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First American Title

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT is executed this 14<sup>th</sup> day of April, 2005, by Redbird Investors, Ltd., to be effective as of April 15, 2005.

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WHEREAS, Redbird Investors, Ltd. ("Declarant") is the owner of certain lots located in the Cardinal Hills Subdivision, Unit 1, a subdivision in Travis County, Texas (the "Subdivision"), and being Lot 103, Lot 104, Lot 105, Lot 106, Lot 107, Lot 108, Lot 114, Lot 117 and Lot 118 (collectively, the "Affected Lots");

WHEREAS, Declarant desires to protect and preserve the beauty and character of the canyon that abuts the rear of all of the Affected Lots.

WHEREAS, these restrictions are intended to run with the land and inure to the benefit of all of the owners of the Affected Lots, jointly and severally, within Cardinal Hills Subdivision, Unit 1.

NOW, THEREFORE, it is declared that all of the Affected Lots shall be held, sold and conveyed subject to the following restrictions, covenants and conditions:

ARTICLE ONE

1.01 Lots 103 – 108. No fence or structure which blocks the view of the Canyon by an adjoining owner of Lots 103 through 108 may be erected within fifteen (15) feet from the edge of the canyon drop-off located at the rear of Lots 103 through 108. Any fence erected between the canyon drop off and fifteen (15) feet from the edge of the canyon drop-off must be open style fencing such as wrought iron or rail fencing, it being the express intent of the Declarant to provide a view corridor at the rear of Lots 103 through 108 so that the view by owners of Lots 103 through 108 of the canyon will not be obstructed by privacy fences or structures on Lots 103 through 108. No above ground or view blocking structure, except the open fencing described above, may be erected or constructed within fifteen (15) feet of the canyon drop-off at the rear of Lots 103 through 108.

1.02 Lots 104 and 105. Notwithstanding the open fencing required for fifteen (15) feet from the edge of the canyon drop-off, Lot 104 is further restricted from constructing fences and/or structures within the triangular portion of Lot 104 as depicted on Exhibit "A" which is attached hereto and incorporated herein for reference. The owner of Lot 105 and his/her/its guests, invitees, successors and assigns will have a non-exclusive easement on, over and upon the triangular portion of Lot 104 as depicted on Exhibit "A" for the owner's use and enjoyment. Each owner of Lot 105 agrees to indemnify and hold the owner of Lot 104 harmless from any and all claims and damages and/or injuries arising out of the owner of Lot 105, and his/her/its guests and invitees use and enjoyment of said triangular portion of Lot 104, as well as for any damages to Lot 104 that may arise from the use by the owners of Lot 105, and his/her/its guests and invitees of said triangular portion of Lot 104.

1.03 Lots 114, 117 and 118. No fence or structure may be erected within twenty-five (25) feet from the edge of the canyon drop-off located at the rear of Lots 114, 117 and 118. It is the express intent of the Declarant to provide a view corridor at the rear of Lots 114, 117 and 118 so that the view of the canyon will not be obstructed by privacy fences of adjoining owners of Lots 114, 117 and 118.

## ARTICLE TWO

2.01. Any Owner of an Affected Lot and/or Declarant and their successors and assigns, and The Canyons at Cardinal Hills Homeowners' Association shall have the right to enforce, by any proceeding at law or in equity, all covenants, restrictions and conditions, imposed by this Agreement. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

2.02. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

2.03. These restrictions, covenants and conditions are for the purpose of protecting the value and desirability of the Affected Lots and other lots within the Subdivision. Consequently, they shall run with the Affected Lots and shall be binding on all parties having any right, title or interest in the Affected Lots in whole or in part, and their heirs, successors and assigns. These restrictions, covenants and conditions shall be for the benefit of the Affected Lots, their Owners, the Declarant and The Canyons at Cardinal Hills Homeowners' Association.

