

\*\*\*\* Electronically Filed Document \*\*\*\*

Rockwall County  
Shelli Miller  
County Clerk

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Document Number: 2013-495671  
Recorded As : ERX-RECORDINGS

Recorded On: August 30, 2013  
Recorded At: 12:15:51 pm  
Number of Pages: 5  
Book-VI/Pg: Bk-OR VI-7372 Pg-222  
Recording Fee: \$28.00

Parties:

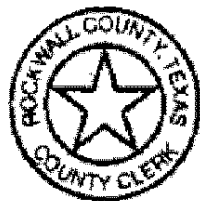
Direct- CHISHOLM RANCH ESTATES  
Indirect- PUBLIC

Receipt Number: 308623  
Processed By: F H

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\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT. \*\*\*\*\*

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I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Volume and Page of the named records in Rockwall County, Texas

Any provision herein which restricts the sale, rental or use of the described Real Estate because of color or race is invalid and unenforceable under Federal law.

  
Shelli Miller  
Rockwall County Clerk

THE STATE OF TEXAS     §  
                                   §  
 COUNTY OF ROCKWALL   §

## AMENDMENT TO VACATE EQUESTRIAN EASEMENTS, USES & OBLIGATIONS

IN THE  
 AMENDED AND RESTATED DECLARATION OF  
 COVENANTS, CONDITIONS AND RESTRICTIONS, CHISHOLM RANCH ESTATES

### OPENING RECITALS

A. **DECLARATION.** This instrument amends the Amended and Restated Declaration of Covenants, Conditions and Restrictions, Chisholm Ranch Estates, recorded on October 28, 2005, as Document No. 2005-00340281, in Volume 04269, Page 00023, Real Property Records, Rockwall County, Texas, as amended from time to time, including the instruments recorded on March 28, 2008, as Document No. 2008-00395740, in Volume 5410, Page 55; and on July 10, 2008, as Document No. 2008-00401700, in Volume 5519, Page 231, Real Property Records, Rockwall County, Texas (collectively, the "**Declaration**").

B. **PROPERTY.** The real property subject to the Declaration is Chisholm Ranch Estates, an addition to the City of McLendon-Chisholm, Texas, according to the plat thereof recorded on July 11, 2005, as Document No. 2005-00332344, in Cabinet F, Pages 247-250, Plat Records, Rockwall County, Texas, as corrected by the Affidavit of Certificate of Correction, recorded on October 27, 2005, as Document No. 2005-00340232, in Volume 04267, Page 00301, Official Public Records, Rockwall County, Texas, and as partially replatted by the Replat, Chisholm Ranch Estates, Lot 14R, recorded on December 16, 2011, in Cabinet H, Slide 189, Plat Records, Rockwall County, Texas.

C. **DECLARANT.** D. R. Horton - Texas, Ltd., a Texas limited partnership, is the "**Declarant**" of Chisholm Ranch Estates, having succeeded the original Declarant pursuant to the assignment recorded on March 13, 2012, as Document No. 2012-00464020, in Volume 6725, Page 205, Real Property Records, Rockwall County, Texas. In its capacity as Declarant, D. R. Horton-Texas, Ltd., is authorized by Section 6.2(a) of the Declaration to unilaterally amend the Declaration without joinder of any person or other owner.

### BACKGROUND RECITALS

In 2005, the original developer of Chisholm Ranch Estates (an entity called Chisholm Ranch Estates, Ltd.) tried to create an "equestrian community" with the expectation that lot owners would stable horses on their lots and use riding trails that ran around and through the subdivision. That vision is evidenced by the "equestrian trail easements" shown on the subdivision plat recorded in 2005. It is also evidenced in the Declaration recorded in 2005, which obligates the lot owners to pay the costs of maintaining the riding trails, by and through the homeowners association.

Three years later, in 2008, the original developer amended the Declaration to prevent owners from keeping horses on their lots. That act constituted an abandonment of the original development plan for the subdivision. However, the lots remain encumbered by platted easements for riding trails that were never created or used for horse riding, but which limit what an owner may do with his burdened lot. Also, the Declaration creates a legal duty for the homeowners association to maintain the platted but non-existent riding trails, which in turn creates a legal obligation for the individual homeowners to contribute the funds necessary for maintaining the platted by non-existent riding trails.

In 2013, the prevailing view among the owners of Chisholm Ranch Estates is that it is in their best interests - individually as lot owners, and collectively as members of the owners association - to correct the public record regarding the non-existent riding trails around and through the subdivision and their corresponding duty to subsidize maintenance of the trails. Towards that end, contemporaneously with this Amendment, the owners of Chisholm Ranch Estates are approving a Vacation of Equestrian Easements Created by Plat of Chisholm Ranch Estates. That instrument and this one must both be adopted for either one to be effective.

