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SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR EMPORIUM ON LBJ

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THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for EMPORIUM ON LBJ (the "Declaration") is made and entered into as of this 30th day of July, 1991, by Emporium on LBJ Owners Association, Inc. (the "Association").

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W I T N E S S E T H :

WHEREAS, that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Emporium on LBJ (the "Superseded Declaration"), dated June 23, 1986, was filed of record on June 26, 1986, and recorded in Volume 86123, Page 1787, of the Deed Records of Dallas County, Texas; and

WHEREAS, the Association is hereby amending the Superseded Declaration by means of the recordation of this Declaration; and

WHEREAS, the Superseded Declaration and this Declaration covered all of the Property (as herein defined) described in Exhibit "A" attached hereto and made a part hereof for all purposes; and

WHEREAS, this amendment has been approved by a majority of the vote of those Members (as hereinafter defined) voting in person or by proxy at a duly called meeting on the 30th day of July, 1991; and

WHEREAS, the Association desires to subject the fee simple interest in the Property to this Declaration and to the covenants, conditions, restrictions, easements, liens and charges herein set forth; and

WHEREAS, the Emporium on LBJ Owners Association, Inc., a non-profit corporation, has been incorporated under the laws of the State of Texas for the purpose of exercising the powers and functions hereinafter set forth; and

WHEREAS, Members will hereafter hold and convey title to the Property or any part thereof subject to the covenants, conditions, restrictions, easements, liens and charges herein set forth.

NOW, THEREFORE, the Association hereby covenants, agrees and declares that the Property shall be owned, held, transferred, leased, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, liens and charges herein set forth.

ARTICLE I

DEFINITIONS

1.01 Definitions. As used in this Declaration, the following terms shall have the meanings ascribed to them:

(a) "Act" shall mean the Texas Condominium Act, Tex. Prop. Code Ann. Section 81.001, et seq. (Vernon 1984), as amended from time to time.

(b) "Architectural Review Committee" shall mean and refer to that committee composed of three (3) members appointed by the Declarant and/or the Board of Directors as provided herein.

(c) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association as the same may from time to time be duly amended.

(d) "Assessments" shall mean and refer to the assessments described in Section 4.01 of Article IV of this Declaration.

(e) "Association" shall mean and refer to the Emporium on LBJ Owners Association Inc., a non-profit corporation incorporated under the laws of the State of Texas, its successors and assigns, to which association shall be delegated and assigned the powers of managing, maintaining and administering the Common Area and disbursing funds, collecting assessments and charges and performing such other acts as shall generally benefit the property now or hereafter covered by this Declaration.

(f) "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Association.

(g) "Buffer Easements" shall mean and refer to collectively both (i) the Park and Pedestrian Walkway Easement (as herein defined) and (ii) the Separate Buffer Easement (as herein defined).

(h) "Certificate of Occupancy" shall mean and refer to any required certification issued by relevant governmental authorities as a prerequisite to the occupancy of all or any portion of any Estate.

(i) "City" shall mean and refer to the City of Mesquite, Texas.

(j) "Commercial Use" shall mean any governmental, professional, office, hotel, motel, restaurant, business, business park, warehouse, eleemosynary, trade, industrial, retail, financial, medical or other similar use.

(k) "Common Area" shall mean and refer to all property and the improvements thereon, including, without limitation, any private storm drains, private streets, private utilities, private parks, open space, landscaped areas and trails owned in fee, owned as an easement or leased or maintained from time to time, by the Association for the common use, enjoyment and benefit of the Members. The term "Common Area" shall also mean and refer to that portion of the Landscape Buffer Area subject to and encumbered by the Park and Pedestrian Walkway Easement, which portion of the Landscape Buffer Area shall be conveyed in fee to the Association and shall be subject to the rights of the Declarant and the City to develop, maintain and use the landscape Buffer Area as a park and as a pedestrian walkway. The term "Common Area" shall also mean and refer to that portion of the Landscape Buffer Area subject to and encumbered by the Separate Buffer Easement, which portion of the Landscape Buffer Area has been conveyed as an easement to the Association and shall be subject to the rights of Declarant and the City to develop, maintain and use as a park and as a pedestrian walkway.

Any real property or interest in real property which Declarant shall convey to the Association to be designated Common Area shall be accepted in writing by the Association and shall be conveyed free of all liens and encumbrances, except current ad valorem taxes (which taxes shall be prorated as of the date of conveyance) and the covenants, conditions, restrictions, easements, liens and charges of this Declaration.

(l) "Condominium Building" shall mean and refer to a commercial real estate condominium project composed of one or more structures erected on a lot, tract or parcel of real estate out of or a part of the Property containing two (2) or more Condominium Units, which project has been specifically created and designated as a condominium in accordance with the Act.

(m) "Condominium Unit" shall mean and refer to one (1) individual commercial or office unit, for which unit a Certificate of Occupancy has been issued by the appropriate governmental authorities and which unit is located within a Condominium Building, together with an undivided interest in and to the common elements associated with such unit. The term "Condominium Unit" shall have the same meaning as the term

"apartment" as used in the Act, as same may be amended or supplemented in any successor statute. The term "Condominium Unit" does not refer to a condominium unit used as a residence.

(n) "Declarant" shall mean and refer to Sunbelt Federal Savings, FSB, with respect to the voluntary disposition of all or substantially all of the assets of Sunbelt Federal Savings, FSB, or the voluntary disposition of all or substantially all of the right, title and interest of Sunbelt Federal Savings, FSB, in and to the Property, where such voluntary disposition of right, title and interest expressly provides for the transfer and assignment of the rights of Sunbelt Federal Savings, FSB, as Declarant. No person or entity purchasing the Property or any part thereof from Sunbelt Federal Savings, FSB, in the ordinary course of business shall be considered as Declarant. The Declarant may, at its option, delegate and/or assign its duties, obligations and rights hereunder to persons or entities of its choosing, such delegation and/or assignment to be only by express written agreement.

(o) "Declaration" shall mean and refer to this instrument and, collectively, to the covenants, conditions, restrictions, reservations, easements, liens and charges imposed by or expressed in this instrument.

(p) "Design Guidelines" shall mean and refer to standards, restrictions or specifications set forth herein and/or published from time to time by the Architectural Review Committee which govern the construction, placement, location, modification, alteration, maintenance or design of any improvements to the Property. Design Guidelines shall be consistent with the standards otherwise generally prevailing in the Property.

(q) "Estate" shall mean and collectively refer to a Condominium Unit, Tract or other interest in real property contained within the Property, the ownership of which, by the terms of this Declaration, causes the owner thereof to be a Member of the Association.

(r) "Improvements" shall mean and include all buildings and roofed structures, parking areas, loading areas, railroad trackage, fences, walls, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, drainage, utilities, roads, alleys, paths, and all original improvements, any new

construction or exterior improvement significantly altering the appearance of the Property, and all later changes to any existing improvements, but does not include public streets, utilities, garden shrubs or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances.

(s) "Landscape Buffer Area" shall mean and refer to the real property described on Exhibit "B" attached hereto and made a part hereof for all purposes, including any and all improvements thereon, such Landscape Buffer Area being created by and more fully described in the Buffer Easements. In the event that Dallas Power and Light Company and/or the City grants to Declarant and/or the Association an easement to develop and maintain the real property described on Exhibit "C" attached hereto and made a part hereof for all purposes ("DP&L ROW") as a park and pedestrian walkway, the term "Landscape Buffer Area" as used herein shall also mean and refer to and include the DP&L ROW and the term "Buffer Easements" as used herein shall thereafter also mean and refer to and include the easement creating the DP&L ROW.

(t) "Member" or "Owner" shall mean and refer to each and every person or entity who, individually or together with another person or entity, is a record title owner of a fee or undivided fee interest in any Tract, Condominium Unit, or any lot, tract or parcel of real estate out of or a part of the Property; provided, however the term "Member" or "Owner" shall not include any person or entity holding a bona fide lien or security interest in a Tract, Condominium Unit or any lot, tract or parcel of real estate out of or a part of the Property as security for the performance of an obligation.

(u) "Ordinance" shall mean and refer to that certain Ordinance No. 2048, File No. 1095-21, of the City, dated July 16, 1984.

(v) "Park and Pedestrian Walkway Easement" shall mean that certain easement dated October 30, 1985, executed by Declarant and recorded in Volume 85222, Page 2347, of the Deed Records of Dallas County, Texas, pursuant to which the City was granted a fifty foot (50') easement for a park and a pedestrian walkway and the Association was granted a sixty foot (60') maintenance easement.

(w) "Property" shall mean and refer to all of the real property described in Exhibit "A" attached hereto and made a part hereof for all purposes, including any and all improvements thereon, and any additions of real property, as are subject to this Declaration, or any supplement or amendment hereto prepared and filed of record pursuant to the provisions hereof.

(x) "Restaurant Area Right-of-Way" shall mean and refer to the real property described on Exhibit "D" attached hereto and made a part hereof for all purposes, including any and all improvements thereon, such Restaurant Area Right-of-Way being created by and more fully described in that certain Declaration of Roadway Easement, Use and Maintenance Agreement ("Restaurant Area Declaration") dated October 30, 1985, executed by Declarant and recorded in Volume 85222, Page 2355, of the Deed Records of Dallas County, Texas.

(y) "Separate Buffer Area" shall mean and refer to the real property described on Exhibit "E" attached hereto and made a part hereof for all purposes, including any and all improvements thereon, such Separate Buffer Area being created by and more fully described in the Separate Buffer Easement.

(z) "Separate Buffer Easement" shall mean that certain easement created pursuant to the Grant of Landscaping and Screening Wall Easement, Use and Maintenance Agreement, shall mean that certain agreement dated December 18, 1985, executed by Declarant and Vantage, and recorded in Volume 84248, Page 3732, of the Deed Records of Dallas County, Texas, pursuant to which a park and a pedestrian walkway easement were created.

(aa) "Tract" shall mean subdivided or unsubdivided, improved or unimproved tract, lot or parcel of land within the Property, developed or to be developed for commercial use. The term "Tract" shall not include land upon which is located a Condominium Building.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.01 Property Subject to Declaration. The Property and any right, title or interest therein shall be owned, held, transferred, leased, sold, conveyed and/or occupied by Declarant and any subsequent owner, lessee or occupant of all or any part thereof, subject to this Declaration and the covenants, conditions, restrictions, easements, liens and charges herein set forth.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.01 Membership. Each and every Owner shall automatically be a Member of the Association without the necessity of any further action on his part subject to the terms of this Declaration, the Articles of Incorporation and the Bylaws of the

Association and the rules of the Association. Membership of an Owner in the Association shall be appurtenant to and may not be separated from the interest of such Owner in and to any portion of the Property. Ownership of any portion of the Property shall be the sole qualification for being a Member; provided, however a Member's voting rights, as herein described, may be regulated or suspended as provided in this Declaration, the Bylaws of the Association and/or the rules of the Association. No person or entity shall be a Member by reason of ownership of any park, public land, road, easement, right-of-way or mineral interest. In addition, any person or entity that holds an interest in and to all or any part of the Property merely as security for the performance of an obligation shall not be a Member.

3.02 Transfer. Membership of an Owner in the Association may not be severed from or in any way transferred, pledged, mortgaged or alienated except upon the sale or assignment of said Owner's interest in all or any part of the Property and then only to the purchaser or assignee as the new Owner thereof. Membership in the Association shall not be severed by the encumbrance by an Owner of all or any part of the Property. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation of such membership shall be void and of no further force or effect, and will not be reflected upon the books and records of the Association. Any transfer of the fee title to a lot, tract or parcel of real estate out of or a part of the Property shall automatically operate to transfer the membership of Owner in the Association to the new Owner thereof. In the event an Owner should fail or refuse to transfer the membership in the Association registered in such Owner's name to the transferee of such Owner's interest in all or any part of the Property, the Association shall have the right to record the transfer upon the books and records of the Association.

3.03 Membership and Voting Rights. The Association shall have two (2) classes of voting membership:

(a) CLASS A MEMBERSHIP. Class A Members shall be all of the Owners with the exception of the Declarant pursuant to the terms of Subsection (b) below. Subject to the provisions of Section 3.05, Class A Members shall be entitled to:

One (1) vote for every 1,000 gross square feet of land contained within any Tract, parcel or portion of the Property owned by such Class A Member plus five (5) votes per each 1,000 square feet contained within a Condominium Unit, as defined in Section 1.01(m), or other building dedicated to Commercial Use, provided, however,

that the square footage contained within such buildings or Tracts which is used as public common areas, parking areas, parking structures or other areas, and which are not leaseable or are not included within a Condominium Unit, shall not be included for purposes of calculating the number of votes to which each Class A Member shall be entitled to. Further, the square footage contained within any limited or general common areas constituting a portion of a Condominium Building, as defined in Section 1.01(1), and apportionable to a Condominium Unit, shall also not be included in such calculations.

