of Texas

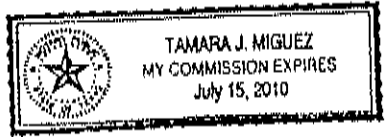


EXHIBIT "A"

Depiction of Common Area

$\Delta=01^{\circ}09'38''$   
 $R=585.00'$   
 $T=5.92'$   
 $L=11.85'$   
 $CB=N89^{\circ}51'55''E$   
 $CL=11.85'$

$\Delta=29^{\circ}16'03''$   
 $R=225.00'$   
 $T=58.75'$   
 $L=114.93'$   
 $CB=N80^{\circ}53'01''E$   
 $CL=113.69'$

KINGS HOLLOW  
MANAGEMENT, L.L.P.  
Vol. 5818, Pg 381

$R=400.00'$   
 $T=92.13'$   
 $L=181.11'$   
 $CB=N82^{\circ}32'48''E$   
 $CL=179.56'$

30'x30'  
Landscape  
Easement

BETSY MURPHY II, LTD.  
CC# 99-0150984

5' Wall Maintenance  
Easement Along  
Heritage Parkway  
Typical

FINAL PLAT  
THE AVIARY PHASE 4

ISAAC HERRING SURVEY ~ ABSTRACT NO. 403  
GEO PEGUES SURVEY ~ ABSTRACT NO 699  
MARY SCOTT SURVEY ~ ABSTRACT NO. 859

CITY OF MURPHY, COLLIN COUNTY, TEXAS  
OWNER

DUBLIN MURPHY ESTATES, LTD.

4925 Greenville Avenue ~ Suite 1020 ~ Dallas, Texas 75206  
214.368.0238



ENGINEERING/SURVEYING/PLANNING  
TIPTON ENGINEERING, INC.  
6330 Broadway Blvd. ~ Suite C ~ Garland, Texas 75043  
972.226.2967



Filed and Recorded  
Official Public Records  
Brenda Taylor, County Clerk  
Collin County, TEXAS  
07/18/2006 10 03 09 AM  
\$40.00 YFOSTER  
20060718000995880

After Recording Return To:  
Warner Group, Inc.  
4925 Greenville Ave., Suite 1020  
Dallas, Texas 75206



*Brenda Taylor*

**UNANIMOUS CONSENT IN LIEU OF SPECIAL MEETING  
OF THE BOARD OF DIRECTORS OF  
THE AVIARY HOMEOWNERS ASSOCIATION, INC.**

November 30, 2004

The undersigned, constituting all of the members of the Board of Directors of **The Aviary Homeowners Association, Inc.**, a Texas non-profit corporation (the "Association"), pursuant to Article 1396-9.10 of the Texas Non-Profit Corporation Act, do hereby consent to and adopt in all respects the following actions by unanimous written consent, said actions to have the same force and effect as a unanimous vote by the undersigned at a special meeting of the Board of Directors duly called and held.

**WHEREAS**, the Declaration of Covenants, Conditions and Restrictions – The Aviary Addition (the "Declaration") recorded as Document #2001-0055208, the First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions – The Aviary Addition (the "First Modification") recorded as Document #2001-0114172, the Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions – The Aviary Addition (the "Second Modification") recorded as Document #2001-0114173 and the Supplemental Declaration of Protective Covenants – The Aviary Addition (the "Supplemental Declaration") recorded as Document #2001-0145859, and the Supplemental Declaration of Protective Covenants – The Aviary Addition (the "Supplemental Declaration") recorded as Document #2004-0077634 of the Official Records of Collin County, Texas, contemplates the payment of annual assessments on January 1 of each year in accordance with the Declaration; and

**WHEREAS**, the Declaration also contemplates that the Board of Directors of the Association will set annual assessments for subsequent years on or before November 30th of each year beginning in 2001; and

**WHEREAS**, the Board of Directors desire to enter into, consent to and adopt the following resolutions for purposes of setting the annual assessments which will be due and payable on January 1, 2005 for calendar year 2005; and

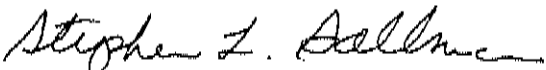
**RESOLVED**, that after taking into consideration anticipated revenues and expenditures for calendar year 2004, the annual assessment for calendar year 2005 shall be \$400.00 per lot. Such annual assessments shall be due and payable by each Owner (as such term is defined in the Declaration and herein so called) on January 1, 2005; and

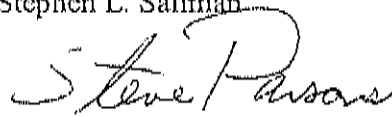
**FURTHER RESOLVED**, that Stephen L. Sallman, as President of the Association, or his duly appointed attorney-in-fact, be and he is hereby authorized and directed to deliver notice of the setting of the annual assessment for calendar year 2005 to each Owner, advising each Owner of that such annual assessment shall be due and payable in advance on January 1, 2005, and containing such other terms and provisions as said officer in such officer's judgment deems necessary, desirable or appropriate; and

**FURTHER RESOLVED**, that this consent may be executed in a number of counterparts and each counterpart hereof shall be deemed an original, but all of such counterparts taken together shall constitute but a single instrument.

**IN WITNESS WHEREOF**, the undersigned have executed this consent to be effective as of, although not necessarily on November 30, 2004.

**DIRECTORS:**

  
\_\_\_\_\_  
Stephen L. Sallman

  
\_\_\_\_\_  
Steve Parsons

  
\_\_\_\_\_  
Tamara Miguez

SUPPLEMENTAL DECLARATION OF PROTECTIVE COVENANTS

THE AVIARY ADDITION

STATE OF TEXAS §  
  §  
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS THAT:

THIS SUPPLEMENTAL DECLARATION OF PROTECTIVE COVENANTS (this "Supplemental Declaration") is made effective as of the date hereinafter specified by DUBLIN MURPHY ESTATES, LTD., a Texas limited partnership ("Declarant"), and DUBLIN ROAD ESTATES, L.P., a Texas limited partnership ("Supplemental Declarant").