2.04. The covenants, conditions and restrictions of this Agreement shall run with the land concurrent with the term of the Declaration of Covenants, Conditions and Restrictions for the Canyons at Cardinal Hills, recorded as Document #2003288991 of the Official Public Records of Travis County, Texas, and shall terminate at the same time as those found in Document # 2003288991.

2.05. If any controversy, claim or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

2.06. This Agreement shall be liberally construed to effectuate its purpose of creating a uniform plan for the Affected Lots.



# EXHIBIT "A"

## FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OF LAND OUT OF AND A PART OF THE ALBERT EWERT SURVEY NO. 520, ABSTRACT 274, SITUATED IN TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF LOT 104, BLOCK G OF CARDINAL HILLS SUBDIVISION UNIT 1, RECORDED IN VOLUME 16, PAGE 7 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, CONVEYED TO REDBIRD INVESTORS, LTD. IN DOCUMENT NO. 2001046827 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT BEING 0.036 ACRE OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

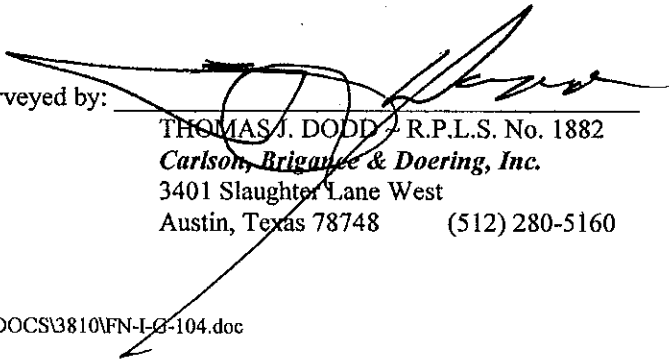
**BEGINNING**, at an iron rod found at the northeast corner of said Lot 104, being also the most northerly corner of Lot 105 of said Block G and in the south line of Lot 97 of said Block G for the **POINT OF BEGINNING** of the herein described 0.036 acre tract of land,

**THENCE**, with the north line of said Lot 105,  $S70^{\circ}45'00''W$ , a distance of 71.00 feet to an angle point found in the east line of said Lot 104, for the most southerly corner of the herein described tract,

**THENCE**, departing the north line of said Lot 105 and crossing said Lot 104,  $N16^{\circ}08'00''E$  a distance of 54.33 feet to a point in the north line of said Lot 104, being also the south line of said Lot 97 for the northwest corner of the herein described tract,

**THENCE**, with the north line of said Lot 104, being also the south line of said Lot 97,  $S61^{\circ}00'00''E$ , a distance of 59.38 feet to the **POINT OF BEGINNING**, and containing 0.036 acre of land.

Surveyed by:

  
THOMAS J. DODD, R.P.L.S. No. 1882  
Carlson, Brigance & Doering, Inc.  
3401 Slaughter Lane West  
Austin, Texas 78748 (512) 280-5160