Where an association or other organization has been established with respect to a Condominium Building, the board of directors or other governing body so empowered under the organizational documents of such association or organization shall cast all of the votes exercisable hereunder with respect to such Condominium Building on each and every matter in question on which a vote is authorized or permitted under this Declaration or the Articles of Incorporation or Bylaws of the Association. Such association or organization may cast the votes exercisable hereunder in one block on behalf of such Condominium Building or condominium regime or as instructed by each individual Owner of a Condominium Unit, as determined in accordance with the organizational documents creating such association or organization.

(b) CLASS B MEMBERSHIP. The Class B Member shall be the Declarant. The Class B Member shall be entitled to ten (10) votes for every 1,000 gross square feet of land contained within any Tract, parcel or portion of the Property owned by the Class B Member. The Class B Membership shall cease and be converted to Class A Membership on the occurrence of any of the following events, whichever occurs first:

(i) When the total number of votes outstanding in the Class A Membership is ten (10) times greater than the total number of votes outstanding in the Class B Membership; or

(ii) On the sixteenth (16th) anniversary date of the recording of this Declaration in the office of the County Clerk of Dallas County, Texas; or

(iii) When the Declarant, at Declarant's sole option and discretion, notifies the President of the Association in writing that Declarant's Class B Membership is converted to Class A Membership.

Notwithstanding the foregoing, with respect to Estates owned by the Declarant and developed or being developed with a Condominium Building or being developed with a commercial building, the Declarant shall be deemed to be a Class A Member for purposes of calculating votes attributable to the Estates being developed as aforesaid.

3.04 Suspension of Voting Rights. The voting rights of any Member set forth in this Declaration may be suspended by the Board of Directors of the Association for any period during which any Assessment remains past due, unless the Member is in good faith contesting the validity or amount of the Assessment.

3.05 Multiple Owner Votes. Votes hereunder may not be cast on a fractional basis between multiple Owners of an Estate. Further, where there are multiple Owners of an Estate it is not intended by Section 3.03 that each of said Owners shall be entitled to cast the votes allocated to such Estate. As an example, where three (3) persons own a Condominium Unit they shall jointly be entitled to vote the five (5) votes per 1,000 square feet contained within such Condominium Unit and each Owner shall not be entitled to individually vote five (5) votes per 1,000 square feet so allocated. When more than one person or entity owns the interest or interests in and to any Estate as required for Membership in the Association, each and every person or entity shall be a Member, and the vote for any Estate shall be exercised as the Owners of such Estate, among themselves, collectively determine. If such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall forfeit the vote or votes on the matter in question. If more than one (1) person or entity purports to exercise the voting rights with respect to any Estate on any matter in question, none of such votes shall be counted in tabulating the vote on such matter and such votes shall be deemed void. The Association shall not be required to recognize the vote or written assent of any such multiple Owners except the vote or written assent of the Owner designated in writing to act for such multiple Owners executed by all of the multiple Owners and delivered to the Association.

3.06 Quorum, Notice and Voting Requirements.

(a) Subject to the provisions of Paragraph (c) of this Section, any action authorized by Sections 4.04 or 4.06 of Article IV of this Declaration shall require the assent of the majority, regardless of class, of the Members entitled to vote, which Members shall vote either in person or by proxy at a meeting duly called for such purpose. Written notice of any such meeting shall be given to all Members not less than three (3) days nor more than fifty (50) days in advance and shall set forth the purpose of such meeting.

(b) The quorum required for any action referred to in Paragraph (a) of this Section shall be as follows:

At the first meeting called, the presence at the meeting of Members, or of proxies, entitled to cast fifty percent (50%) of all of the votes of the Association shall constitute a quorum. If the required quorum is not present at the first meeting, one additional meeting may be called subject to the notice requirement hereinabove set forth, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) As an alternative to the procedure set forth above, any action referred to in Paragraph (a) of this Section may be taken without a meeting if a written consent, approving of the action to be taken, shall be signed by all the Members entitled to vote.

(d) Except as specifically set forth in this Declaration, notice, voting and quorum requirements for all action to be taken by the Association shall be consistent with the Articles of Incorporation and Bylaws of the Association, as same may be amended from time to time.

ARTICLE IV ASSESSMENTS

4.01 Covenants for Assessments. The Declarant, for each Tract, Condominium Unit or any lot, tract or parcel of real estate out of or a part of the Property owned by Declarant, hereby covenants and agrees to pay, and each Owner of each Tract, Condominium Unit or any lot, tract or parcel of real estate out of or a part of the Property, by acceptance of a deed or other conveyance document creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the consideration and purchase money for the acquisition of such Tract, Condominium Unit or any lot, tract or parcel of real estate out of or a part of the Property) to pay to the Association (or to any entity or collection agency designated by the Association) the following Assessments: (1) Annual Assessments (as defined in Section 4.03 of this Article IV), such Annual Assessments to be fixed,

established and collected from time to time as herein provided; (2) Special Assessments for capital improvements and other purposes (as defined in Section 4.04 of this Article IV), such Special Assessments to be fixed, established and collected from time to time as herein provided; and (3) Individual Special Assessments levied against individual Owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts or omissions of an individual Owner and not caused by ordinary wear and tear (as specified in Section 4.05 of this Article IV), such Individual Special Assessments to be fixed, established and collected from time to time as herein provided. The Assessments, together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each Estate against which each such Assessment is made. Each Assessment, together with interest thereon, attorneys' fees, court costs and other cost of collection thereof, as herein provided, shall also be the personal obligation of the Owner of such Estate against which such Assessment is made at the time when the Assessment fell due. No Owner may exempt himself from liability for such Assessment or waive or otherwise escape liability for the Assessments for non-use of the Common Area or abandonment of his Estate. The personal obligation to pay any such Assessment, together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall pass to the successors-in-title of each Owner whether or not expressly assumed in writing by such successors; provided that such personal obligation to pay the Assessments and other costs shall not pass to mortgagees of any Owner who succeed to the title of such Owner.

4.02 Purpose of Assessments. The Assessments levied by the Association shall be used, in part, for the purpose of: (1) promoting the recreation, comfort, health, safety and welfare of the Members and/or the Owners of the Property, (2) managing and maintaining the Common Area, (3) managing and maintaining the Landscape Buffer Area, in particular, the masonry landscaping wall and other improvements located within the Landscape Buffer Area, (4) enhancing the quality of life in the Property and the value of the Property, and in particular for the improvement and maintenance of the properties, services and facilities devoted to the purpose of and related to the use and enjoyment of the Property including, but not limited to, the payment of taxes on the Common Area and insurance in connection with the Common Area and the repair, replacement and addition thereto, the payment of the cost of labor and equipment (including the expense of leasing any equipment); the carrying out of the powers and duties of the Board of Directors of the Association as set forth in Article V of this Declaration; and the carrying out of the purposes of the Association as stated in its Articles of Incorporation.

4.03 Annual Assessments.

(a) In order to provide funds for the purposes and uses specified in Section 4.02 hereof, the Association, acting through the Board of Directors, in each year, commencing with the year specified in Section 4.06 hereof, shall levy annual assessments (the "Annual Assessments") against the Owners for such charges as the Board of Directors, in its sole and absolute discretion, determines are necessary and appropriate. The Annual Assessments shall be based upon an annual budget prepared by the Board of Directors, which budget shall be available for inspection by any Owner at the office of the Association during normal business hours.

(b) The total amount of Annual Assessments shall be allocated among all Estates as provided in this Section 4.03(b). Each Estate for which no building permit has been issued by the applicable governmental authority shall be allocated one (1) point for each gross square foot of Improvements allowed on each such Estate. If a building permit has been issued for an Estate, such Estate shall be allocated three (3) points for each gross square foot of Improvements actually constructed thereon pursuant to each such building permit and one (1) point for each remaining gross square foot of Improvements allowed on the Estate, but not actually constructed thereon, which amount shall represent the difference between (i) the total amount of gross square feet of Improvements allowed on the Estate less (ii) the total gross square feet of Improvements actually constructed thereon pursuant to any such building permit(s) issued for such Estate. The percentage of the total Annual Assessments to be levied against an Estate shall be determined by dividing the total points allocated to that Estate by the total number of points allocated to all Estates. Each Owner shall provide the Association with a copy of the initial and all subsequent building permit(s) issued for each Estate owned by such Owner immediately upon receipt of such building permit(s).

For purposes hereof, the gross square feet of Improvements allowed on an Estate owned by an Owner other than the Declarant shall be the gross square feet of Improvements allowed on such Estate pursuant to the deed conveying such Estate from the Declarant to the original owner of such Estate, or other instrument executed by Declarant and the original or any subsequent Owner thereof, relating to such Estate, and which is duly recorded in the Deed Records of Dallas County, Texas. The gross square feet of Improvements allowed on an Estate owned by the Declarant shall be determined pursuant to the terms and provisions of the Ordinance, that certain Declaration of Covenants, Conditions and Restrictions with Respect to Certain

Uses, dated December 18, 1984, recorded in Volume 84248, Page 3685, Deed Records, Dallas County, Texas, as amended by that certain Amendment to Declaration of Covenants, Conditions and Restrictions with Respect to Certain Uses, dated as of February 5, 1986, entered into by and between Vantage and Declarant, recorded in Volume 86040, Page 5703, Deed Records, Dallas County, Texas, and that certain Agreement Regarding Declaration of Covenants, Conditions and Restrictions with Respect to Certain Uses, dated as of February 5, 1986, entered into by and between Vantage and Declarant, recorded in volume 86040, Page 5091, Deed Records, Dallas County, Texas.

The computation of points to be allocated to each Estate shall be made annually at the time that the Board of Directors of the Association computes the total amount of Annual Assessments for all Estates as provided below in this Section. The points to be allocated to an Estate for purposes of determining the percentage of the total Annual Assessments to be levied against such Estate shall be adjusted at such time based upon the above formula where the initial or any subsequent building permit (or permits) has been issued for such Estate prior to November 1 of the year immediately prior to the year for which the new budget for Annual Assessments is being prepared. Only those building permits issued prior to the November 1 cutoff date shall be reflected in the points allocation for the succeeding year.

(c) The amount and time of the payment of the Annual Assessments shall be determined by the Board of Directors of the Association pursuant hereto and otherwise in accordance with the Articles of Incorporation and Bylaws of the Association. The Board may provide that Annual Assessments shall be paid monthly, quarterly, semi-annually or annually on a calendar year basis. Not later than thirty (30) days prior to the beginning of each calendar year, the Board of Directors of the Association shall estimate the total common expenses to be incurred by the Association for the forthcoming calendar year and the total amount of Annual Assessments necessary to defray such expenses. The Board shall then determine, in a manner consistent with the terms and provisions of this Declaration, the amount of the Annual Assessments to be paid by each Member. Written notice of the Annual Assessments to be paid by each Member (and the method of computing the amount of the total Annual Assessments to be levied against each Estate) shall be sent to each Member, but only to one (1) joint Owner. Each Member shall thereafter pay to the Association each Member's Annual Assessments in installments or otherwise as may be established pursuant to the terms hereof, by the Board of Directors of the Association. The Board may not, without the consent of the Declarant (so long as the Class "B" Membership has not terminated) and the vote or

written consent of at least a majority of the Class "A" Members, increase the Annual Assessments by a sum exceeding the amount equal to the total Annual Assessments for the immediately preceding calendar year, multiplied by the greater of (i) ten percent (10%) or (ii) the percentage that (A) the amount of the CPI for the then most current annual period less the amount of the CPI for the annual period immediately preceding the then most current annual period, (B) bears to the CPI for such annual period immediately preceding the then most current annual period. As used herein, "CPI" shall mean the Consumer Price Index for All Urban Consumers in the Dallas-Fort Worth Area issued by the United States Department of Labor, Bureau of Labor Statistics (or if such agency ceases or fails to report such amount, then any similar index of generally accepted credibility as selected by the Association). The maximum amount of the increase in the Annual Assessment as determined pursuant to (i) or (ii) above may be cumulative from year to year. At any time and from time to time during the term hereof, Declarant shall have the right, but not the obligation, to contribute to the Association an amount in excess of Declarant's share of the total Annual Assessments. Notwithstanding anything herein to the contrary, for purposes of calculating the increases in the total Annual Assessments as specified above, the total Annual Assessments shall be deemed to be the total common expenses budgeted by the Board of Directors for such calendar year without reduction for any such contributions to the Association made by Declarant.