WITNESSETH:

WHEREAS, Declarant and Supplemental Declarant own portions of that certain unimproved property located in Murphy, Collin County, Texas (the "Additional Property") described in that certain plat (the "Phase 3 Plat") recorded as County Clerk's Document No. 2003-0121317 of the Plat Records of Collin County, Texas;

WHEREAS, Declarant and Supplemental Declarant propose to divide and subdivide the Additional Property as part of THE AVIARY ADDITION (the "Subdivision");

WHEREAS, Declarant and Supplemental Declarant desire to burden and benefit the Additional Property with the provisions of that certain Declaration of Covenants, Conditions and Restrictions dated as of March 13, 2001, recorded as County Clerk's Document No. 2001-0055208 in Volume 4916, Page 3319 of the Official Records of Collin County, Texas, as modified by that certain First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 17, 2001, filed as County Clerk's Document No. 2001-0114172 in the Official Records of Collin County, Texas, and that certain Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 24, 2001, filed as County Clerk's Document No. 2001-0114173 in the Official Records of Collin County, Texas and Supplemental Declaration of Protective Covenants dated September 12, 2001 filed as County Clerk's Document No. 2001-014859 in the Official Records of Collin County, Texas (collectively, the "Declaration");

WHEREAS, in accordance with Article XI of the Declaration, Declarant and Supplemental Declarant desire to extend the Declaration (except as modified or amended by this Supplemental Declaration) to the Additional Property; and

WHEREAS, it is deemed to be in the best interests of Declarant, the Supplemental Declarant and any other persons who may purchase a Tract in the Subdivision, that there be established and maintained a consistent, harmonious and uniform plan for the improvement and development of the Subdivision, including the Additional Property, as a highly restricted and modern subdivision of the highest quality and for protecting the value of the Subdivision.

NOW, THEREFORE, Declarant and Supplemental Declarant declare that the Additional Property is to be held, sold and conveyed subject to the easements, restrictions, covenants and conditions set forth in the Declaration, except to the extent modified or amended by this Supplemental Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision. The Declaration and the easements, covenants, restrictions, conditions and other

5678 01815

provisions thereof, except to the extent modified or amended by this Supplemental Declaration, run with the Additional Property and shall be binding upon all parties having or acquiring any right, title or interest in the Additional Property or any part thereof, and their heirs, legal representatives, successors and assigns and shall inure to the benefit of each Owner thereof and their heirs, legal representatives, successors and assigns.

## ARTICLE I

### DEFINITIONS

**1.01 General.** Except as otherwise provided in this Supplemental Declaration, capitalized terms used herein shall have the meanings ascribed thereto in the Declaration.

**1.02 Common Area.** For purposes of the Declaration and this Supplemental Declaration, "Common Area" shall have the meaning set forth in Section 1.04 of the Declaration and shall also include the easements and easement rights described in Section 8.2 of this Supplemental Declaration, including fencing and masonry wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, entry area landscaping, irrigation, walls and signage, and other improvements which may be located within such easements. Declarant and Supplemental Declarant confirm that such additional Common Area is intended and devoted for the common use, enjoyment and benefit of the Members of the Association and the Subdivision.

**1.03 Property.** For purposes of the Declaration and this Supplemental Declaration, "Property" means and refers to Lots 1-52, Block A; Lots 1-5, Block B; Lots 1-29, Block C; Lots 11-21, Block D; Lots 12-15, Block E; Lots 4-5, Block F; Lots 15-23, Block G and Lots 1-2, Block X of The Aviary Phase 1 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2000-0094107 of the Plat Records of Collin County, Texas, together with Lots 64-96, Block H; Lots 13-24, Block O and Lots 42-46, Block N of The Aviary Phase 2 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2001-0012264 of the Plat Records of Collin County, Texas, together with Lots 24-31, Block G; Lot 1-46, Block H; Lots 1-7, Block J; Lots 20-24, Block J; Lots 20-24, Block L; Lots 10-19, Block M and Lots 1-41, Block N and Lots 1-12, Block O of The Aviary Phase 3 Addition, an addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2003-0121317 of the Plat Records of Collin County, Texas.

## ARTICLE II

### MEMBERSHIP; VOTING RIGHTS; POWERS AND DUTIES

**2.01 Voting Rights.** Any term or provision of the Declaration to the contrary notwithstanding, for purposes of the Additional Property and the Declaration, which is supplemented by this Supplemental Declaration, Class B Members are only those individuals or entities who are herein defined as Declarant and Supplemental Declarant (including the original partners or joint venturers individually comprising Declarant and Supplemental Declarant), and for each Tract owned Declarant or Supplemental Declarant, as the case may be, is entitled to five (5) votes on each matter coming before the Members at any meeting or otherwise. Except as modified by this Section 2.01, Article II of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

### ARTICLE III

#### COVENANT FOR ASSESSMENTS

3.01 The terms and provisions of Article III of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property, and specifically the provisions of Article III of the Declaration which specify an initial annual assessment of \$400.00 for each Tract within the Subdivision (except for the exempt property described in Section 3.01 of the Declaration or elsewhere in the Declaration).

### ARTICLE IV

#### INSURANCE

4.01 The terms and provisions of Article IV of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

### ARTICLE V

#### USE OF COMMON AREA

5.01 The terms and provisions of Article V of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

### ARTICLE VI

#### PERMITTED USES AND RESTRICTIONS

6.01 General. The Additional Property and each Tract located therein shall be constructed, developed, occupied and used as provided in Article VI of the Declaration, except as modified and amended by this Article VI of this Supplemental Declaration. No use shall be permitted on the Additional Property which is not allowed under applicable public codes, ordinances and other laws either already adopted or as may be adopted by the City or other controlling public authorities. Each Owner, occupant or other user of any portion of the Additional Property, shall at all times comply with the Declaration, as modified by this Supplemental Declaration, and with any and all laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or their agencies having jurisdictional control over the Additional Property, specifically including, but not limited to, applicable zoning restrictions placed upon the Additional Property as they exist from time to time. **IN SOME INSTANCES GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH GOVERNMENTAL REQUIREMENTS AND ANY REQUIREMENTS OF THE DECLARATION IS MANDATORY, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, THE MOST RESTRICTIVE REQUIREMENTS SHALL PREVAIL. EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH APPLICABLE GOVERNMENTAL REQUIREMENTS IS MANDATORY, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, EVEN THOUGH SUCH COMPLIANCE MAY RESULT IN NON-COMPLIANCE WITH PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION. WHERE A GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL**

**DECLARATION, BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, THE PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, SHALL PREVAIL AND CONTROL.**

**6.02 Fences and Walls.** Declarant and Supplemental Declarant hereby supplement, modify and amend the terms and provisions of Section 6.15 of the Declaration to the extent such Section 6.15 applies to the Additional Property to read as follows:

(a) In all cases, fences must have specific approval from the Architectural Committee prior to construction. No fencing shall be permitted in front yard areas or side yard areas extending beyond the building facade by more than two feet (2'). Perimeter chain link fences are strictly prohibited. Chain link fences for dog runs are permitted so long as they are placed at the rear of a Tract in a manner not to be offensive to neighbors and providing the Owner agrees to plant climbing roses, hedges or other evergreen shrubbery along the outside of the fence so that the fence is totally and permanently screened throughout the year from public view and adjacent property. Fences along the western property line of Lots 15, 16, 17, 25-30, 33, 44, 45, Block H adjacent to the Dublin Road Estates Phase III Addition, as well as along the property line of a Tract which property line is adjacent to the city limits of the City of Parker, shall not exceed six feet (6') in height and shall be of "open construction" and not solid. Solid wood fences are strictly prohibited as perimeter fencing along the property line of a Tract which property line is adjacent to the city limits of the City of Parker.

