

UNIMPROVED PROPERTY CONTRACT

1. **PARTIES:** The parties to this contract are SPANISH OAKS ESTATES, LLC, a Texas Limited Liability Company (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. **PROPERTY:** Lot _____, Block _____, SPANISH OAKS ESTATES, City of Lockhart, County of Caldwell, Texas, known as SPANISH OAKS ESTATES SUBDIVISION, or as described on attached exhibit together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships (the Property). Seller shall reserve 50% of all oil, gas, coal, and other minerals, whether hydrocarbon or not, in, on or under or that may be produced from the Property, as set out in Addendum for Reservation of Oil, Gas and Other Minerals.

3. **SALES PRICE:**
 - A. Cash portion of Sales Price payable by Buyer at closing \$ _____
 - B. Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium) \$ _____
 - C. Sales Price (Sum of A and B) \$ _____

4. **FINANCING:** The portion of Sales Price not payable in cash will be paid as follows:
 - A. **SELLER FINANCING:** A promissory note from Buyer to Seller of \$ _____, secured by vendor's and deed of trust liens, and containing the terms and conditions described in the attached TREC Seller Financing Addendum. If an owner policy of title insurance is furnished, Buyer shall furnish Seller with a mortgagee policy of title insurance.
 - B. **THIRD PARTY FINANCING:** One or more third party mortgage loans in the total amount of \$ _____. (excluding any loan funding fee or mortgage insurance premium). Buyer acknowledges that the Contract is not contingent on financing.

5. **EARNEST MONEY:** Upon execution of contract by all parties, Buyer shall deposit \$ _____ as earnest money with Chicago Title, as escrow agent, at 1501 South Mopac, Suite 130, Austin, TX 78746.

6. **TITLE POLICY AND SURVEY:**
 - A. **TITLE POLICY:** Seller shall furnish to Buyer at Seller's expense an owner policy of title insurance (Title Policy) issued by Chicago Title (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
 - (1) Permitted Exceptions to title as set out in the attached Permitted Exceptions Addendum.
 - (2) The standard printed exception for standby fees, taxes and assessments.
 - (3) Liens created as part of the financing described in Paragraph 4.
 - (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
 - (5) Reservations or exceptions as attached hereto.
 - (6) The standard printed exception as to marital rights.
 - (7) The standard printed exception as to waters, tidelands, beaches, streams and related

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- matters.
- (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements. Buyer, at Buyer's expense, may have the exception amended to read, "shortages in area".
- B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or the Closing Date, whichever is earlier.
- C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). Within 10 days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing plat of the Property. Any additional survey shall be obtained by Buyer at Buyer's expense.
- D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6(A)(1) through (7) above; disclosed in the Commitment other than items 6(A)(1) through (8) above; no later than 3 days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.
- E. TITLE NOTICES:
- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property is subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community in which the Property is located, you are obligated to be a member of the owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the**

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association's lien on and the foreclosure of the Property.

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owner's Association should be used.

- (3) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (4) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
- (5) TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The property is not located in a Texas Agricultural District. For additional information, contact the Texas Department of Agriculture.
- (6) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

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7. PROPERTY CONDITION:

- A. **ACCESS, INSPECTIONS AND UTILITIES:** Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections.

NOTICE: Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.

- B. **ACCEPTANCE OF PROPERTY CONDITION:** Buyer accepts the Property in its present condition.

NOTICE TO BUYER AND SELLER: Buyer's agreement to accept the Property in its present condition under Paragraph 7B (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

- C. **ENVIRONMENTAL MATTERS:** Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

- D. **SELLER'S DISCLOSURES:** Except as otherwise disclosed in this contract, Seller has no knowledge of the following:

- (1) any flooding of the Property; however, part of the Subdivision is in the floodplain.
- (2) any pending or threatened litigation, condemnation, or special assessment affecting the Property;
- (3) any environmental hazards or conditions affecting the Property;
- (4) any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
- (5) any wetlands, as defined by federal or state law or regulation, affecting the Property; or
- (6) any threatened or endangered species or their habitat affecting the Property.