(d) If the budget for the succeeding year is not duly adopted as provided herein, then and until such time as a budget shall have been duly adopted, the budget in effect for the then current year and the amount of Annual Assessments levied against each Estate for such current year shall continue for the succeeding year.

4.04 Special Assessments. In addition to the Annual Assessments authorized by Section 4.03 of this Article IV, the Association may levy in any calendar year a special assessment ("Special Assessment") for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Common Area (including the Landscape Buffer Area), including the necessary fixtures and personal property related thereto, or for maintenance of portions of the Common Area (including the Landscape Buffer Area) and improvements therein or for carrying out other purposes of the Association as stated in the Articles of Incorporation of the Association; provided, however, that any such Special Assessment levied by the Association shall have the affirmative approval of the Members of the Association, as provided herein. The Special Assessment shall be allocated among all Estates as provided in Section 4.03(b).

4.05 Special Individual Assessments. Upon the affirmative majority vote of the Board of Directors of the Association as provided herein, the Association may levy special assessments against individual Owners ("Special Individual Assessment") for: (i) reimbursement to the Association for repairs to the Common Area or improvements thereto, occasioned by the willful or negligent acts of such Owner(s) and not the result of ordinary wear and tear; or (ii) for payment of fines, penalties, fees or other charges imposed against an individual Owner relative to such Owner's failure to comply with the provisions of this Declaration, the Bylaws of the Association or any rules or regulations promulgated hereunder, including, without limitation, fees imposed pursuant to Article X, Section 10.14 hereof.

4.06 Date of Commencement of Annual Assessments and Due Dates. Annual Assessments commenced as to the Property on January 1, 1986, and were due and payable in full by January 30, 1986. The Annual Assessments for any year after 1986 shall become due and payable on January 1 of such year, unless otherwise required or permitted by the Association, pursuant to the terms hereof, and the Annual Assessments or any installment thereof (if payable in installments) shall be considered delinquent if not paid within thirty (30) days after the Annual Assessments or any installment thereof is stated to be due and payable. The due date and date of delinquency of any Special Assessment or Special Individual Assessment shall be fixed by the Board.

4.07 No Offsets. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount by any Owner shall be permitted for any reason.

4.08 Reserves.

(a) The Annual Assessments shall include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Area. Except as set forth in paragraph (b) immediately below, all amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Association in a separate bank account to be held in trust for the purposes for which they were collected and are to be segregated from and not commingled with any other funds of the Association. Assessments collected as reserves shall not be considered to be advance payments of regular Assessments. Annual Assessments shall also include amounts collected for the maintenance and repair of the Landscape Buffer Area.

(b) The Association may, if required by the City, establish an escrow fund with the City as a reserve for future maintenance and repair of the Landscape Buffer Area, such reserve to cover day-to-day maintenance costs as well as future capital repair and replacement.

4.09 Nonpayment of Assessments.

(a) Delinquency. Any Assessment provided for in this Declaration which is not paid in full when due shall be delinquent on the date after the date due ("delinquency date" as specified in the notice of such Assessment). The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. If any Assessment or part thereof is not paid within ten (10) days after the delinquency date, the unpaid amount of such Assessment shall bear interest after the delinquency date until paid at a rate equal to the lesser of eighteen percent (18%) per annum or the maximum lawful rate.

(b) Lien. The unpaid amount of any Assessment not paid by the delinquency date shall, together with the interest thereon as provided in Section 4.09(a) of this Article IV and the cost of collection thereof, including reasonable attorneys' fees, as herein provided, thereupon become a continuing lien and charge on the Estate of the non-paying Owner covered by such Assessment which shall bind such Estate in the hands of the Owner, and its heirs, executors, administrators, devisees, personal representatives, successors and assigns. The aforesaid lien shall be superior to all other liens and charges against the Estate, except only for tax liens and the lien of any bona fide mortgage or deed of trust now or hereafter placed upon said real property subject to an Assessment and which mortgage or deed of trust is recorded prior to recordation of written notice of past due Assessments; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale, whether public or private, of such property pursuant to the terms and conditions of any such mortgage or deed of trust. However, such a sale shall not relieve the Owner of such real property from liability for any Assessment thereafter becoming due nor from the lien of any such subsequent Assessment. The Association shall have the power to subordinate the lien securing the payment of any Assessment rendered by the Association to any other lien. As hereinbefore stated, the personal obligation of the Owner, at the time of such Assessment, to pay such Assessment shall remain the personal obligation of such Owner and shall pass to such Owner's successors-in-title whether or not expressly assumed by them in writing, as set forth in Section 4.01 hereinabove. The lien for the unpaid Assessments shall be unaffected by any sale or assignment of an Estate and shall continue in full force and effect.

To evidence the aforesaid lien the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the real property covered by such lien and a description of the Estate covered by such lien. Such notice shall be executed by an officer of the Association and shall be recorded in the office of the County Clerk of Dallas County, Texas.

(c) Remedies. The lien securing the payment of the Assessments shall attach to the Estate belonging to such non-paying Owner with the priority set forth in this Section. Each Owner, by his acceptance of a deed to an Estate, hereby expressly vests in the Association, or its agents, the right and power, but not the obligation, to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including but not limited to, non-judicial foreclosure pursuant to Chapter 51, Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association a power of sale in connection with such lien. Each Owner hereby authorizes and empowers the Association to sell all or any portion of the Estate belonging to such non-paying Owner together, or in lots or parcels, as the Association may deem expedient, and to execute and deliver to the purchaser or purchasers of such Estate good and sufficient deeds of conveyance of fee simple title with covenants of general warranty made on behalf of such non-paying Owner. It is expressly agreed that the recitals in the conveyance to the purchaser or purchasers of such Estate shall be full evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or the Owners personally obligated to pay the Assessment, there shall be added to the amount of any such Assessment the interest provided in this Section, the costs of preparing and filing the complaint in such action and the reasonable attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a prior lien on any part of the Property, the Association shall report to said mortgagee any Assessments remaining unpaid for longer than sixty (60) days after the delinquency date of such Assessment.

4.10 Exempt Property. The following portions of the Property, subject to the Declaration, shall be exempt from the Assessments, charges and liens created in this Declaration:

(a) All properties dedicated and accepted by the local public authority, public utilities and devoted to public use; and

(b) All Common Area.

Portions of the Property which are exempt from the Assessments, charges and liens created by this Declaration pursuant to Section 4.10(a) shall in any event be subject to all other provisions of this Declaration including, but not limited to, the provisions for Special Individual Assessments as set forth herein. Owners of portions of the Property which are exempt pursuant to Section 4.10(a) shall be Members of the Association but shall have no voting rights.

4.11 Estoppel Information from Board of Directors with Respect to Assessments. The Board of Directors of the Association shall upon demand at any time furnish to any Owner liable for an Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificates.

4.12 Contribution to Landscape Buffer Area Maintenance. At such time as the Landscape Buffer Area is developed by Declarant as a park and pedestrian walkway, the Association shall have responsibility for maintenance of the Landscape Buffer Area and the improvements located therein. Pursuant to the terms of the Separate Buffer Easement, the owner or owners, as same may change from time to time, of certain property within the Emporium on LBJ development identified in the Separate Buffer Easement shall contribute to the costs of repair, maintenance and/or replacement associated with the Landscape Buffer Area. Such repair and maintenance costs shared by such owner(s) shall be calculated as set forth in the Separate Buffer Easement and shall be payable to the Association.

4.13 Restaurant Area Right-of-Way Assessments. The Restaurant Area Right-of-Way shall not be conveyed to the Association as Common Area but shall be established by Declarant as a private easement for the benefit of certain of the Tract Owners abutting the Restaurant Area Right-of-Way. However, the Association shall be obligated to maintain the Restaurant Area Right-of-Way pursuant to the terms of the maintenance easement granted to the Association in the Restaurant Area Declaration,

and the Owners of certain of the Tracts abutting the Restaurant Area Right-of-Way, as same may change from time to time, shall be assessed by the Association for the costs of repair, maintenance and/or replacement associated with the Restaurant Area Right-of-Way. Such assessments shall be levied by the Association and shall be payable by the affected Tract Owners in addition to the Assessments provided for herein. The assessments for the repair, maintenance and/or replacement costs of the Restaurant Area Right-of-Way shall be shared by certain of the Tract Owners abutting the Restaurant Right-of-Way as set forth in the Restaurant Area Declaration and shall be payable to the Association. The Owners of Estates within portions of the Property which are not subject to the Restaurant Area Declaration shall have no liability for payment of the assessments levied by the Association pursuant to the terms and provisions of the Restaurant Area Declaration.

ARTICLE V

GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

5.01 Powers and Duties. The affairs of the Association shall be conducted by the Board of Directors (herein so called) of the Association. The Board of Directors of the Association shall be selected in accordance with the Articles of Incorporation and the Bylaws of the Association. In addition to the powers and duties enumerated in the Articles of Incorporation and the Bylaws of the Association, or elsewhere provided for herein, and without limiting the generality thereof, the Board of Directors of the Association, for the mutual benefit of the Members of the Association, shall have the following powers and/or duties:

(a) If, as and when the Board of Directors of the Association, in its sole discretion, deems necessary it may take such action to enforce the terms and provisions of this Declaration and the Articles of Incorporation and the Bylaws of the Association by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, accounting services and management services, the commencement of legal causes of action, the promulgation and enforcement of the Association rules (herein so called) which may include the establishment of a system of fines and/or penalties enforceable as special individual assessments as provided in Section 4.05 of Article IV to this Declaration, and to enjoin and/or seek legal damages from any Owner for violation of such provisions or rules;

(b) To acquire, maintain and otherwise manage all of the Common Area and all facilities improvements and landscaping thereon, and all personal property acquired or owned by the Association;

(c) To maintain and otherwise manage the Landscape Buffer Area and all facilities improvements and landscaping thereon;

(d) To maintain and otherwise manage the Restaurant Area Right-of-Way and all improvements and landscaping thereon and to collect, manage and disburse assessments and charges paid by Owners of Tracts abutting the Restaurant Area Right-of-Way for maintenance and repair of the Restaurant Area Right-of-Way;

(e) To execute all declarations of ownership for tax assessment purposes and to pay any and all real and personal property taxes and other charges or assessments assessed against the Common Area, unless the same are separately assessed to all or any of the Owners;

(f) To obtain, for the benefit of the Common Area, the Landscape Buffer Area, and/or the Restaurant Area Right-of-Way all water, gas and electric services, refuse collections, landscape maintenance services and other services, which in the opinion of the Board of Directors shall be necessary or proper;

(g) To make such dedications and grant such easements, licenses, franchises or other rights which in its opinion are necessary for street right-of-way, utility, sewer, drainage and other similar facilities or video services, cable television services security services, communication services and other similar services over the Common Area to serve the Property or any part thereof;

(h) To contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Board of Directors of the Association deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members;

(i) To borrow funds to pay costs of operation secured by assignment or pledge of its rights against delinquent Owners to the extent deemed advisable by the Board of Directors of the Association;

(j) To enter into contracts for legal, management and accounting services, maintain one or more bank accounts, and generally, to have the powers necessary or incidental to the operation and management of the Association and the Common Area;

(k) To enter into agreements for the management of the Landscape Buffer Area, the Restaurant Area Right-of-Way and the Common Area with third parties;

(l) To enter into contracts for the provision of security and communications services to the Property;

(m) If, as and when the Board of Directors of the Association, in its sole discretion, deems necessary it may take action to protect or defend the Common Area or other property of the Association from loss or damage by suit or otherwise;

(n) To sue and defend in any court of law on behalf of the Association or one or more Members thereof;

(o) To establish and maintain a working capital and/or contingency fund in an amount to be determined by the Board of Directors of the Association;

(p) To make reasonable rules and regulations for the operation and use of the Estates and the Common Area and to amend same from time to time; provided, however, that any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Members or, with respect to a rule or regulation applicable to less than all of the Property, by the Members in that portion of the Property affected thereby;

(q) To make available to each Owner and any individual or entity holding a mortgage or deed of trust on any Estate within sixty (60) days after the end of each fiscal year, an unaudited annual report;

(r) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property owned by the Association, and if the proceeds are insufficient to repair damage or replace lost property owned by the Association, to assess the Members in proportionate amounts to cover the deficiency as set forth in Section 4.04;

(s) To provide services for the benefit of Members, including but not limited to security, entertainment, recreation, education and television cable; and

(t) To delegate its powers and duties to the Architectural Review Committee (with respect to maintenance of and improvements or alterations on the Estates and the Property) or to other committees, officers or employees as provided in the Bylaws of the Association, and/or to employ a manager or other persons and contract with independent contractors or managing

agents who have professional experience to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or entity appointed as a manager or managing agent shall be terminable without cause on not more than thirty (30) days' written notice by the Association and shall have a term of not more than one (1) year with successive one (1) year renewal periods upon the mutual agreement of the parties.