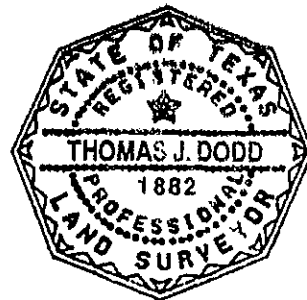
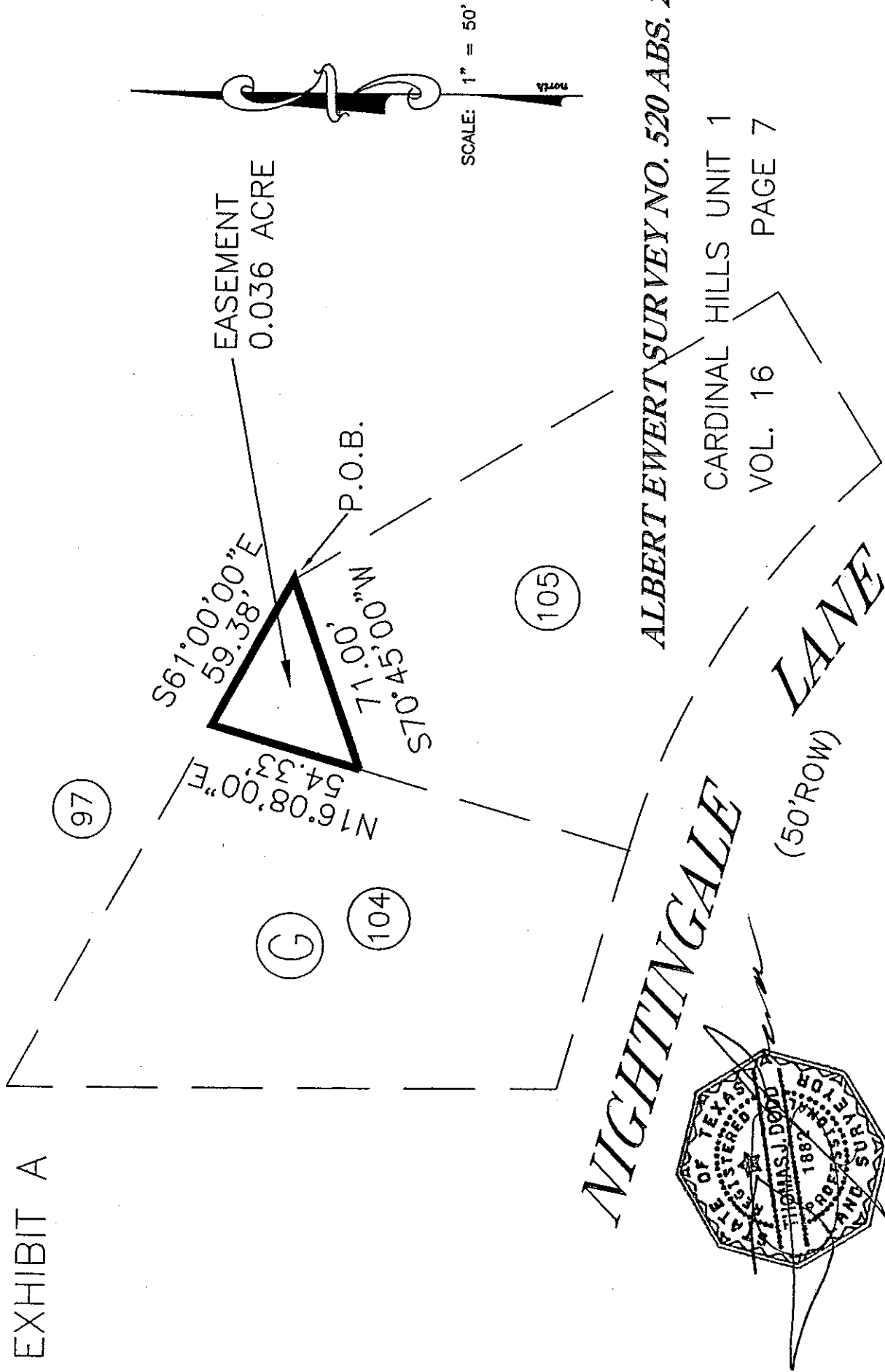


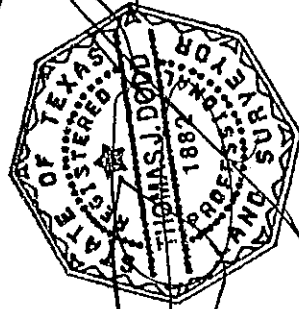
EXHIBIT A



ALBERT EWERT SURVEY NO. 520 ABS. 274

CARDINAL HILLS UNIT 1  
VOL. 16 PAGE 7

NIGHTINGALE LANE  
(50' ROW)



SKETCH TO ACCOMPANY FIELD NOTES

BEARING BASIS IS FROM RECORDED PLAT OF CARDINAL HILLS UNIT 1



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