(b) Declarant, Supplemental Declarant and/or the Association shall have the right, but not the obligation, to erect and install, fences, walls and/or screening landscaping (i) within that portion of any Tract situated along the perimeter of the Subdivision, or (ii) on any portion of the Subdivision not comprising any portion of a Tract or dedicated street or alley. The Association shall have the obligation to maintain, repair and/or replace fences, walls and/or screening landscaping (i) within that portion of any Tract situated along the perimeter of the Subdivision, or (ii) on any portion of the Subdivision not comprising any portion of a Tract or dedicated street or alley. Any fence, wall or sprinkler system shall be the property of the Owner of the Tract on which such fence, wall or sprinkler system is erected or installed, subject to the easements and rights of Declarant, Supplemental Declarant and the Association set forth herein.

## ARTICLE VII

### ARCHITECTURAL COMMITTEE

7.01 The terms and provisions of Article VII of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

## ARTICLE VIII

### EASEMENTS

8.01 **General.** Except as provided hereinbelow in Section 8.02 hereof, the terms and provisions of Article VI of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

8.02 **Common Area Easements.** Declarant and Supplemental Declarant hereby supplement, modify and amend the terms and provisions of Section 8.03 of the Declaration to the extent such Section 8.03 of the Declaration applies to the Additional Property to read as follows:

"Declarant for the benefit of Declarant, Supplemental Declarant and the Association and

their successors and assigns hereby reserves landscape/common area easements depicted on **Exhibit A** attached hereto and incorporated herein for all purposes and being (i) a five feet (5') wide easement along the east property line of Lot 19, Block M and Lots 1, 36 and 37, Block N described in the Phase 3 Plat, and (ii) a thirty feet (30') by thirty feet (30') easement at the northwest corner and the southwest corner of Oakhurst Drive and Heritage Parkway, which shall be used for the benefit of the Subdivision, including, fencing and any masonry wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, entry area landscaping, irrigation, walls and signage, and such other uses and purposes which the Association determines in its sole discretion will benefit the Subdivision."

#### ARTICLE IX

#### GENERAL PROVISIONS

9.01 The terms and provisions of Article IX of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

#### ARTICLE X

#### SPECIAL PROVISIONS REGARDING THE RIGHTS OF THE CITY

10.01 The terms and provisions of Article X of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

IN WITNESS WHEREOF, Declarant and Supplemental Declarant have caused this Supplemental Declaration to be executed effective as of, although not necessarily on May 26, 2004.

#### DECLARANT:

Dublin Murphy Estates, Ltd.,

a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

By:

Stephen L. Sallman, Mgr.  
Stephen L. Sallman, Manager

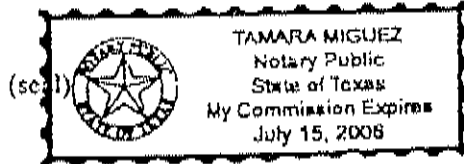
By:

Steve Parsons, Mgr.  
Steve Parsons, Manager



STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

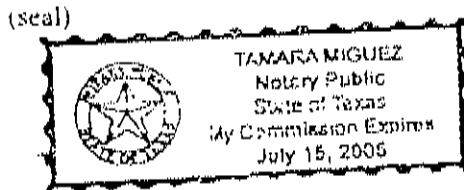
This instrument was acknowledged before me on May 26, 2004, by Stephen L. Sallman, Manager of Dublin Murphy, L.L.C., a Texas limited liability company, the General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.



Tamara Miguez  
Notary Public, State of Texas ( )

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on May 26, 2004 by Steve Parsons, Manager of Dublin Murphy, L.L.C., a Texas limited liability company, the General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