5.02 Other Parties' Right-of-Way. In addition to the powers, rights, duties and obligations of the Board of Directors set forth above, the Board of Directors shall have the right, power and obligation to operate, maintain and administer other private rights-of-way within the Property in accordance with documents and instruments and maintenance and assessment procedures similar to those existing and implemented with respect to the Restaurant Area Right-of-Way. In any event, only those Owners which benefit from the private right-of-way shall be responsible for payment of the cost of operating and maintaining any such private rights-of-way and the Owners as a whole shall not be responsible for payment of such costs.

ARTICLE VI

PROPERTY RIGHTS IN THE COMMON AREA

6.01 Members' Easements of Enjoyment. Subject to the provisions of Section 6.03 of this Article, and subject to the rights of the City and the public in and to the Landscape Buffer Area, every Member and every tenant of every Member shall have a right and easement of use and enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title of every Estate, and shall not be severable therefrom; PROVIDED, HOWEVER, such easement shall not give such person the right to make alterations, additions or improvements to the Common Area.

6.02 Title to the Common Area. The Declarant shall dedicate and convey (at such time as any Common Area shall be created by the Declarant) the title to those portions of the Common Area owned by the Declarant, in fee or as an easement to the Association, free and clear of liens and encumbrances other than those created in this Declaration and such Common Area shall be accepted, in writing, by the Association. Fee title to the real property within the Separate Buffer Area shall not be conveyed to the Association and shall remain in the individual owner thereof. However, fee title to the real property encumbered by the Park and Pedestrian Walkway Easement, together with any maintenance and access easements as are appurtenant to the Buffer Easements, shall be conveyed to the Association and

designated as Common Area at such time as the improvements to be constructed by Declarant within the Landscape Buffer Area shall be owned by the Association and the rights and obligations of the Declarant under and pursuant to the Buffer Easement may be assigned by the Declarant to the Association and such rights and obligations shall be expressly assumed in writing by the Association.

6.03 Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to prescribe regulations governing the use, operation and maintenance of the Common Area;

(b) Liens of mortgages placed against the Common Area with respect to monies borrowed by the Association for the purpose of improving the Common Area and facilities;

(c) The right of the Association to enter into and execute contracts with third parties (including the Declarant, or an affiliate of the Declarant, so long as such contracts do not provide for compensation to the Declarant, or its affiliate, which exceeds compensation which would be paid to an independent third party for such services) for the purpose of providing maintenance or for such other materials or services consistent with the purposes of the Association;

(d) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and

(e) The right of the Association, as may be provided in its Bylaws, to suspend the voting rights of any Member for any period during which any Assessment against an Estate owned by such Member remains past due, and for any period not to exceed sixty (60) days for an infraction of its rules and regulations unless the Member in good faith contests such Assessment or rules and regulations.

ARTICLE VII

INSURANCE; REPAIR AND RESTORATION

7.01 Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area (including the Landscape Buffer Area). This insurance shall cover loss or damage by fire or other hazard including extended coverage, vandalism, and malicious mischief and shall

be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board of Directors of the Association shall obtain a public liability policy applicable to the Common Area covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall cover all Common Areas and public ways on or about the Property. Such coverage shall not be for less than Two Million Dollars (\$2,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Area (including the Landscape Buffer Area) and legal liability arising out of lawsuits relating to employment contracts of the Association. Directors' and officers' liability insurance shall be obtained if reasonably available.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors of the Association shall be written in the name of the Association as trustee, for the respective benefitted parties, as further identified in subparagraph (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Texas and holding a rating of XI or better in the Financial Category as established by A.M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating.

(b) All policies shall be for the benefit of the Owners and their mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be

brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Dallas County, Texas, area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board of Directors of the Association shall obtain workmen's compensation insurance, if and to the extent necessary, to satisfy the requirements of applicable laws and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be at least the

sum of three (3) months' Assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

7.02 Insurance Proceeds. Proceeds of insurance shall be disbursed by the insurance carrier to the Association or contractors designated by the Association as the Board of Directors may direct. The Association shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of subject property.

7.03 Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage to the Common Area (including the Landscape Buffer Area) or the improvements thereon or appurtenant thereto, the Association may levy a special assessment as provided for in Article IV of this Declaration to cover the deficiency. If the insurance proceeds are insufficient to repair or replace any loss or damage for which an Owner is bound hereunder, such Owner shall, as his undivided responsibility, pay any excess costs of repair or replacement.

7.04 Mortgagee Protection. There may be attached to all policies of insurance against loss or damage by fire and other hazards, a mortgagee's or lender's loss payable clause; provided, however, that amounts payable under such clause to the mortgagee shall be paid to the Association to hold for the payment of all costs of repair or replacement. The Association shall be responsible to hold said monies or to collect additional monies if the proceeds are insufficient to pay for the cost of all repairs or replacements and shall ensure that all mechanics', materialmen's and similar liens which may result from said repairs or replacements are satisfied.

7.05 Destruction of Improvements on Individual Estates. In the event of destruction (total or partial) to the improvements on any individual Estate due to fire or any other cause, each Estate Owner covenants and agrees to commence all necessary repairs, reconstruction or complete removal of the damaged improvements within four (4) months of the date that the damage occurs and to diligently continue such repairs, reconstruction or removal until completed within a reasonable time from the commencement of such work. Repairs, reconstruction or complete

removal of damaged improvements may be commenced more than four (4) months after the date of occurrence of damage if the delays in commencement are caused by factors beyond the reasonable control of the Owner of the damaged improvements. The Board of Directors of the Association shall not be obligated to enforce the covenants set forth in this Section 7.05.

ARTICLE VIII

USE OF PROPERTY

The Property shall be constructed, developed, occupied and used as follows:

8.01 Restricted Actions by Owners. No Owner shall permit anything to be done on or in the Common Area or any Estate or Unit which would violate any applicable public law or zoning ordinance or which will result in the cancellation of or increase of any insurance carried by the Association, or which would be in violation of any law. No waste shall be committed in the Common Area.

8.02 Damage to the Common Area. Each Owner shall be liable to the Association for any damage to the Common Area caused by the negligence or willful misconduct of the Owner or his family, guests, pets or invitees.

8.03 Rules of the Board. All Owners, tenants and occupants shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees. The Bylaws of the Association may also provide for disciplinary procedures which may, at the option of the Board, be implemented to enforce such rules and regulations and to impose penalties for failure to comply with such rules and regulations.

8.04 Use of Landscape Buffer Area. That portion of the Common Area included within the Landscape Buffer Area may be occupied and used by the general public as well as by all Estate Owners, for the purposes set forth in the Buffer Easements.

8.05 Commercial Use. Except as otherwise provided herein, each Estate shall be used and occupied only for commercial purposes and Commercial Use (as herein defined).

8.06 Laws and Ordinances. No Owner or occupant shall permit anything within such Owner's or occupant's control to be done or kept in any building or on his Estate which would violate any applicable public law or zoning ordinance or which will result in the cancellation of, or increase other premiums(s) for, any insurance carried by any Owner, or which would be in violation of this Declaration. In the event of a conflict between restrictions contained herein and the zoning ordinance of the City of Mesquite, Texas, the more restrictive shall apply.

8.07 Animals. No animals, livestock or poultry shall be raised, bred or kept in any portion of the Property.

8.08 Signs. The location and design of all signs must be approved in writing by the Architectural Review Committee and should conform to the Design Guidelines promulgated by the Architectural Review Committee.

8.09 Vehicle Storage. Storage or long-term parking (in excess of 24 hours) of campers, boats, trailers or motor homes is prohibited.

8.10 Dangerous Uses. Dangerous or unsafe uses such as handling, storing or otherwise dealing with explosives is prohibited. No oil, gasoline or flammable liquid should be stored in bulk of more than 55 gallons gross capacity except in underground storage tanks.

8.11 Nuisance. No use or activity shall be conducted on any Estate if the same results in or constitutes a nuisance, including, without limitation, any nuisance resulting from vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance and radiation, air or water pollution, dust or emission of toxic or odorous nontoxic matter.

8.12 Offensive Activities. No noxious or offensive activity shall be conducted on any Estate nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Estate Owners. The Architectural Review Committee, in its reasonable discretion, shall determine what constitutes a noxious or offensive activity, pursuant to this Section 8.12 or Section 8.11 above.

8.13 Subdividing. Further subdividing of parcels of land or submitting of an application or a request for a zoning change is prohibited without the prior written approval of the Architectural Review Committee.

8.14 Temporary Structures. No temporary structure, tent, shack or barn of any kind shall be erected or placed upon any Estate. It is provided, however, that Declarant may maintain temporary sales or construction offices, provided such sales or construction offices are removed within sixty (60) days after completion of sales or construction, as the case may be. In addition, Declarant or Owners may conduct their sales and marketing program from the Property from any Estates owned by them and/or from temporary sales building(s) or trailers, and Declarant may also conduct its construction and development operations and activities on the Property and, in connection therewith, do all things reasonably necessary or convenient in order to most expeditiously commence, continue and complete such construction and development operations, specifically including, but not limited to, construction and maintenance of temporary buildings and trailers for storage of construction materials and equipment and open storage of uncovered building materials and equipment. It is further provided that any builder (other than Declarant) employed by an Owner to construct improvements on said Owner's Estate may conduct its construction operations and activities on such Estate and, in connection therewith, do all things reasonably necessary in order to most expeditiously commence, continue and complete such construction operations, specifically including, but not limited to, construction and maintenance of temporary buildings and/or trailers for storage of construction materials and equipment, provided however, that all such construction operations and storage shall be confined solely within the boundaries of the Estate on which such construction is occurring.

8.15 Drilling and Mining Operations. No oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Estate, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Estate.

8.16 Swimming Pools. No above ground swimming pools shall be permitted except upon the prior written approval of the Architectural Review Committee.

8.17 External Sculpture and Like Accessories. All exterior sculpture, fountains, flags and like accessories on the Estates are subject to approval of the Architectural Review Committee.

8.18 Antennas. No television, radio or other electronic antenna, satellite dish or device of any type shall be erected, constructed, placed or permitted to remain on any of the Estates or improvements constructed thereon unless and until the same shall have been approved in writing by the Architectural Review Committee and only if such antenna or other device is completely screened from public view.

8.19 Certificate of Compliance. No Estate or any other portion of the Property shall be deemed to be improved or altered in compliance with this Article or Articles IX or X, hereof until Architectural Review Committee has approved such improvement or alteration as provided herein. An owner making such improvement or alteration may request and, if the improvement or alteration is in compliance with all provisions herein, the Architectural Review Committee shall issue a Certificate of Compliance with these covenants and restrictions to the Owner of such Estate or such other portion of the Property. Such Certificate shall only be issued after completion (as defined by the American Institute of Architects) of the subject commercial improvements and shall be issued or denied within ten (10) business days after the Committee has received a written request for such certification from the Estate Owner. Receipt of such written request for certification shall be confirmed in writing by the Committee and certification shall be deemed given if not denied in writing within said ten (10) business day period.

8.20 Other Prohibited Uses. The following uses are prohibited and may not be conducted on any Estate:

- (a) Residential of any type;
- (b) Trailer courts, mobile home parks and recreation vehicle campgrounds;
- (c) Schools; except as may be approved in writing by the Architectural Review Committee;
- (d) Junk yards and recycling facilities;
- (e) Commercial excavation of building or construction materials, except in the usual course of construction of improvements;
- (f) Distillation of bones;
- (g) Dumping, disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse;
- (h) Fat rendering;
- (i) Stockyard or slaughter of animals;
- (j) Refining of petroleum or of its products;
- (k) Something of iron, tin, zinc or other ores;

- (l) Cemeteries;
- (m) Labor camps and migrant worker camps;
- (n) Jails or honor farms;
- (o) Agricultural uses including animal husbandry;
- (p) Truck terminals;
- (q) Munitions and related manufacturing and storage;
- (r) Manufacturing or warehousing activities, except as may be approved in writing by the Architectural Review Committee; or
- (s) Automobile service or gas stations except as may be approved in writing by the Architectural Review Committee.

