



**FIRST AMENDMENT TO  
URBAN PLAINS BY BRANDT  
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS AMENDMENT ("Amendment") is made this 1 day of May, 2007, by **URBAN PLAINS LAND COMPANY LLC**, a North Dakota limited liability company.

**RECITALS**

A. Urban Plains Land Company LLC is the "Developer" as defined in that certain Declaration of Covenants and Restrictions ("Declaration") dated January 15, 2007, and filed for record on January 17, 2007 in the office of the County Recorder, Cass County, North Dakota, as Document No. 1192420, affecting the real property described on attached Exhibit A.

B. Pursuant to Article XXII, Section 3 of the Declaration, Urban Plains Land Company LLC desires to amend the Declaration.

NOW, THEREFORE, Urban Plains Land Company LLC, as Developer and pursuant to the provisions of the Declaration for amendment thereto, does hereby amend the Declaration as follows:

ARTICLE XI, SECTION 1. Article XI, Section 1 of the Declaration is hereby amended and restated in its entirety to read as follows:

Zoning. The Developer shall select and fix the initial zoning district classifications for unimproved Lots, subject to the requirements of the City of Fargo. For a period of one year after a Lot is initially improved, no Owner (other than Developer) shall petition for a change in the zoning classification of such Lot without the prior written consent of Developer. Thereafter, an Owner may petition for a change in zoning classification, subject to the rights of others to protest such application. Notwithstanding the foregoing, Developer may in its discretion at any time apply for and change the zoning district classifications for any unimproved Lots then owned by Developer.

ARTICLE XXII, SECTION 3. Article XXII, Section 3 of the Declaration is hereby amended and restated in its entirety to read as follows:

Amendment. This Declaration may be amended at any time by an instrument signed solely by the Developer (if Developer still owns any *unimproved* Lot in Properties), or by Owners owning not less than seventy-five percent (75%) of the total area of the Lots if the Developer no longer owns any Lot in the Properties. No amendment signed solely by the Developer which imposes additional restrictions shall be effective as to Properties already sold by Developer.



**SECOND AMENDMENT TO  
URBAN PLAINS BY BRANDT  
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS AMENDMENT ("Amendment") is made this 28 day of December, 2007, by **URBAN PLAINS LAND COMPANY LLC**, a North Dakota limited liability company.

**RECITALS**

A. Urban Plains Land Company LLC is the "Developer" as defined in that certain Declaration of Covenants and Restrictions ("Declaration") dated January 15, 2007, and filed for record on January 17, 2007 in the office of the County Recorder, Cass County, North Dakota, as Document No. 1192420, as amended by that certain First Amendment to Declaration of Covenants and Restrictions dated May 1, 2007, and filed for record on May 3, 2007 as Document No. 1201393, affecting the real property described on attached Exhibit A.

B. Pursuant to Article XXII, Section 3 of the Declaration, Urban Plains Land Company LLC desires to amend the Declaration.

NOW, THEREFORE, Urban Plains Land Company LLC, as Developer and pursuant to the provisions of the Declaration for amendment thereto, does hereby amend the Declaration as follows:

ARTICLE XI, SECTION 3. Article XI, Section 3, subparagraphs (e) and (l) of the Declaration are hereby amended and restated in their entirety to read as follows:

- (e) Above or below ground tanks of any kind, except as may be located inside a commercial building. Notwithstanding the foregoing prohibition, an "underground storage tank" (as such term is defined in 40 Code of Federal Regulations §280.12) ("UST") used for storage of gasoline and petroleum products customarily sold in the operation of a retail gas station/convenience store shall not be prohibited on any Lot used for such purpose, provided that such UST is installed, permitted, maintained and operated in accordance with all applicable federal, state and local laws, rules and regulations governing underground petroleum storage tanks. For the purpose of this restriction, an "underground storage tank" shall
- (l) Storage or selling any material or substance that is toxic, hazardous or explosive (other than in quantities commonly used or sold in the ordinary course of operations otherwise permitted by applicable zoning and this Declaration). Notwithstanding the foregoing prohibition, gasoline and petroleum products customarily sold in the operation of a retail gas station/convenience store shall not be prohibited on any Lot used for such purpose, provided that such gasoline and petroleum products are stored, handled, distributed and sold in accordance with all applicable federal, state and local laws, rules and regulations governing the storage, use, distribution and sale of gasoline and petroleum products.