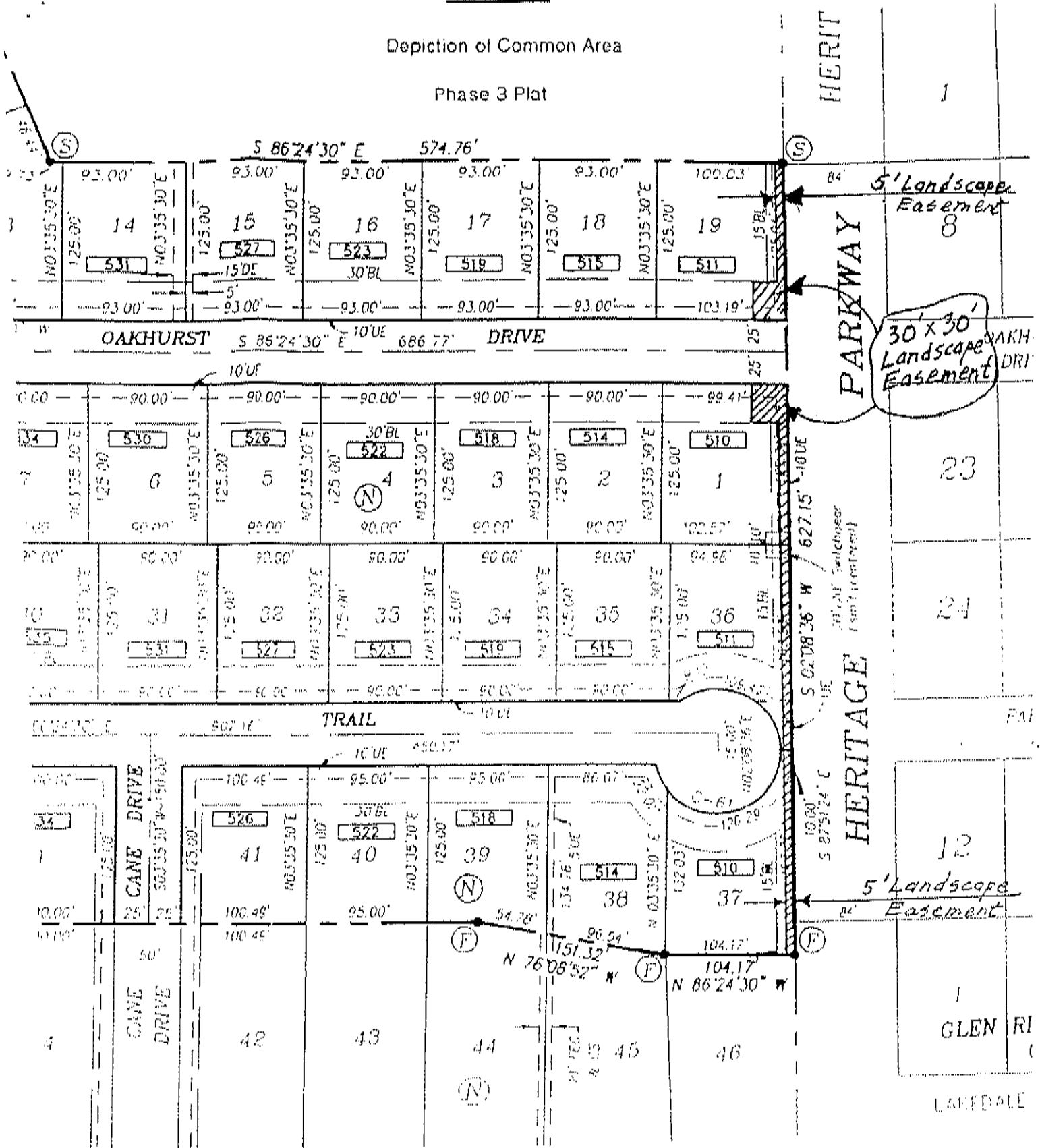


Tamara Miguez  
Notary Public, State of Texas

EXHIBIT A

Depiction of Common Area

Phase 3 Plat



5678 01623

THIS INSTRUMENT IS FILED FOR RECORD IN THE PUBLIC RECORDS OF THE  
COUNTY OF COLLIN, TEXAS, THIS 27TH DAY OF MAY 2004, AT 9:51 AM.  
BY: [Signature] CLERK OF COUNTY  
THE STATE OF TEXAS  
I hereby certify that the instrument was filed on this date and time and that the same is true and correct. RECORDED in the Public Records  
of the County of Collin, Texas.

MAY 27 2004

Brenda Taylor



Filed for Record in:  
Collin County, McKinney TX  
Honorable Brenda Taylor  
Collin County Clerk

On May 27 2004  
At 9:51am

Doc/Num : 2004- 6077634

Recording/Type: FD 28.00  
Receipt #: 20948

5046 0319

2001-0145859  
The Aviary, Phase 2

SUPPLEMENTAL DECLARATION OF PROTECTIVE COVENANTS

THE AVIARY ADDITION

STATE OF TEXAS           §  
                                  §  
COUNTY OF COLLIN       §

KNOW ALL MEN BY THESE PRESENTS THAT:

THIS SUPPLEMENTAL DECLARATION OF PROTECTIVE COVENANTS (this "Supplemental Declaration") is made effective as of the date hereinafter specified by DUBLIN MURPHY ESTATES, LTD., a Texas limited partnership ("Declarant"), and DUBLIN ROAD ESTATES, L.P., a Texas limited partnership ("Supplemental Declarant").

WITNESSETH:

WHEREAS, Declarant and Supplemental Declarant own portions of that certain unimproved property located in Murphy, Collin County, Texas (the "Additional Property") described in that certain plat (the "Phase 2 Plat") recorded as County Clerk's Document No. 2001-0012264 of the Plat Records of Collin County, Texas;

WHEREAS, Declarant and Supplemental Declarant propose to divide and subdivide the Additional Property as part of THE AVIARY ADDITION (the "Subdivision");

WHEREAS, Declarant and Supplemental Declarant desire to burden and benefit the Additional Property with the provisions of that certain Declaration of Covenants, Conditions and Restrictions dated as of March 13, 2001, recorded as County Clerk's Document No. 2001-0055208 in Volume 4916, Page 3319 of the Official Records of Collin County, Texas, as modified by that certain First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 17, 2001, filed as County Clerk's Document No. 2001-0114172 in the Official Records of Collin County, Texas, and that certain Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 24, 2001, filed as County Clerk's Document No. 2001-0114173 in the Official Records of Collin County, Texas (collectively, the "Declaration");

WHEREAS, in accordance with Article XI of the Declaration, Declarant and Supplemental Declarant desire to extend the Declaration (except as modified or amended by this Supplemental Declaration) to the Additional Property; and

WHEREAS, it is deemed to be in the best interests of Declarant, the Supplemental Declarant and any other persons who may purchase a Tract in the Subdivision, that there be established and maintained a consistent, harmonious and uniform plan for the improvement and development of the Subdivision, including the Additional Property, as a highly restricted and modern subdivision of the highest quality and for protecting the value of the Subdivision.

NOW, THEREFORE, Declarant and Supplemental Declarant declare that the Additional Property is to be held, sold and conveyed subject to the easements, restrictions, covenants and conditions set forth in the Declaration, except to the extent modified or amended by this Supplemental Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision. The Declaration and the easements, covenants, restrictions, conditions and other provisions thereof, except to the extent modified or amended by this Supplemental Declaration, run with the Additional Property and shall be binding upon all parties having or acquiring any right, title or interest in the Additional Property or any part thereof, and their heirs, legal representatives, successors and assigns and shall inure to the benefit of each Owner thereof and their heirs, legal representatives, successors and assigns.

**ARTICLE I****DEFINITIONS**

**1.01 General.** Except as otherwise provided in this Supplemental Declaration, capitalized terms used herein shall have the meanings ascribed thereto in the Declaration.

**1.02 Common Area.** For purposes of the Declaration and this Supplemental Declaration, "Common Area" shall have the meaning set forth in Section 1.04 of the Declaration and shall also include the easements and easement rights described in Section 8.2 of this Supplemental Declaration, including fencing and masonry wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, entry area landscaping, irrigation, walls and signage, and other improvements which may be located within such easements. Declarant and Supplemental Declarant confirm that such additional Common Area is intended and devoted for the common use, enjoyment and benefit of the Members of the Association and the Subdivision.

**1.03 Property.** For purposes of the Declaration and this Supplemental Declaration, "Property" means and refers to Lots 1 - 52, Block A, Lots 1 - 5, Block B, Lots 1 - 29, Block C, Lots 11 - 21, Block D, Lots 12 - 15, Block F, Lots 4 - 5, Block F, Lots 15 - 23, Block G and Lots 1 - 2, Block X of The Aviary Phase 1 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2000-0094107 of the Plat Records of Collin County, Texas, together with Lots 64 - 96, Block H, Lots 13 - 24, Block O, and Lots 42 - 46, Block N of The Aviary Phase 2 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2001-0012264 of the Plat Records of Collin County, Texas.