8.21 Other Operations and Uses.

(a) Lawful operations and uses which are neither specifically prohibited nor specifically authorized by these restrictions may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by the Architectural Review Committee. Approval or disapproval of such operational plans and specifications shall be based upon the environmental and aesthetic effect of such operations or uses on other portions of the Property subject to these restrictions or upon occupants thereof. If the Architectural Review Committee fails either to approve or to disapprove such operational plans and specifications within thirty (30) days after the same have been submitted to it, it shall be conclusively presumed that the Architectural Review Committee has disapproved said plans and specifications.

(b) Neither Declarant, the Association, the Board, the Architectural Review Committee, nor their successor or assigns shall be liable in damages to anyone submitting operational plans and specifications to them for approval, or to any Owner or tenant of all or any portion of the Property affected by their Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such operational plans and specifications. Every person who submits operational plans and specifications to the Architectural Review Committee for approval covenants and agrees, by submission of such plans and specifications, and every Owner and tenant of any of the Property covenants and agrees, by requiring title thereto or interest therein, that he will not bring any action or suit against the Declarant, the Association, the Board or the Architectural Review Committee to recover any such damages.

8.22 City of Mesquite Zoning. Each Owner, by acceptance of a deed to all or any portion of the Property, shall own his Estate subject to the terms and provisions and the obligations and responsibilities set forth in City of Mesquite Ordinance No. 1095-21 (the "Ordinance"), as same may be amended from time to time.

ARTICLE IX

PROTECTIVE COVENANTS

9.01 Site Plans.

(a) Building coverage. Building coverage on an Estate will be considered on an individual basis by the Architectural Review Committee when the site plan is submitted for approval.

(b) Grading and Drainage. All structures will be equipped with gutters, downspouts and/or other drainage conveyances. Gutter downspouts shall be at a location and of a material acceptable to the Architectural Review Committee. Conveyance of water from downspouts shall be via underground storm sewers or via concrete flumes or paving. No downspout water will be permitted to be deposited directly onto landscaped areas or into open ditches. All surface drainage, including roof drainage of buildings, shall be designed to conform to the overall drainage of the Property. Neither the Declarant, its successors or assigns shall be liable for any loss of use of, or damage done to any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways or buildings of any type or the contents thereof on any Estate whatsoever within the Property caused by any water levels, rising waters or drainage waters.

(c) Setback Lines. All structures shall comply with the building setback requirements of the City of Mesquite zoning code applicable to the Property and the Ordinance, as same may be amended from time to time.

9.02 Parking.

(a) Plans. All plans and specifications submitted to the Architectural Review Committee shall include specific information as to construction materials, construction methods to be used, diagrams of the number, type and configuration of parking spaces, and other information as necessary to show conformity with the standards described herein.

(b) Excessive Parking Requirements. No use shall be made of the Property or any building constructed thereon which requires or attracts parking in excess of the capacity of the facilities maintained therefor.

(c) Certain Requirements. Parking areas, other than structured parking, should:

(i) Be paved with concrete or other materials approved in writing by the Architectural Review committee in writing.

(ii) Be sufficient to accommodate all parking needs for employees, company vehicles, residents and visitors without the use of on-street parking. If parking needs to be increased, additional off-street parking shall be provided by the Owner.

(iii) Be located at the sides or rear of buildings however, where appropriate, parking may be allowed in front of the buildings if setback and landscaping provisions are acceptable to the Architectural Review Committee. It is contemplated that parking shall be permitted in front of buildings there are to be used primarily for retail purposes. Circular drives in front of buildings are permissible if such drives make adequate allowance for parking setback.

(iv) Be provided along the minimum guidelines of the City of Mesquite, Texas unless otherwise approved by the Architectural Review Committee.

(v) Not be permitted within the minimum front or side setbacks or within five (5) feet of a rear property line, unless otherwise approved in writing by the Architectural Review Committee.

(vi) Have a maximum grade slope of 10% and a minimum of 1%.

(vii) Be landscaped to provide visual relief. Plans for such landscaping shall be included with plans that must be submitted to the Architectural Review Committee for approval pursuant to Article VIII hereof.

(d) Structured Parking. The location and design of all parking structures must be approved in writing by the Architectural Review Committee.

9.03 Driveways. All driveways shall be of a width approved by the Architectural Review Committee and shall be permanently paved, curbed and guttered. The number and location of curb cuts and median cuts shall be determined by the Architectural Review Committee in the exercise of its sole discretion.

9.04 Landscaping.

(a) Plans. No plans for any building, structure, or other improvements to be erected, placed or altered in or upon any Lot shall be approved by the Architectural Review Committee unless the Architectural Review Committee is satisfied that separate landscaping plans shall subsequently be submitted to the Architectural Review Committee within a time period reasonably satisfactory to the Architectural Review Committee. Such landscaping plans must be satisfactory to the Architectural Review Committee and shall include plant material, landscape construction to be installed on the site and complete plans for an underground lawn sprinkler system.

(b) Landscaped Area. Landscaping shall be located in an area forward of the building or adjacent to the street rights-of-way and shall not be less than the minimum setback required on that street.

(c) Installation. Landscaping in accordance with the plans submitted and approved by the Architectural Review Committee must be installed within thirty (30) days following the occupancy of the building or as soon as practicable allowing for the seasons of the year, but in no event later than 180 days following initial occupancy of the building.

(d) Landscape Treatment. Landscape treatment of the site shall be in the form of grass lawns and ground covers, shade trees in parking areas, street trees, plantings in the areas used as dividers and in any areas of limited use. Landscaping shall be used to mark entrance points and parking areas. It shall be used to shield or define service areas and property divisions and to enhance buildings scale and forms.

(e) Sprinkler System. An underground lawn sprinkler system shall be installed in all landscaped areas.

(f) Ground Cover. All Tracts shall contain ground cover (preferably properly maintained grass) along with the front of each property line between the street curb and the property line.

(g) Undeveloped Property. On property held for future development, the Owner must plant grass or groundcover adjacent to the street a minimum of thirty (30) feet in from the curb and shall maintain this property in accordance with the requirement of Article XI herein.

(h) Sight Lines. Landscape treatment shall not interfere with sight line requirements at street or driveway intersections.

(i) Review. All landscaping treatment, including vegetation types, sizes and spacing; and berm location, height and slope, shall be subject to the review and approval of the Architectural Review Committee.

9.05 Screening; Garbage; Trash and Service Facilities.

(a) Screening and Maintenance. Storage areas, incinerators, storage tanks, trucks based on the premises, roof objects (including fans, vents, cooling towers, skylights and all roof-mounted equipment which rises above the roof line), trash containers and maintenance facilities, shall either be housed in closed buildings or otherwise completely screened from public view in a manner and at a location approved in writing by the Architectural Review Committee. Such screening would normally include landscaping or permanent fences of solid materials and be located as far from Estate boundary lines as reasonably possible.

If, after ten (10) days' prior written notice, an Owner shall fail to: (i) remove trash, rubble, building and construction debris; or (ii) exercise reasonable care or conduct to prevent or remedy a dangerous, unclean, untidy or unsightly condition, then the Board, the Architectural Review Committee or any Owner shall have the authority and right to go onto said Estate for the purpose of cleaning said Estate and/or correcting said condition and shall have the authority and right to assess and collect from the Owner the amount so expended in connection with cleaning said Estate on each respective occasion of such cleaning and/or correction. The assessments, together with such interest thereon and cost of collection thereof, shall be a charge on the land and shall be a continuing lien upon each Estate against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Estate at the time when the assessment occurred. The lien securing any such assessment shall be subordinate and inferior to the lien or any mortgage existing prior to the assessment date and to any renewals or extensions of such mortgage.

(b) Review. A plan showing the location and screening of all exterior utility meters, transformers and other exterior mechanical equipment must be approved by the Architectural Review Committee.

9.06 Loading Docks and Areas.

(a) Location. Loading docks and areas shall not be located on the street side of any building or structure, except that the Architectural Review Committee may approve such location in writing (subject to express screening requirements) on one side of corner buildings or structures.

(b) Setbacks. Loading areas may not encroach setback areas except that the Architectural Review Committee may approve such encroachment in connection with the approval of street side loading areas for corner buildings as described in the preceding paragraphs.

(c) Screening. Loading docks and areas shall be screened in a manner approved in writing by the Architectural Review committee considering such things as location (street side or rear) and views from adjacent and nearby properties.

9.07 Exterior Illumination. All exterior lighting shall be designed, altered and maintained in accordance with plans and specifications submitted to and approved in writing by the Architectural Review Committee. Lighting shall be compatible and harmonious throughout the entire development and shall be in keeping with the specific function and building type served. All exterior illumination shall be from nonapparent or concealed sources.

9.08 Building Design. The objective in building standards is to obtain consistency and quality in architectural design to protect and enhance values in the Property. In order to maintain consistency, yet permit interest and variety and the use of new materials as they may develop, all architectural designs, including those for alterations, additions, or remodeling, are subject to review and approval of the Architectural Review Committee. Buildings should be considered as three dimensional objects and attention should be given to the compatible treatment of all exterior surfaces.

9.09 Construction Standards. All commercial structures shall meet the following standards, except as may be modified by the Architectural Review Committee:

(a) Exterior Building Materials. Exterior building materials and colors should conform to the Design Guidelines and must be approved by the Architectural Review Committee.

(b) Roofs. The building roof design, construction and height shall be approved in writing by the Architectural Review Committee.

(c) Fences. No fence, wall or hedge shall be erected, placed or altered on any Estate without the approval of Architectural Review Committee.

(d) Utilities.

(i) Improvements situated on an Estate shall be connected to the water and sewer lines as soon as practicable after same are available at the Estate line. No privy, cesspool or septic tank shall be placed or maintained upon or in any lake. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type, shall require the prior written approval of the Architectural Review Committee.

(ii) Except as to special street lighting or other aerial facilities which may be required by the City of Mesquite, Texas or which maybe installed by the Declarant pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals, transformers and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed on the Property whether upon individual Estates, easements, streets, or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, and person owning or acquiring any part of the Property, and all utility service facilities (including but not limited to water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by the City of Mesquite, Texas or a public utility. All utility meters, equipment, air conditioning compressors, air conditioning and heating units and similar items must (to the extent reasonably practicable) be visually screened and located in areas not visible from Estates or improvements constructed thereon or adjacent Estates.

(e) Paint. All painted improvements and other painted structures on each Estate shall be repainted by the Owner thereof at his sole cost and expense as often as is reasonably necessary to insure the attractiveness and aesthetic quality of such estate or improvements. The approval of the Architectural Review Committee otherwise required for improvements under this Declaration, shall not be required for such repainting so long as neither the color nor the arrangement of the colors of any improvements, nor the color of any paint is altered.

(f) Construction Period. Once commenced, construction shall be diligently pursued to the end that it may not be left in a partly completed condition any longer than reasonably necessary.

(g) Miscellaneous Construction Standards.

(i) Roof top equipment, piping, flashing and other items exposed to any view on the building roof, if approved by the Architectural Review Committee, shall be painted to match the roof surface color, or otherwise blend in the roof surface.

(ii) Each kitchen facility within a commercial building or complex of buildings shall contain a water flushing, garbage grinding disposal.

(iii) Each commercial building, complex of buildings, or separate commercial business enterprise shall, if required by the Architectural Review Committee, have a trash compactor on the premises adequate to handle the trash and waste items generated, manufactured or acquired thereon by such commercial activities. The sorting, handling, moving, storing, removing and disposing of all such waste materials must be housed or screened in a manner approved in writing by the Architectural Review Committee. All facilities and plans for the disposal of wastes other than by public sewage methods (such as shredding, compaction, incineration, reclamation, or chemical dissolution) must be approved in writing by the Architectural Review Committee.

ARTICLE X

ARCHITECTURAL REVIEW COMMITTEE

10.01 Architectural Review Committee. The overall plan for the development of the Property has been designed to insure and protect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, the Declarant hereby reserves and retains the right of architectural control to themselves or their assignees as hereinafter provided. The Declarant shall initially appoint an Architectural Review Committee, consisting of not less than three (3) members, who by majority vote may designate a representative to act for them.