- 8. BROKERS' FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. CLOSING:

- A. The closing of the sale will be on or before _____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close this sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

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B. At closing:

- (1) Seller shall execute and deliver a special warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
- (2) Buyer shall pay the Sales price in good funds acceptable to the escrow agent.
- (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
- (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans Buyer is taking "Subject To" which will not be in default. If Buyer finances with Seller, Buyer's title may be "Subject To" Seller's development loan and any extensions or refinancing thereof.

10. **POSSESSION:** Seller shall deliver to Buyer possession of the Property in its present or required condition upon closing and funding.

11. **SPECIAL PROVISIONS:**

12. **SETTLEMENT AND OTHER EXPENSES:**

A. The following expenses must be paid at or prior to closing:

- (1) Expenses payable by Seller (Seller's Expenses): Releases of existing liens, including prepayment penalties and recording fees and release of Seller's loan liability unless Buyer is taking title "Subject To"; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
- (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; adjusted origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas

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Veteran's Land Board or other governmental loan program regulations.

13. PRORATIONS AND TAXES:

PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.

14. CASUALTY LOSS: The Property is unimproved.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, provided suit is filed within 90 days, and seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. **ESCROW:** The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. **EXPENSES:** At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. **DEMAND:** Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party

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makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money.

- D. **DAMAGES:** Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. **NOTICES:** Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile as follows:

To Buyer at:

Telephone: (_____) _____

Facsimile: (_____) _____

E-mail: _____

To Seller at:

SPANISH OAKS ESTATES, LLC
 9811 South IH-35, Building 3, Suite 100
 Austin, Texas 78744
 Telephone: (512) 280-5353
 Facsimile: (512) 280-2877
 E-mail: rwmc3@swbell.net

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are:

- Third Party Financing Addendum
- Seller Financing Addendum
- Addendum for Reservation of Oil, Gas and Other Minerals
- Addendum for Property Subject to Mandatory Membership in a Property Owners' Association
- Addendum for Permitted Exceptions

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- 24. CONSULT AN ATTORNEY:** TREC rules prohibit real estate licensees from giving legal advice. READ THIS CONTRACT CAREFULLY. If you do not understand the effect of this contract, consult your attorney BEFORE signing.

Buyer's
Attorney is: _____

Telephone: (_____) _____
Facsimile: (_____) _____
E-mail: _____

Seller's
Attorney is: Gene Majors
100 E. San Antonio St., Suite 201
San Marcos, Texas 78666
Telephone: (512) 392-1273
Facsimile: (512) 396-8539
E-mail: gene@majorslawfirm.com

EXECUTED the ____ day of _____, (EFFECTIVE DATE.)

BUYER

SELLER

SPANISH OAKS ESTATES, LLC, a Texas Limited Liability
Company

ROBERT W. MCDONALD, III, Manager

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BROKER INFORMATION

Other Broker Firm: _____

Listing Broker Firm: _____

License Number: _____
represents N/A

License Number: _____
represents Seller only as Seller's Agent

Licensed Supervisor of Associate:

Licensed Supervisor of Listing Associate:

Telephone: _____

Telephone: _____

Associate: N/A

Listing Associate: _____

Telephone: N/A
Other Broker's Address:
N/A

Telephone: _____
Listing Broker's Office Address:

Facsimile: N/A

Facsimile: _____

Associate E-mail Address: N/A

Listing Associate's E-mail address: _____
Selling Associate: N/A

Telephone: N/A
Selling Associate's Office Address:
N/A
Facsimile: N/A

Selling Associate's E-mail Address: N/A

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CONTRACT AND EARNEST MONEY RECEIPT

Receipt of [] Contract and [] \$ _____ Earnest Money in the form of
is acknowledged.

Escrow Agent: _____

Date: _____, 2012

By: _____
_____, Texas _____

E-mail address: _____

Telephone: _____

Facsimile: _____

PREPARED IN THE OFFICE OF:
THE MAJORS LAW FIRM, PLLC
100 E. San Antonio St., Suite 201
San Marcos, Texas 78666
Tel: (512) 392-1273
Fax: (512) 396-8539

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