**ARTICLE II****MEMBERSHIP; VOTING RIGHTS; POWERS AND DUTIES**

**2.01 Voting Rights.** Any term or provision of the Declaration to the contrary notwithstanding, for purposes of the Additional Property and the Declaration, which is supplemented by this Supplemental Declaration, Class B Members are only those individuals or entities who are herein defined as Declarant and Supplemental Declarant (including the original partners or joint venturers individually comprising Declarant and Supplemental Declarant), and for each Tract owned Declarant or Supplemental Declarant, as the case may be, is entitled to five (5) votes on each matter coming before the Members at any meeting or otherwise. Except as modified by this Section 2.01, Article II of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

**ARTICLE III****COVENANT FOR ASSESSMENTS**

**3.01** The terms and provisions of Article III of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property, and specifically the provisions of Article III of the Declaration which specify an initial annual assessment of \$400.00 for each Tract within the Subdivision (except for the exempt property described in Section 3.01 of the Declaration or elsewhere in the Declaration).

**ARTICLE IV****INSURANCE**

4.01 The terms and provisions of Article IV of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

**ARTICLE V****USE OF COMMON AREA**

5.01 The terms and provisions of Article V of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

**ARTICLE VI****PERMITTED USES AND RESTRICTIONS**

6.01 **General.** The Additional Property and each Tract located therein shall be constructed, developed, occupied and used as provided in Article VI of the Declaration, except as modified and amended by this Article VI of this Supplemental Declaration. No use shall be permitted on the Additional Property which is not allowed under applicable public codes, ordinances and other laws either already adopted or as may be adopted by the City or other controlling public authorities. Each Owner, occupant or other user of any portion of the Additional Property, shall at all times comply with the Declaration, as modified by this Supplemental Declaration, and with any and all laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or their agencies having jurisdictional control over the Additional Property, specifically including, but not limited to, applicable zoning restrictions placed upon the Additional Property as they exist from time to time. **IN SOME INSTANCES GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH GOVERNMENTAL REQUIREMENTS AND ANY REQUIREMENTS OF THE DECLARATION IS MANDATORY, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, THE MOST RESTRICTIVE REQUIREMENTS SHALL PREVAIL, EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH APPLICABLE GOVERNMENTAL REQUIREMENTS IS MANDATORY, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, EVEN THOUGH SUCH COMPLIANCE MAY RESULT IN NON-COMPLIANCE WITH PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION. WHERE A GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, THE PROVISIONS OF THE DECLARATION, AS MODIFIED BY THIS SUPPLEMENTAL DECLARATION, SHALL PREVAIL AND CONTROL.**

6.02 **Fences and Walls.** Declarant and Supplemental Declarant hereby supplement, modify and amend the terms and provisions of Section 6.15 of the Declaration to the extent such Section 6.15 applies to the Additional Property to read as follows:

(a) In all cases, fences must have specific approval from the Architectural Committee prior to construction. No fencing shall be permitted in front yard areas or side yard areas extending beyond the building facade by more than two feet (2'). Perimeter chain link fences are strictly prohibited. Chain link fences for dog runs are permitted so long as they are placed at the rear of a Tract in a manner not to be offensive to neighbors and providing the Owner agrees to plant climbing roses, hedges or other evergreen shrubbery along the outside of the fence so that the fence is totally and permanently screened throughout the year from public view and adjacent property. Fences along (i) the western property line of Lots 67 - 72, Block H, of Phase 2, (ii) the northern property lines of Lots 66 and 67, Block H, Phase 2, and (iii) the southern property line of Lots 72, 73, 82, and 83 - 96 of Block H, Phase 2, adjacent to the Dublin Road Estates Phases III, IV, V and VI Additions, as well as along the property line of a Tract which property line is adjacent to the city limits of the City of Parker, shall not exceed six feet (6') in height and shall be of "open construction" and not solid. Solid wood fences are strictly prohibited as perimeter fencing along the property line of a Tract which property line is adjacent to the city limits of the City of Parker.

(b) Declarant, Supplemental Declarant and/or the Association shall have the right, but not the obligation, to erect and install, fences, walls and/or screening landscaping (i) within that portion of any Tract situated along the perimeter of the Subdivision, or (ii) on any portion of the Subdivision not comprising any portion of a Tract or dedicated street or alley. The Association shall have the obligation to maintain, repair and/or replace fences, walls and/or screening landscaping (i) within that portion of any Tract situated along the perimeter of the Subdivision, or (ii) on any portion of the Subdivision not comprising any portion of a Tract or dedicated street or alley. Any fence, wall or sprinkler system shall be the property of the Owner of the Tract on which such fence, wall or sprinkler system is erected or installed, subject to the easements and rights of Declarant, Supplemental Declarant and the Association set forth herein.

## ARTICLE VII

### ARCHITECTURAL COMMITTEE

7.01 The terms and provisions of Article VII of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

## ARTICLE VIII

### EASEMENTS

8.01 General. Except as provided hereinbelow in Section 8.02 hereof, the terms and provisions of Article VI of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

8.02 Common Area Easements. Declarant and Supplemental Declarant hereby supplement, modify and amend the terms and provisions of Section 8.03 of the Declaration to the extent such Section 8.03 of the Declaration applies to the Additional Property to read as follows:

"Declarant for the benefit of Declarant, Supplemental Declarant and the Association and their successors and assigns hereby reserves landscape/common area easements depicted on Exhibit A attached hereto and incorporated herein for all purposes and being (i) a five feet (5') wide easement along the east property line of Lot 46, Block N and Lot 96, Block H described in the Phase 2 Plat, and (ii) a thirty feet (30') by thirty feet (30') easement at the northwest corner and the southwest corner of Mockingbird Drive and Heritage Parkway, which shall be used for the benefit of the Subdivision, including, fencing and a masonry

wall along Heritage Parkway, landscaping and irrigation between such fencing and wall and the curb, entry area landscaping, irrigation, walls and signage, and such other uses and purposes which the Association determines in its sole discretion will benefit the Subdivision."

ARTICLE IX

GENERAL PROVISIONS

9.01 The terms and provisions of Article IX of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

ARTICLE X

SPECIAL PROVISIONS REGARDING THE RIGHTS OF THE CITY

10.01 The terms and provisions of Article X of the Declaration shall remain in full force and effect with regard to the Property, including the Additional Property.

IN WITNESS WHEREOF, Declarant and Supplemental Declarant have caused this Supplemental Declaration to be executed effective as of, although not necessarily on, ~~August 12~~ <sup>Sept</sup> 2001.