The Declarant shall have the power to remove members of the Architectural Review Committee appointed by it with or without cause, and fill such vacancy by written notice to the remaining members. Any vacancy shall be filled by a successor appointed by the remaining member or members, subject to the approval of the Declarant. The Declarant's right to remove and appoint members of the Architectural Review Committee shall expire six (6) years from the date hereof or upon such earlier date as

Declarant may agree in writing, and thereafter vacancies on the Architectural Review Committee shall be filled by the Board of Directors. Until such successor(s) shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Each member of the Committee shall act reasonably and in good faith in performing his duties and obligations under this Article and in exercising its rights and powers set forth elsewhere in this Declaration.

10.02 Basis of Approval. No building, structure, parking structure, parking lot, fence, wall or improvement of any kind or nature shall be erected, placed or altered on any Estate until all plans and specifications and a plot plan have been submitted to and approved in writing by the Committee, or a majority of its members, as to:

- (a) quality of workmanship and materials;
- (b) proper facing of main elevation with respect to nearby streets;
- (c) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping;
- (d) location with respect to neighboring Estates and improvements thereon; and
- (e) the other standards set forth within this Declaration (and any amendments hereto).

The Committee is authorized and empowered to consider and review any and all aspects of construction, construction of other improvements and location, quality and quantity of landscaping on the Estates, which may, in the reasonable opinion of the Committee, adversely affect the enjoyment of one or more Estate Owner(s) or the general value of the Property. Also, the Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Committee. The Committee or the Board shall have the authority to make final decisions in interpreting the general intent, effect and purpose of restrictions and covenants described in Article VIII and Article IX hereof.

Any improvements constructed in accordance with plans and specifications approved by the Committee in accordance with its then applicable standards and requirements shall not be required to be changed because such standards are thereafter amended. The Committee shall review and act upon submitted plans and specifications in accordance with the applicable time periods specified.

10.03 Definition of "Improvement." Improvement shall mean and include all buildings and roofed structures, parking areas, loading areas, railroad trackage, fences, walls, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, streets, roads, alleys, paths, and any new construction or exterior improvement significantly altering the appearance of the Property may be included in any of the foregoing. It does not include public streets, utilities, garden shrubs or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances. It does include both original improvements and all later changes and improvements.

10.04 Preliminary Plan Submissions. The Architectural Review Committee is authorized and empowered to and shall consider, review and comment on preliminary plans submitted in duplicate on an informal basis to assist Owners, developers and prospective purchasers of portions of the Property in complying with applicable covenants and restrictions and to assist in the completion of feasibility studies undertaken by such persons or entities. If the preliminary plans and specifications are approved by the Committee, one set thereof will be retained by the Committee, and one complete set of plans will be marked "Approved" and returned to the Estate Owner or his designated representative. If found not to be in compliance with these Covenants, Conditions and Restrictions one set of such preliminary plans and specifications shall be marked "Disapproved," and returned accompanied by a reasonable statement of items found not to comply with these Covenants, Conditions and Restrictions. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, approval of the matters submitted shall be presumed. Comments on and approvals of preliminary plans and specifications shall be binding upon the Architectural Review Committee provided that conforming final plans and specification are submitted within ninety (90) days of such preliminary comments or approvals.

10.05 Plan Submissions. Final plans and specifications shall be submitted in duplicate, in writing, together with a review fee as provided in Section 10.14 below, to the Committee prior to the construction of any improvements on an Estate, which plans and specifications shall include, to the extent applicable to the proposed improvements as determined by the Architectural Review Committee, the following:

(a) A plan showing the location of all proposed improvements, structures, patios, driveways, parking areas and structures, fences and walls.

(b) Exterior elevations of all proposed buildings and structures.

(c) A description of exterior materials, colors, textures and shapes of all buildings and structures.

(d) A landscaping plan, including walkways, fences and walls, elevation changes, watering systems, vegetation, ground cover, street furniture and sculpture.

(e) Parking areas and driveway plans.

(f) Screening of service and parking areas, including size, location and method.

(g) Exterior illumination, if any, including location, manufacturer's fixture number and support photometric test data.

(h) Trash container storage locations and related screening.

(i) Proposed use of parcel of land.

(j) Fire protection system.

(k) Location and name of all proposed streets, alleys, walkways and easements.

(l) Signs, including size, shape, color, content, location, materials and illumination.

(o) Any other data or information requested or deemed reasonably necessary by the Architectural Review Committee.

The Committee may defer the date for submission of any of the matters described in this Section by notice in writing to the person or entity requesting such deferral of the submission date.

10.06 Approval Procedure. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications are found to be acceptable by the Committee, one (1) complete set of the plans will be retained by the Committee and one (1) complete set of plans will be marked "Approved" and returned to the Estate Owner or his Designated representative. If found not to be in compliance with these Covenants, Conditions and Restrictions, one (1) set of such plans and specifications shall be marked "Disapproved," accompanied by a reasonable statement of items found not to comply with these Covenants, Conditions and Restrictions. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, approval of the matters submitted shall be presumed. The date of submission of plans and specifications or changes there to shall be evidenced only by the written receipt executed by the Committee or a representative thereof, which receipt shall set forth the date of submission of the last of those matters required by Section 10.05, or any changes thereto. Any material modifications or changes to the approved set of plans and specifications must again be submitted to the committee for its inspection and approval. Material modification or change in plans and specifications must be approved or disapproved in writing within ten (10) business days after submission to the Committee or such modifications or changes shall be deemed to be approved.

The Committee is authorized and empowered to consider and review any and all aspects of construction, construction of other improvements and location, quality and quantity of landscaping on the Estates, which may, in the reasonable opinion of the Committee, adversely affect the use and enjoyment of one or more Estate Owner(s) or the general value of the Property. Also, the Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Committee.

All improvements approved by the Committee shall be diligently commenced after obtaining all necessary governmental approvals therefor and thereafter shall be pursued to completion.

10.07 Design guidelines. The committee may, from time to time, publish and promulgate Design Guidelines (herein so called), and such Design Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Review Committee in reviewing plans and specifications. In any

event, such Design Guidelines shall not be binding upon the Committee and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Committee for approval.

10.08 Variances. Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Estate Owners to construct, erect, or install improvements which are in variance from the Covenants and Restrictions or architectural standards which are provided in Article VIII and IX herein or which may be promulgated in the future. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community. Written requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing, approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any Estate Owner for any claims, causes of action, or damages arising out of the grant of any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such request and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce the Covenants, Restrictions and architectural standards provided hereunder, against any other Owner.

10.09 Nonconforming and Unapproved Improvements. The Declarant, the Board of Directors and/or the Architectural Review Committee may require an Owner to restore such Owner's improvements to the condition existing prior to the construction hereof (including, without limitation, the demolition and removal of any unapproved improvement) if such improvements were commenced or constructed in violation of this Article X. In addition, the Declarant, the Board of Directors and/or the Architectural Review Committee, may (but has no obligation to) cause such restoration, demolition and removal and levy the amount of the cost thereof as a special individual assessment against the Estate upon which such improvements were commenced or constructed.

10.10 No Liability. Neither Declarant, the Board, the Committee, the Association, nor the officers, directors, members, employees or agents of any of them, shall be liable in damages to anyone submitting and specifications to any of them for approval, or to any Owner of property affected by these restriction by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or

specifications, and every Owner of any of said property agrees that he will not bring any action or suit against Declarant, the Board, the Committee, the Association or the officers, directors, members, employees or agents of any of them, to recover any such damages and hereby releases, promises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

10.11 Certificate of Compliance. Within ten (10) business days after an Owner's written request for same and upon substantial completion (as such term is defined by the American Institute of Architects) of improvements, the plans and specifications for which are subject to review by the Committee, the Committee shall inspect such improvements, and if the improvements are constructed, erected, placed or altered in accordance with approved plans and specifications, the Committee shall issue a certificate evidencing compliance with the provision hereof. If the project subject to review is a phased project, the Committee shall inspect each phase as phases are substantially completed (as such term is defined by the American Institute of Architects) and if such phase, including, but not limited to, parking facilities, landscaping and signage related to such phase, is found to be in substantial conformity with previously approved plans, specifications and other submissions, a certificate evidencing such compliance will be issued by the Committee.

10.12 Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of substantial completion of construction of any improvement within the Property, said improvements shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in such compliance with all provisions of this Article unless actual notice of such noncompliance and noncompletion, executed by the Architectural Review Committee or its designated representative, shall appear of record in the office of the County Clerk of the County, or unless legal proceedings shall be instituted to enforce compliance or completion. The term "substantial completion" shall be defined in the manner adopted by the American Institute of Architects from time to time. Subsequent improvements, alterations or repairs to an Estate shall not entitle the Committee to review for compliance any improvements substantially completed more than one (1) year prior to such more recent improvements, alterations or repairs which are subject to review.

10.13 Appointment and Designation. The Committee may from time to time, by the vote or written consent of a majority of its members, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified persons or subcommittees which shall have full authority to act on behalf of said Committee in all matters delegated.

10.14 Review Fee and Address. Any plans and specifications shall be submitted for approval to the Committee in duplicate, in writing, together with a review fee of \$50.00. In addition to the review fee, an Owner shall be responsible for the payment of any expenses associated with the employment of non-affiliated consultants to review plans and specifications as well as incidental expenses associated with the review process. Such non-affiliated consultant costs and incidental expenses shall be paid by the Owner seeking Committee approval, in such amount as is actually incurred. The fee for subsequent reviews by the Committee of resubmitted plans after denial of approval shall be \$25.00 per review, exclusive of non-affiliated consultant costs or incidental expenses, which costs and expenses shall be paid in such amount as is actually incurred. The review fee and any non-affiliated consultant costs or incidental expenses shall become part of the Owner's assessment obligation pursuant to Article IV of this Declaration.

10.15 Inspection. After telephonic notice to the Owner, any member or agent of the Committee may from time to time at any reasonable hour or hours enter and inspect any property subject to the jurisdiction of said Architectural Review Committee to confirm improvement or maintenance in compliance with the provisions hereof.

10.16 Governmental Authorities. Declarant, its successor and assigns, and all future Owners of any Estate and their successors and assigns, by their acceptance of their respective duties, shall be bound by and subject to all laws, rules and regulations affecting the Property. No improvement, addition, change or alteration thereof shall be construed, erected, placed altered or maintained on any of the Property, which is in violation of any of the laws or ordinances of the City of Mesquite, Texas or any other applicable governmental laws, rules or regulations. Notwithstanding anything to the contrary herein contained, Declarant, the Association, the Board, the Committee and their respective officers, directors, agents and employees shall have no obligation to enforce or to report the violation of any such law, ordinance, rule or regulation.

10.17 No Liability for Design Defects. Plans and specifications are not reviewed or approved for engineering or structural design or quality of materials, or building code compliance, and by approving such plans and specification

neither the Association, the Board, the Committee, nor the members thereof assume liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications or for noncompliance with applicable building codes.

ARTICLE XI

MORTGAGEE PROTECTION

11.01 Priority of Mortgage. Notwithstanding any other provision of this Declaration, it is hereby provided that a breach of any of the conditions contained in the Declaration by any Owner or of any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to an Estate or any part thereof. Any lien which the Association may have on any Estate for the payment of Assessments attributable to such Estate will be subordinate to the lien or equivalent security interest of any first mortgage on the Estate held by an institutional lender, recorded prior to the date any such Assessments became due and prior to the date written notice of such Assessments was recorded in the appropriate real property records of Dallas County, Texas.

11.02 Notices to Institutional Lenders. All institutional lenders holding mortgages on an Estate, or any portion thereof, shall be given notice of the following events, upon receipt by the Association of a written request that such lender receive such notices, together with a complete and accurate description of the Estate securing their mortgage and an accurate address for such lender:

(a) Notice of Owner's Default. The institutional holder of a mortgage on any Estate shall be given written notice by the Association of any default by any Owner of such Unit in the performance of an obligation set forth in this Declaration which is not cured within sixty (60) days.

(b) Notice of Change in Declaration. Each institutional lender holding a mortgage shall be given ten (10) days' written notice by the Association prior to the effective date of any change in the Declaration.

11.03 Financial Information. Upon written request to the Association, any institutional lender holding a mortgage is entitled to: (a) inspect the books and records of the Association during normal business hours; and (b) receive an annual financial statement of the Association.