**DECLARATION OF RESTRICTIVE COVENANT**

THIS DECLARATION is made this 25<sup>th</sup> day of January, 2007, by **URBAN PLAINS LAND COMPANY LLC**, a North Dakota limited liability company ("Urban Plains").

**RECITALS**

A. Urban Plains and Ace A. Brandt ("Brandt") are the owners of real property legally described as follows:

Lots One, Two, Three and Four, Block Nine, Urban Plains By Brandt First Addition to the City of Fargo, Cass County, North Dakota (to be replatted as Lots One through Twelve, Block One, Urban Plains Retail Addition to the City of Fargo) (the "Property").

B. Brandt has entered into an agreement to sell and convey his portion of Lot One, Block Nine of Urban Plains By Brandt First Addition (his portion is to be replatted as Lot Two, Block One, Urban Plains Retail Addition). The buyer of Lot Two, Block One, Urban Plains Retail Addition intends to operate a Taco Bell restaurant franchise upon the lot.

C. The buyer of said Lot Two, Block One, Urban Plains Retail Addition has requested that Urban Plains, as the owner of the other lots comprising the Property, impose a use restriction upon the Property. Such restriction is to prohibit the operation of any competing Mexican-themed restaurant elsewhere upon the Property for a period of five years.

D. Urban Plains is willing to impose such use restriction upon the Property, upon the terms and conditions set forth herein.

NOW, THEREFORE, Urban Plains declares that the Property shall be held, sold and conveyed subject to the following restriction, which shall run with the Property and which shall be binding on all parties having any right, title or interest in said Property or any part thereof, their heirs, successors, successors-in-title and assigns:

1. Prohibited Use. No "Mexican fast-food restaurant" shall be permitted to operate upon the Property, except upon Lot Two, Block One, Urban Plains Retail Addition to the City of Fargo. For the purposes of this Declaration, a "Mexican fast-food restaurant" shall mean any so-called fast-food or quick-service restaurant offering a standard menu comprised primarily of Mexican or Southwest-themed food items. By way of example, restaurants such as Taco John's, Qdoba Mexican Grill, Chipolte, etc. shall be prohibited from operating upon the Property. Full-service sit-down restaurants such as Mexican Village, Paradiso or Carlos O'Kelly's shall not be prohibited from operating upon the Property. Furthermore, a restaurant whose sales of Mexican-themed food are nominal (less than 10% of annual gross sales) shall not be prohibited from operating upon the Property.



**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("Declaration") is made this 3<sup>rd</sup> day of March, 2008, by **URBAN PLAINS LAND COMPANY LLC**, a North Dakota limited liability company (the "Developer").

**RECITALS**

A. Developer is the owner of real property in Fargo, North Dakota, legally described as follows:

Lots One (1) and Two (2), Block One (1), Urban Plains By Brandt First Addition to the City of Fargo, Cass County, North Dakota (the "Property").

B. Developer intends to replat the Property into separate tracts to be known as Lots One, Two, Three, Four and Five, Block One, Urban Plains Northeast Retail Addition to the City of Fargo.

C. Developer intends that the Property will share certain common drives and common parking areas. As such, Developer desires to establish easements for ingress and egress purposes and parking purposes for the common benefit of the Owners.

D. Developer intends to install two Project Monument Signs upon portions of the Property.

E. Developer desires to establish responsibility for ongoing maintenance and repair of the common areas and Project Monument Signs and to provide for the allocation of costs and expenses among the Owners. Developer intends by this Declaration to impose upon the Property certain rights and obligations for the benefit of all present and future Owners of such Tracts.

NOW, THEREFORE, the Developer declares that the Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which shall run with the Property and which shall be binding on all parties having any right, title or interest in said Property or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each Owner thereof:

**ARTICLE ONE  
DEFINITIONS**

The following words and phrases shall have the following meanings, unless the context clearly provides otherwise:

1.1. Common Elements. The term "Common Elements" is defined in Article 4.1.

**U.S. Title**