DECLARANT:

Dublin Murphy Estates, Ltd.,  
a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

By: Stephen L. Salliman  
Stephen L. Salliman,  
Manager

By: Steve Parsons  
Steve Parsons,  
Manager



SUPPLEMENTAL DECLARANT:

Dublin Road Estates, L.P.,  
a Texas limited partnership

By: Warner Group, Inc.,  
a Texas corporation,  
General Partner

By: Stephen L. Sallman  
Stephen L. Sallman,  
President

CITY:

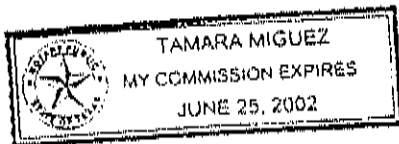
City of Murphy,  
a municipality organized and existing  
under the laws of the State of Texas

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF ~~COLLIN~~ <sup>DALLAS</sup>   §

This instrument was acknowledged before me on <sup>Sept.</sup> August 12, 2001, by Stephen L. Sallman, Manager of Dublin Murphy, L.L.C., a Texas limited liability company, the General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal)



Tamara Miguez  
Notary Public, State of Texas

STATE OF TEXAS §  
COUNTY OF ~~COLLIN~~ <sup>Dallas</sup> §

This instrument was acknowledged before me on ~~August~~ <sup>Sept.</sup> 12, 2001, by Steve Parsons, Manager of Dublin Murphy, L.L.C., a Texas limited liability company, the General Partner of **Dublin Murphy Estates, Ltd.**, a Texas limited partnership, on behalf thereof and in the capacity herein stated.



Tamara Miguez  
Notary Public, State of Texas

STATE OF TEXAS §  
COUNTY OF ~~COLLIN~~ <sup>Dallas</sup> §

This instrument was acknowledged before me on ~~August~~ <sup>Sept.</sup> 12, 2001, by Stephen L. Sallman, President of Warner Group, Inc., a Texas corporation, the General Partner of **Dublin Road Estates, L.P.**, a Texas limited partnership, on behalf thereof and in the capacity herein stated.



Tamara Miguez  
Notary Public, State of Texas

STATE OF TEXAS §  
COUNTY OF COLLIN §

This instrument was acknowledged before me on August \_\_, 2001, by \_\_\_\_\_ of the **City of Murphy**, a municipality organized and existing under the laws of the State of Texas, on behalf thereof and in the capacity herein stated.

(seal) \_\_\_\_\_  
Notary Public, State of Texas

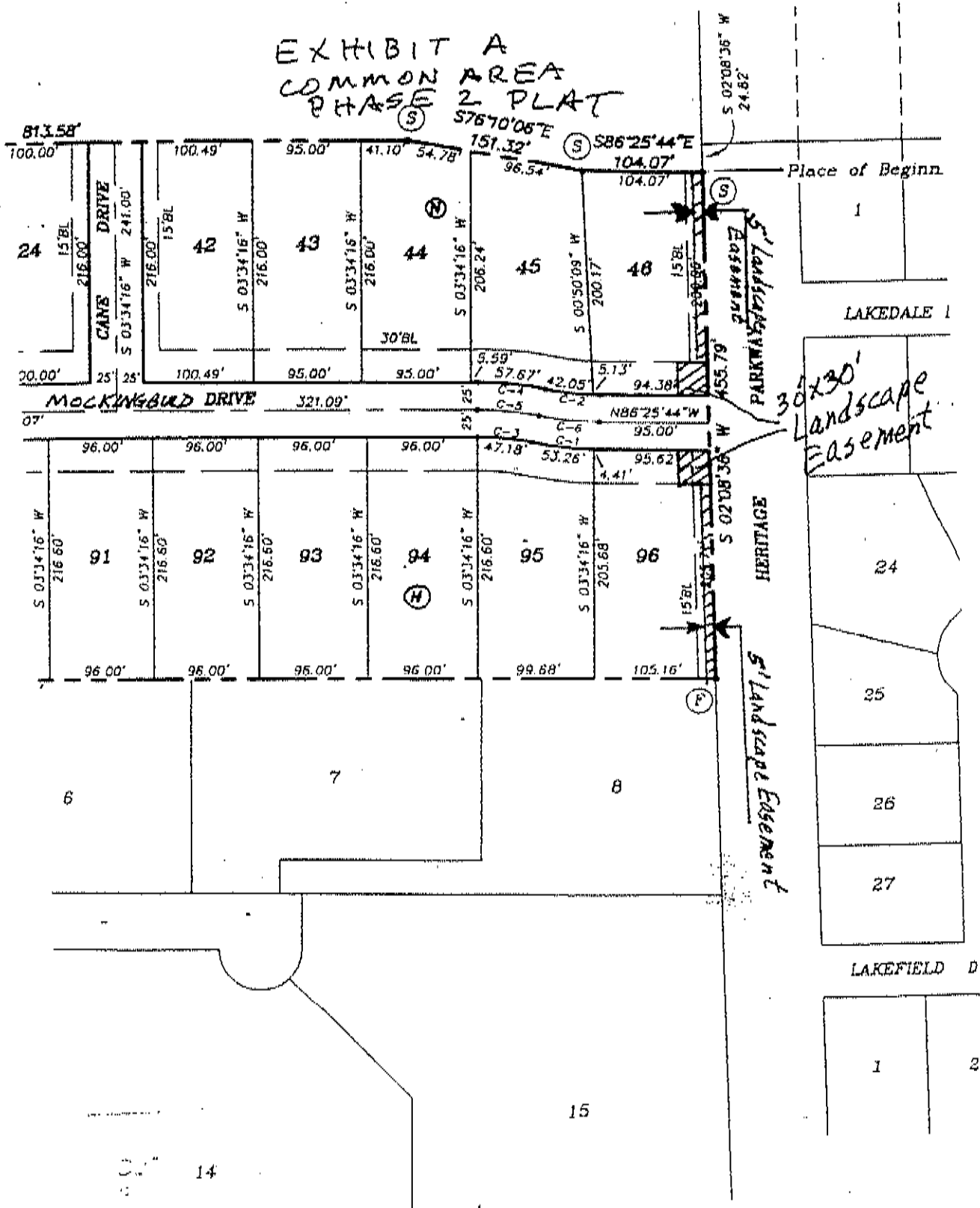
5046 0326

# EXHIBIT A

Depiction of Common Area

Phase 2 Plat

### EXHIBIT A COMMON AREA PHASE 2 PLAT



5046 0327

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW (COUNTY OF COLLIN) (THE STATE OF TEXAS)  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Collin County, Texas on

NOV 14 2001

*Helen Starnes*



Filed for Record in:  
Collin County, McKinney TX  
Honorable Helen Starnes  
Collin County Clerk

On Nov 14 2001  
At 9:04am

Doc/Num : 2001- 0145859

Recording/Type:RS 25.00  
Receipt #: 37748

After Recording Return To:  
Warner Group, Inc.  
4925 Greenville Ave., Suite 1020  
Dallas, Texas 75206

SECOND MODIFICATION AND AMENDMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE AVIARY ADDITION

STATE OF TEXAS           §  
                                   §  
 COUNTY OF COLLIN       §

KNOW ALL MEN BY THESE PRESENTS THAT:

THIS SECOND MODIFICATION AND AMENDMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Second Modification") is made effective as of the date hereinafter specified by DUBLIN MURPHY ESTATES, LTD., a Texas limited partnership ("Declarant").