11.04 Rights of Declarant's Mortgagee(s).
Notwithstanding any other provision of this Declaration, it is hereby provided that, if at any time following a default under any mortgage or deed of trust held by an institutional lender on the Estate owned by Declarant, any such institutional lender shall foreclose upon the Estate held by Declarant, upon any such foreclosure, the institutional lender foreclosing upon the Estate shall have the right, but not the obligation, to succeed to all the rights, titles, interests, duties and obligations of Declarant under this Declaration; provided however, that all rights, titles and interests of such institutional lender upon any such foreclosure shall be subject to all rights, titles and interests, and all duties, obligations and liabilities, of Declarant to the City of Mesquite and the Association as provided hereunder.

ARTICLE XII

EASEMENTS

12.01 Easements. Easements, licenses, franchises or other similar permits for installation, maintenance, repair and removal of utilities, public rights-of-way and drainage facilities and floodway easements and video services, cable television services, security services, communication services, fire protection services and other similar services over, under and across the Property are reserved by Declarant for itself, its successors and assigns, as specifically set forth on recorded plats of the Property, portions thereof or as set forth in other documents of record in the Deed Records of Dallas County, Texas. In addition, the Declarant hereby reserves to itself, its successors and assigns, and to the Association, easements for installation, maintenance and repair and removal of utilities and drainage facilities and video services, cable television services, security services, communication services, fire protection services and other similar services, such easements to be located between the right-of-way lines of public or private rights-of-way within the Property and building setback lines from such public or private rights-of-way, such easements in no event to exceed fifteen feet (15') in width as measured from such right-of-way lines. In any event, such easements shall be contiguous to the right-of-way lines. Full right of ingress and egress shall be had by Declarant at all times over the Property to the extent reasonably necessary for the installation, operation, maintenance, repair or removal of any utility or drainage facility contained within any of the aforesaid easements. Full right of ingress and egress shall also be had by Declarant at all times over the Property as may be reasonably required to remove any obstruction that may be placed in such easements without the approval of the Declarant

or the owner of the relevant easement, where such unauthorized obstruction would constitute interference with the use of such easement or with the use, maintenance, operation or installation of such utility or other services, as aforesaid. In no event shall the foregoing prohibit paving or landscaping within such easements. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder to one or more public utility companies, quasi-public service companies, or relevant governmental authorities. All utilities and services installed within the aforesaid easements shall be installed underground. Full rights of ingress and egress shall be had by Declarant and its successors and assigns at all times over the Property for the installation, operation, maintenance, repair or removal of any utility or service together with the right to remove any obstruction that may be placed in the aforesaid easements that would constitute interference with the use of the aforesaid easements, or with the use, maintenance, operation or installation of such utility or service.

12.02 Ingress and Egress by the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon each Estate for the maintenance and repair of each Estate in accordance with the provision hereof, and for the carrying out by the Association of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any Estate shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association at the expense of such Association.

12.03 Estate Owners Easements. The rights and duties of the Owners of Estates within the Property with respect to sanitary sewer, water, electricity, telephone and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer and/or water service connections or electricity, or telephone and cable television lines or drainage or security facilities are installed within the Property, which connection lines or facilities or any portion thereof, lie in or upon Estates owned by any part other than the Owner of an Estate served by said connections, lines or facilities, such Owners of Estates served shall have the right, and are hereby granted, an easement to the full extent necessary therefore, to enter upon the Estates within the Property within or upon which said connections, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary.

(b) Wherever sanitary sewer and/or water service connections or electricity, telephone or cable television lines or drainage or security facilities are installed within the Property, which connections serve more than one Estate, the Owner of each Estate served by said connections shall be entitled to the full use and enjoyment of such portions of said connections which service such Owner's Estate.

12.04 Public Easement. There is hereby reserved to Declarant, its successors and assigns, an easement for public ingress and egress over any public pedestrian pathways.

12.05 Easement for Construction, Maintenance and Repair of Screening Walls. Except as set forth to the contrary in the Buffer Easements, Declarant does hereby perpetually dedicate, establish, create and set aside a nonexclusive ten foot (10') wide easement over, across and upon the Property, such easement to be five feet (5') on either side of Property entrance and screening walls constructed by the Declarant or developers which have purchases Estates from the Declarant. Such easements are reserved for the exclusive benefit of Declarant and the Association, their respective successors and assigns, for the construction, maintenance and repair of Property entrance and screening walls. Estate Owners shall not alter, paint, attach fences to or otherwise use such walls even though certain of such walls and/or the easement reserved herein may be located on such Owner's Estate.

ARTICLE XIII

MAINTENANCE STANDARDS AND ZONING ORDINANCE

13.01 Duty of Maintenance. Owners and occupants (including lessees) of any Estate shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep the Estate so owned or occupied, including buildings, improvements, grounds or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Lawn mowing on a regular basis;
- (c) Tree and shrub pruning;
- (d) Watering landscaped areas;

(e) Keeping exterior lighting and maintenance facilities in working order;

(f) Keeping lawn and garden areas alive, free of weeds, and attractive;

(g) Keeping parking areas, driveways, and roads in good repair;

(h) Complying with all government health and police requirements;

(i) Repair of exterior damages to Improvements;

(j) Cleaning of landscaped areas lying between public right-of-way lines and Estate lines unless such streets or landscaped areas are expressly designated to be Common Area maintained by applicable governmental authorities or the Association; and

(k) If applicable, striping of parking areas and repainting of improvements.

13.02 Enforcement. If, in the reasonable opinion of the Board of Directors, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Board may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the case or make arrangements with the Board for making repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Board, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and occupants (including lessees) of any part of the Property on which such work is performed shall be jointly and severally liable for the cost of such work (such costs constituting a special individual assessment as specified in Article IV, Section 4.05 hereof) and shall promptly reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all said persons jointly and severally, and shall constitute a lien against that portion of the Property on which said work was performed. Such lien shall have the same attributes as the lien for Assessments and Special Assessments set forth in this Declaration, and the Association shall have identical powers and rights in all respects, including but not limited to the right of foreclosure.

13.03 Association Rules and Regulations. All Owners and occupants shall abide by reasonable rules and regulations adopted by the Board pursuant to the provisions of Article V, Section 5.01(p) hereof. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees.

13.04 Zoning. Each Owner, by acceptance of a deed to all or any portion of the Property, shall own his Estate subject to the terms and provisions and the obligations and responsibilities set forth in the Ordinance, as same may be amended from time to time. The Association shall have responsibility for maintenance of the Landscape Buffer Area, the lighting equipment located in the Landscape Buffer Area, the masonry wall, and the other improvements in the Landscape Buffer Area described in the Ordinance, and each Owner shall be assessed accordingly. The Association shall expressly assume all of Declarant's maintenance obligations under the Buffer Easements or any easement granted to Declarant by Dallas Power and Light Company and/or the City relative to the landscape Buffer Area and the improvements therein.

ARTICLE XIV
CONDEMNATION

14.01 Condemnation of Common Area. In the event of taking by eminent domain of any part of the Common Area, the Association shall participate in the negotiations, agreements and settlements with the condemning authority or the court. The award or proceeds of settlement shall be payable to the Association for the use and benefit of the Owners.

ARTICLE XV
GENERAL PROVISIONS

15.01 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date that this Declaration is recorded in the office of the County Clerk of Dallas County, Texas, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10)

years. Notwithstanding anything contained herein to the contrary, this Declaration may be terminated and abolished at any time during the term hereof upon the recordation of an instrument (approved by the Members entitled to cast sixty-seven percent (67%) of the votes of the Association in the aggregate regardless of class) in the Deed Records, Dallas County, Texas, agreeing to abolish the same covenants, conditions and restrictions in whole or a substantial portion thereof; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) month in advance of the effective date of such abolishment.

15.02 Amendments. Notwithstanding Section 15.01 of this Article, the Declarant may amend or change the covenants and restrictions of this Declaration with the assent of the majority of the vote of those Members who are voting in person or by proxy at a meeting duly called for that purpose; provided that the Declarant may execute and record amendments to this Declaration without such consent or approval if the amendment is for the purpose of correcting technical errors or for clarification only. Further, this Declaration also may be amended by the assent of Owners representing more than fifty percent (50%) of the total vote of the Association. Any and all amendments, if any, shall become effective when recorded in the office of the County Clerk of Dallas County, Texas, or at such later date as provided in the amendment.

15.03 Enforcement by Declarant, Owners, Association, or City. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these covenants; and failure by the Association, the Committee or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant, the Board, the Committee and/or the Association shall also have the right, but not the obligation, to enforce these covenants and restrictions in accordance with the provisions set forth within this Declaration.

Each Owner understands and agrees that the Declarant or the Association (through its Board of Directors) may (without the joinder or approval of any Member) grant to the City the right to maintain and repair the Landscape Buffer Area and Common Area improvements located therein, in accordance with the requirements and standards of the Ordinance. The City shall be entitled to maintain and repair the Landscape Buffer Area in the event, and only in the event, the Association fails to so maintain and repair such Landscape Buffer Area. In the event the Association fails to maintain and repair the Landscape

Buffer Area as aforesaid, and the City undertakes such maintenance and repair, the City shall be entitled to charge the cost of such maintenance and repair to the Association and the Owners. Such costs and expenses shall be payable upon demand and if not paid by the Association the City shall have the right to assess the Owner directly for payment of such costs and expenses and the City shall succeed to and shall be entitled to exercise all rights of enforcement, remedies and liens to which the Association is entitled pursuant to the terms and provisions of this Declaration.

15.04 Limitation of Restrictions on Declarant.
Declarant is undertaking the work of developing land for commercial purposes and incidental improvements upon the Property. The completion of that work and the sale or other disposal of such developed land is essential to the establishment and welfare of said Property as a commercial development. In order that said work may be completed and said Property be established as a fully occupied commercial development as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors or subcontractors, from doing to the Property whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a commercial development and disposing of the same in parcels by sale, lease, or otherwise; or

(c) Prevent Declarant from conducting on any part of the Property such business or completing said work; or

(d) Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease or disposition thereof, provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of his Estate.

The foregoing limitations of the application of the restrictions to Declarant shall terminate upon the sale of Declarant's entire interest in the Property.

Any action taken by Declarant pursuant to any provision of this Section will not unreasonably interfere with the Owner's rights and use of his Estate.

15.05 Termination of and Responsibility of Declarant. If Declarant should convey all of its right, title and interest in and to the Property and assign all of its rights, benefits and obligations as Declarant hereunder to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

15.06 Owners' Compliance. Each Owner, tenant or occupant of an Estate shall comply with the provisions of this Declaration, and to the extent they are not in conflict with the Declaration, each Owner, tenant or occupant of an Estate shall comply with the Bylaws, rules, regulations, decisions, and resolutions of the Association or its duly authorized representative, and failure to comply with any such Bylaws, rules, regulations, decisions, or resolutions shall be grounds for an action to recover sums due, for the use of self-help, for damages and/or fines or for injunctive relief.

All agreements and determinations lawfully made by the Association in accordance with this Declaration shall be deemed to be binding on all Owners of Estates, their successors and assigns.

15.07 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

15.08 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

15.09 Notices to Member or Mortgagee. Except as hereinafter set forth, notice required to be given to any Member or mortgagee under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Member or mortgagee on the records of the Association at the time of such mailing. In the event that there are multiple Members or multiple mortgagees with respect to a single Estate, the Association shall be obligated to send notice to only one (1) of the multiple Members and the multiple mortgagees (as provided in Section 11.02) of such Member. Notice to one Member shall be deemed to be notice to all. Multiple Members may designate one (1) of their group as the person entitled to notice by so notifying the Association

in writing of such person and the address thereof, but if no such person is designated the Association may notify any one (1) of such multiple Members and the mortgagees of such Member. Notices of past-due assessments, of the intention to institute any of the punitive provisions hereof, of any sanctions to be imposed hereunder or of any violations of this Declaration shall be sent to the affected person or entity by certified mail, return receipt requested, and addressed as aforesaid.

15.10 Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Association Bylaws shall be determined by the Board of Directors, whose reasonable determination shall be final and binding upon all Owners.

IN WITNESS WHEREOF, the undersigned officers of Emporium on LBJ Owners Association, Inc., have caused this instrument to be executed as of the 11 day of December, 1991.