**AMENDMENTS**

1. The Declaration is hereby amended to relinquish any right, title, claim, or interest of the Association or its members (lot owners in Chisholm Ranch Estates) in and to the easements for equestrian trails referred to in the Declaration.
2. The Declaration is hereby amended to eliminate every obligation created by the Declaration for the Association or its members regarding the equestrian trails and the easements therefore, including (without limitation, and only by way of example) the Association's obligation under Section 4.4(m) of the Declaration.
3. The Declaration is hereby amended by the addition of the following rule of construction:

This Declaration must be construed and applied as if it does not contain references to equestrian trails and equestrian trail easements.

**CLOSING RECITALS**

- A. Regardless of when it is executed, this instrument does not become effective unless and until both this instrument and the Vacation of Equestrian Easements Created by Plat of Chisholm Ranch Estates are recorded in the Real Property Records of Rockwall County, Texas. The date on which the later-recorded document is recorded is the Effective Date.
- B. The elimination and abandonment of the equestrian trail easements created by this Amendment and by the Vacation of Equestrian Easements may not be construed to affect or alter in any way any other easement, such as a drainage or utility easement, that occupies the same land as the equestrian trail easements.
- C. By accepting the benefits of this Amendment, the Association and its members relinquish any claim they may have against property owners between 2005 and the Effective Date who did not contribute money for riding trail maintenance, and against officers and directors of the Association who did not assess the owners for the cost of trail maintenance between 2005 and the Effective Date.
- D. By signing below, D. R. Horton-Texas, Ltd., certifies that (1) it is the Declarant of Chisholm Ranch Estates, (2) it owns 38 of the 99 house lots in Chisholm Ranch Estates, and (3) it is duly authorized by the Declaration to adopt this Amendment unilaterally, without joinder of any person.
- E. Although Declarant has the right to amend the Declaration unilaterally, Declarant has invited First Security Bank, NA, the owner of the remaining vacant lots in Chisholm Ranch Estates, to execute this instrument in connection with the Bank's consideration of the Vacation of Equestrian Easements Created by Plat of Chisholm Ranch Estates, both of which must be adopted and recorded for either to be effective.

SIGNED on the date stated below in the acknowledgment.

**D. R. HORTON - TEXAS, LTD.**, a Texas limited partnership

By: D. R. HORTON, INC., a Delaware corporation, its authorized agent

By:   
David L. Booth, Assistant Vice President

THE STATE OF TEXAS §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on this 16<sup>th</sup> day of July 2013 by David L. Booth, Assistant Vice President of D. R. Horton, Inc., a Delaware corporation, on behalf of said corporation in its capacity as authorized agent for D. R. Horton - Texas, Ltd., a Texas limited partnership, on behalf of the limited partnership.



Karen Head  
Notary Public, The State of Texas

**CERTIFICATION BY OWNERS ASSOCIATION**

The President and Secretary of Chisholm Ranch Estates Homeowners Association, Inc., hereby certify that Declarant owns at least one lot in Chisholm Ranch Estates on the date hereof, as required by Section 6.2(a) of the Declaration.

**CHISHOLM RANCH ESTATES HOMEOWNERS ASSOCIATION, INC.**, a Texas property owners association and nonprofit corporation

By: David L. Booth  
David L. Booth, President

By: Kellie M. Smith  
Kellie M. Smith, Secretary

THE STATE OF TEXAS §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on this 16<sup>th</sup> day of July 2013 by David L. Booth and Kellie M. Smith, President and Secretary, respectively, of Chisholm Ranch Estates Homeowners Association, Inc., a Texas property owners association and nonprofit corporation, on behalf of the association.

Karen Head  
Notary Public, The State of Texas



**CONSENT BY BANK AS OWNER OF 40 LOTS**

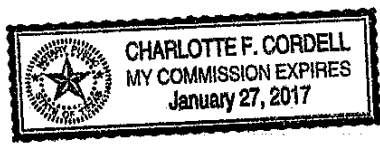
The undersigned hereby confirms that First Security Bank, N.A., owns 40 of the 99 house lots in Chisholm Ranch Estates on the date stated below in the acknowledgment, and that the Bank consents to this Amendment to Vacate Equestrian Easements, Uses & Obligations.

**FIRST SECURITY BANK, N.A.**, a national bank chartered in Texas

By: Frank R. Scheer  
Frank R. Scheer, President

THE STATE OF TEXAS   §  
  §  
COUNTY OF DENTON   §

This instrument was acknowledged before me on this 16<sup>th</sup> day of July 2013 by Frank R. Scheer, President of First Security Bank, N.A., a national bank chartered in Texas, on behalf of said entity.



Charlotte F. Cordell  
Notary Public, The State of Texas