W I T N E S S E T H:

WHEREAS, Declarant caused that certain Declaration of Covenants, Conditions and Restrictions dated as of March 13, 2001, to be filed as County Clerk's Document No. 2001-0055208 in Volume 4916, Page 3319 of the Official Records of Collin County, Texas, as modified and amended by that certain First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions dated as of August 17, 2001, filed as County Clerk's Document No. 2001-~~0114173~~ in the Official Records of Collin County, Texas (collectively, the "Declaration");

WHEREAS, the Declaration pertains to certain property located in Collin County, Texas (the "Property"), together with any additional property thereafter added to the Declaration pursuant to a Supplemental Declaration of Protective Covenants;

WHEREAS, in accordance with Section 9.03 of the Declaration, Declarant desires to modify and amend the Declaration as the owner of more than fifty-one percent (51%) of the Tracts within the Subdivision:

NOW, THEREFORE, Declarant as the owner of more than fifty-one percent (51%) of the Tracts within the Subdivision, does hereby modify and amend the Declaration as hereinafter provided.

1. Supplemental Declarant. Declarant does hereby modify and amend the Declaration by adding a new Section 1.13 to Article I of the Declaration as follows:

1.13 "Supplemental Declarant" means and refers to the current owner of additional property who bring such additional property within the Property and adds such additional property to the scheme of restrictions imposed hereby in accordance with Article XI hereof. Supplemental Declarant shall not include successors, assigns or transferees of such additional property from any Supplemental Declarant unless such successor, assign or transferee of such additional property is Declarant or an original partner or joint venturer of Declarant or any Supplemental Declarant.

2. Class A Members. Declarant does hereby modify and amend the Declaration by (a) deleting the first sentence of Section 2.02(a) of the Declaration in its entirety, and (b) substituting in lieu thereof a new first sentence of Section 2.02(a) of the Declaration as follows:

"All Members of the Association, other than Declarant and each Supplemental Declarant, are considered Class A Members, and for each Tract owned are entitled to one (1) vote on each matter coming before the Members at any meeting or otherwise, unless their voting rights have been suspended by the Board of Directors as provided in Section 2.02(c) herein below."

3. **Class B Members.** Declarant does hereby modify and amend the Declaration by (a) deleting the first sentence of Section 2.02(b) of the Declaration in its entirety, and (b) substituting in lieu thereof a new first sentence of Section 2.02(b) of the Declaration as follows:

"Class B Members are those individuals or entities who are herein defined as Declarant and any Supplemental Declarant (including the original partners or joint venturers individually comprising Declarant or any Supplemental Declarant) and for each Tract owned they are entitled to five (5) votes on each matter coming before the Members at any meeting or otherwise."

Further, Declarant does hereby modify and amend the Declaration by (a) deleting the final sentence of Section 2.02(b) of the Declaration in its entirety, and (b) substituting in lieu thereof a new final sentence of Section 2.02(b) of the Declaration as follows:

"In the event subsequent to the conversion of all Class B memberships to Class A memberships, a portion of the Property is platted pursuant to a plat recorded in the map, plat or official records of Collin County, Texas, Declarant or the Supplemental Declarant, as the case may be, shall become a Class B Member with regard to the Tracts created by such map or plat and shall have the voting rights described above in this Section 2.02(b) with regard to such Tracts owned by Declarant or the Supplemental Declarant, as the case may be, which own such additional land which is the subject of such map or plat."

2. **Binding Effect.** Except as modified and amended hereby, the terms and provisions of the Declaration shall remain in full force and effect as written.
3. **Capitalized Terms.** Except as provided herein to the contrary, capitalized terms used herein shall have the meanings ascribed thereto in the Declaration.

IN WITNESS WHEREOF, this Second Modification and Amendment of Declaration of Covenants, Conditions and Restrictions has been executed to be effective as of, although not necessarily on, August 24, 2001.

DECLARANT:

Dublin Murphy Estates, Ltd.,  
a Texas limited partnership

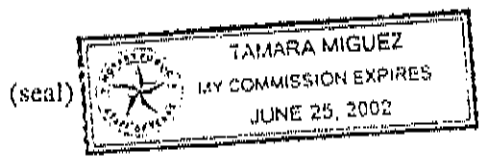
By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

By: Stephen L. Sallman  
Stephen L. Sallman,  
a Manager

By: Steve Parsons  
Steve Parsons,  
a Manager

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

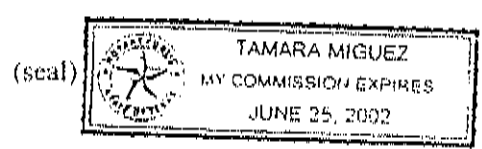
This instrument was acknowledged before me on ~~August~~ <sup>Sept 6</sup>, 2001, by Stephen L. Sallman, a Manager of Dublin Murphy, L.L.C., a Texas limited liability company, General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.



Tamara Miguez  
Notary Public, State of Texas

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on August ~~28~~, 2001, by Steve Parsons, a Manager of Dublin Murphy, L.L.C., a Texas limited liability company, General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.



Tamara Miguez  
Notary Public, State of Texas

After recording, return to:

Stephen L. Sallman  
Warner Group, Inc.  
4925 Greenville Avenue, Suite 1020  
Dallas, Texas 75206

**FIRST MODIFICATION AND AMENDMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**THE AVIARY ADDITION**

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

**KNOW ALL MEN BY THESE PRESENTS THAT:**

THIS FIRST MODIFICATION AND AMENDMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "First Modification") is made effective as of the date hereinafter specified by DUBLIN MURPHY ESTATES, LTD., a Texas limited partnership ("Declarant").

**WITNESSETH:**

WHEREAS, Declarant caused that certain Declaration of Covenants, Conditions and Restrictions (the "Declaration") to be filed as Collin County Clerk's Document No. 2001-0055208 in Volume 4916, Page 3319 of the Real Property Records of Collin County, Texas;

WHEREAS, the Declaration pertained to certain properly located in Murphy, Collin County, Texas, more particularly described on Exhibit A attached hereto and incorporated herein for all purposes (the "Property"), together with any additional property thereafter added to the Declaration pursuant to a Supplemental Declaration of Protective Covenants; and

WHEREAS, in accordance with Section 9.03 of the Declaration, Declarant desires to modify and amend the Declaration as the owner of more than fifty-one percent (51%) of the Tracts within the Subdivision.

NOW, THEREFORE, Declarant as the owner of more than fifty-one percent (51%) of the Tracts within the Subdivision, does hereby modify and amend the Declaration as hereinafter provided.

1. **Common Area.** The Declarant, the Association and the City have entered into an Easement Agreement (the "Easement") dated of even date herewith pertaining to certain ingress and egress and parking facilities which will burden Lot 1, Block X of the Property and will benefit the recreation center to be located on Lot 2, Block X of the Property. Declarant and the Association agreed that the Easement Agreement (as defined in the Easement) will benefit and be available for the common use, enjoyment and benefit of the Members of the Association and the Subdivision. Accordingly, Declarant and the Association do hereby modify and amend the Declaration to provide that the Easement Area shall be "Common Area" for the purposes of the Declaration and the Association shall and does hereby assume and agree to perform any and all maintenance obligations with regard to the Easement Area contemplated by the Easement.

COUNTY CLERK'S MEMO  
PORTIONS OF THIS  
DOCUMENT NOT  
REPRODUCIBLE  
WHEN RECORDED



2. **Binding Effect.** Except as modified and amended hereby, the terms and provisions of the Declaration shall remain in full force and effect as written.

3. **Capitalized Terms.** Except as provided herein to the contrary, capitalized terms used herein shall have the meanings ascribed thereto in the Declaration.

IN WITNESS WHEREOF, this First Modification and Amendment of Declaration of Covenants, Conditions and Restrictions has been executed to be effective as of, although not necessarily on, August 17 2001.

DECLARANT:

Dublin Murphy Estates, Ltd.,  
a Texas limited partnership

By: Dublin Murphy, L.L.C.,  
a Texas limited liability company,  
General Partner

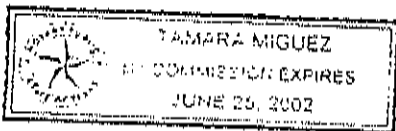
By: Stephen L. Sallman  
Stephen L. Sallman,  
a Manager

By: Steve Parsons  
Steve Parsons,  
a Manager

STATE OF TEXAS        §  
                                 §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on <sup>Sept</sup> ~~August~~ 4, 2001, by Stephen L. Sallman, a Manager of Dublin Murphy, L.L.C., a Texas limited liability company, General Partner of Dublin Murphy Estates, Ltd., a Texas limited partnership, on behalf thereof and in the capacity herein stated.

(seal)



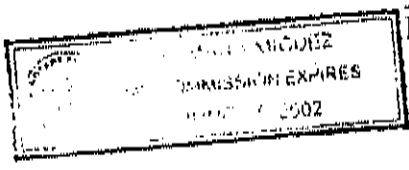
Tamara Miguez  
Notary Public, State of Texas

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on August 28, 2001, by Steve Parsons, a Manager of Dublin Murphy, L.L.C., a Texas limited liability company, General Partner of **Dublin Murphy Estates, Ltd.**, a Texas limited partnership, on behalf thereof and in the capacity herein stated.

*Tamara Chiguez*  
\_\_\_\_\_  
Notary Public, State of Texas

(seal)



COUNTY CLERK'S MEMO  
PORTIONS OF THIS  
DOCUMENT NOT  
REPRODUCIBLE  
WHEN RECORDED

After recording, return to:

Stephen L. Sallman  
Warner Group, Inc.  
4925 Greenville Avenue, Suite 1020  
Dallas, Texas 75206

1. Public Records Act - 11/26/1999

5000 1853

**EXHIBIT A**

**Legal Description**

**Phase 1 Plat**

Lots 1 - 52, Block A, Lots 1 - 5, Block B, Lots 1 - 29, Block C, Lots 11 - 21, Block D, Lots 12 - 15, Block F, Lots 4 - 5, Block F, Lots 15 - 23, Block G and Lots 1 - 2, Block X of The Aviary Phase 1 Addition, an Addition to the City of Murphy, Collin County, Texas, according to the Map or Plat thereof recorded as County Clerk's Document No. 2000-0094107 of the Plat Records of Collin County, Texas.

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE (UNDER FEDERAL LAW (THE STATE OF TEXAS) (COUNTY OF COLLIN))  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Collin County, Texas on

SEP 11 2001

*Helen Starnes*



Filed for Record in:  
Collin County, McKinney TX  
Honorable Helen Starnes  
Collin County Clerk

On Sep 11 2001  
At 12:12pm

Doc/Num : 2001- 0114172


Recording/Type:MO 15.00  
Receipt #: 29025

RESOLUTION NO. 302

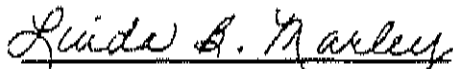
WHEREAS, Dublin Murphy Estates, Ltd. has proposed a Declaration of Covenants, Conditions and Restrictions for The Aviary Addition; and

WHEREAS, it is in the best interest of the City of Murphy to acknowledge and accept said Declaration of Covenants, Conditions and Restrictions for The Aviary Addition;


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, that the Mayor be and is hereby authorized and instructed to execute on behalf of the City the Declaration of Covenants, Conditions and Restrictions for The Aviary Addition, a copy of which is attached hereto and made a part hereof for all purposes.

  
\_\_\_\_\_  
Roy W. Bentle, Mayor

ATTEST:

  
\_\_\_\_\_  
Linda B. Marley, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jerry E. Gilmore, City Attorney

*Adopted April 16, 2001*

RESOLUTION NO. 301

WHEREAS, Dublin Murphy Estates, Ltd. and The Aviary Homeowners Association, Inc. propose entering into an agreement with the City of Murphy, Texas, regarding an easement relating to The Aviary Addition Amenity Center; and

WHEREAS, it is in the best interest of the City of Murphy, Texas, to enter into an agreement, whereby the City will grant a permanent, non-exclusive easement to Dublin Murphy Estates, Ltd. and The Aviary Homeowners Association, Inc.; and

WHEREAS, Dublin Murphy Estates, Ltd. and The Aviary Homeowners Association, Inc. will construct certain improvements on the easement including concrete parking lot and concrete sidewalks; and


WHEREAS, the granting of the easement and the acceptance of the construction on the easement is in the best interest of the City of Murphy, Texas;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, that the Mayor be and is hereby authorized and instructed to enter into the Easement Agreement, a copy of which is attached hereto and made a part hereof for all purposes.

SIGNED AND ADOPTED this 16th day of April, 2001.

  
\_\_\_\_\_  
Roy W. Bentle, Mayor

ATTEST:

  
\_\_\_\_\_  
Linda B. Marley, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jerry C. Gilmore, City Attorney