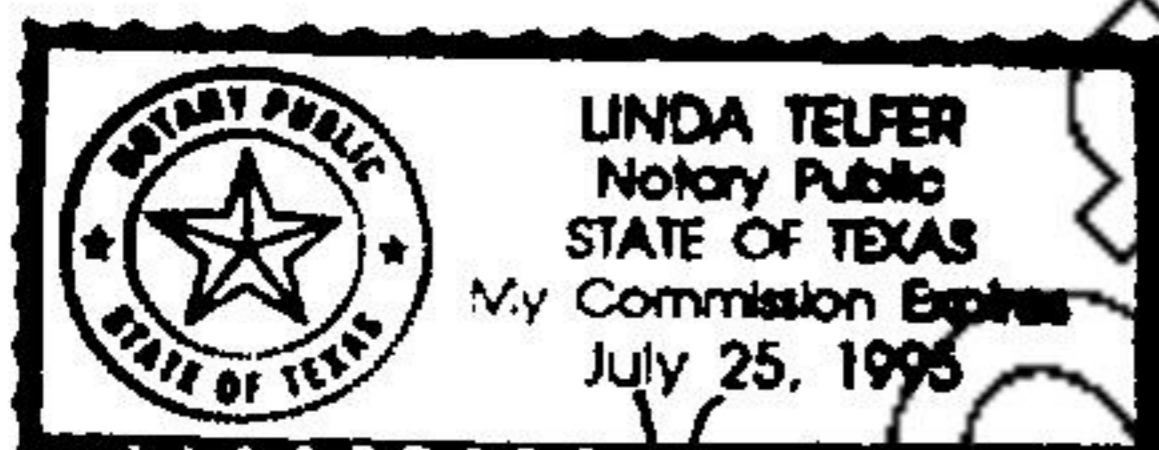
EMPORIUM ON LBJ OWNERS ASSOCIATION, INC.

By: Krystal Mahaney
President

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 11th day of December, 1991, by Krystal Mahaney, President of Emporium on LBJ Owners Association, Inc., on behalf of said nonprofit corporation.



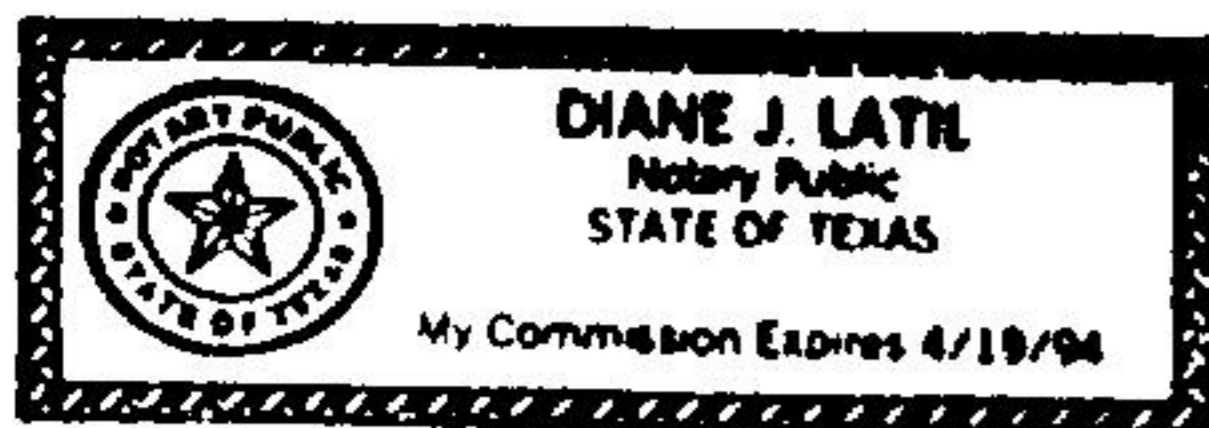
Linda M. Telfer
Notary Public in and for the
State of Texas
My Commission Expires: 7/25/95

Attest: Karen S. Boyd
Secretary

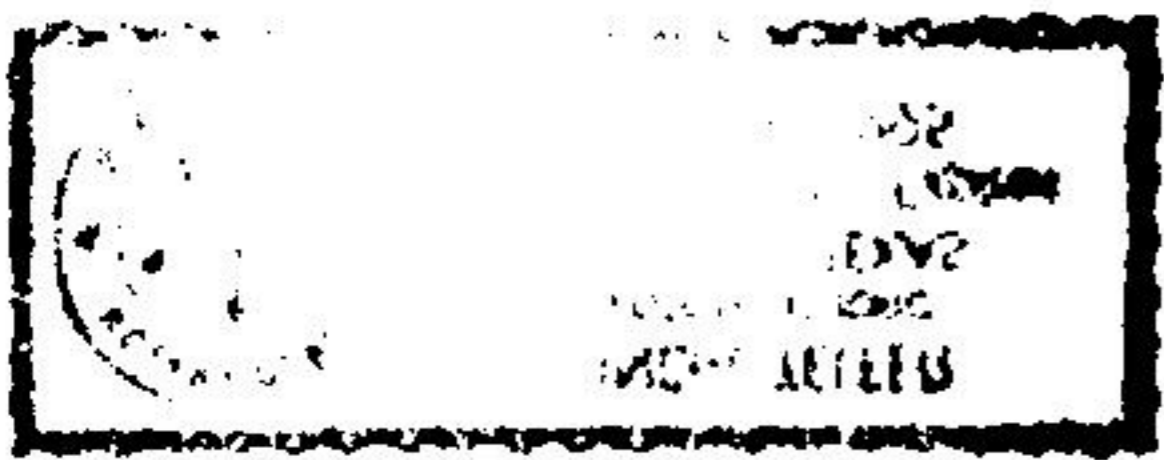
STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 16th day of December, 1991, by KAREN S. BOYD, Secretary of Emporium on LBJ Owners Association, Inc., on behalf of said nonprofit corporation.



Diane J. Lath
Notary Public in and for the
State of Texas
My Commission Expires: _____



COMPTON CLERK, Dallas County, Texas

Gay Bullock



DEC 19 1991

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is hereby null and void. Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is hereby null and void. Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is hereby null and void. Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is hereby null and void.

COUNTY OF DALLAS

STATE OF TEXAS

I hereby certify this instrument was filed on the date and time stated herein by me and was duly recorded in the volume and page of the named records of Dallas County, Texas as denoted hereon by me.

Unofficial Copy

1991 DEC 19 AM 8 39

CLERK OF COURTS
DALLAS COUNTY

EXHIBIT A

TRACT 1

BEING a tract of land lying and being situated in the J. T. MELMS SURVEY, ABSTRACT No. 1095, and in the I. THOMAS SURVEY, ABSTRACT No. 1501 in the City of Mesquite, Dallas County, Texas, and being part of that land conveyed to Basil Georges by Raleigh Blakely, Trustee, by deed records in Volume 70004, Page 1298, and a part of that land conveyed to Basil Georges by Estelle Chenault by deed recorded in Volume 67227, Page 1159, both of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at the most Northerly Northeast corner of that land described as Tract 1 in said Chenault deed, said point also being the Southeast corner of Country Meadow No. 2, an addition to the City of Mesquite according to the plat thereof recorded in Volume 80139, 0990 of said Deed Records, an iron stake found for corner;

THENCE S 00°48'06"W, along the West line of Palos Verdes Estates No. 5, Phase III, an addition to the City of Mesquite according to the plat thereof recorded in Volume 79211, Page 0578 of said Deed Records, 1447.51 feet to the Southwest corner thereof, an iron stake found for corner;

THENCE S 87°57'18"E, along the South line of said Palos Verdes Estates No. 5, Phase III, 560.59 feet to a point in the West line of a tract of land conveyed to Dallas Power & Light Company by Estelle Chenault by deed recorded in Volume 5535, Page 254 of said Deed Records, an iron stake found for corner;

THENCE S 27°58'30"W, along the West line of said Dallas Power & Light tract, 641.48 feet to a point in the North line of Town East Boulevard (50' from the centerline thereof, according to the deed recorded in Volume 83205, Page 1514 of said Deed Records), an iron stake set for corner;

THENCE N 89°11'13"W, along the North line of Town East Boulevard, 1745.50 feet to an iron stake set for corner;

THENCE S 81°27'48"W, along the North line of Town East Boulevard, 1412.52 feet to a point in the East line of I.H. No. 635 (L.B.J. Freeway - variable R.O.W.), an iron stake set for corner;

THENCE N 06°35'12"W, along the East line of I.H. No. 635, 125.06 feet to a concrete monument found for corner;

THENCE N 19°43'28"W, along the East line of I.H. No. 635, 74.73 feet to a concrete monument found for corner;

THENCE N 06°35'12"W, along the East line of I.H. No. 635, 292.75 feet to a concrete monument found for corner;

THENCE N 09°55'01"W, along the East line of I.H. No. 635, 661.31 feet to a concrete monument found for corner;

THENCE N 06°28'46"W, along the East line of I.H. No. 635, 1130.16 feet to a point in the North line of said Raleigh Blakely tract, an iron stake found for corner;

THENCE S 89°16'17"E, along the North line of said Raleigh Blakely tract and the South line of said County Meadow No. 2, 3218.14 feet to the POINT OF BEGINNING and containing 152.545 acres of land, more or less.

SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

BEING a tract of land lying and being situated in the J. T. MELMS SURVEY, ABSTRACT NO. 1095, in the City of Mesquite, Dallas County, Texas, and being part of that land conveyed to Basil Georges by Raleigh Blakely, Trustee, by deed recorded in Volume 70004, Page 1298, and a part of that land conveyed to Basil Georges by Estelle Chenault by deed recorded in Volume 67227, Page 1159, both of the Deed Records of Dallas County, Texas, and being a part of the same property conveyed to Basil Georges by Deed dated July 3, 1979, filed July 9, 1979, recorded in Volume 79135, Page 0044, Deed Records, Dallas County, Texas, save and except that portion of the property conveyed

to the City of Mesquite for the widening of Town East Blvd., and being more particularly described as follows:

COMMENCING at the most Northerly Northeast corner of that land described as Tract 1 in said Chenault deed, said point also being the Southeast corner of Country Meadow No. 2, an addition to the City of Mesquite according to the plat thereof recorded in Volume 80139, Page 0990 of said Records, an iron stake found for corner;

THENCE S 00°48'06"W, along the West line of Palos Verdes Estates No. 5, Phase III, an addition to the City of Mesquite according to the plat thereof recorded in Volume 79211, Page 0578, of said Deed Records, 993.47 feet to the POINT OF BEGINNING;

THENCE continuing along said West line of Palos Verdes Estates No. 5, S 00°48'06"W, 454.04 feet to the Southwest corner thereof, an iron stake found for corner;

THENCE S 87°57'18"E, along the South line of said Palos Verdes Estates No. 5, Phase III, 560.59 feet to a point in the West line of a tract of land conveyed to Dallas Power and Light Company by Estelle Chenault by deed recorded in Volume 5535, Page 254, of said Deed Records, an iron stake found for corner;

THENCE S 27°58'30"W, along the West line of said Dallas Power and Light tract 641.48 feet to a point in the North line of Town East Boulevard (50 feet from the center line thereof, according to the deed recorded in Volume 83205, Page 1514, of said Deed Records), an iron stake set for corner;

THENCE N 89°11'13"W, along the North line of Town East Blvd., 1722.34 feet to a point for corner;

THENCE N 00°48'47"E, 1068.11 feet to a point for corner;

THENCE S 87°57'18"E, 1454.97 feet to the POINT OF BEGINNING and containing 1,770,715.74 square feet or 40.65 acres of land more or less.

TRACT 2

BEING a tract of land lying and being situated in the J. T. NELMS SURVEY, ABSTRACT No. 1095 in the City of Mesquite, Dallas County, Texas, and being part of that land described as "TRACT 2" in a deed from Estelle Chenault to Basil George, recorded in Volume 67227, Page 1159 of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point in the East line of a tract of land conveyed to Dallas Power & Light Company by Estelle Chenault by deed recorded in Volume 5535, Page 254 of said Deed Records, said point being the most Westerly corner of Palos Verdes Estates No. 5, Phase II, an addition to the City of Mesquite according to the plat thereof recorded in Volume 79019, Page 0280 of said Deed Records, an iron stake found for corner;

THENCE S 87°57'18"E, along the most Westerly South line of said Palos Verdes Estates No. 5, Phase II, 588.60 feet to a point in the most Southerly West line of said addition, an iron stake set for corner;

THENCE S 00°51'21"W, along the most Southerly West line of said Palos Verdes Estates No. 5, Phase II, 555.09 feet to a point in the North line of Town East Boulevard (50' from the centerline thereof, according to the deed recorded in Volume 83205, Page 1514 of said Deed Records), an iron stake set for corner;

THENCE N 89°11'13"W, along the North line of Town East Boulevard, 879.36 feet to a point in the East line of said Dallas Power & Light Company tract, an iron stake set for corner;

THENCE N 27°58'30"E, along the East line of Said Dallas Power & Light Company tract, 638.12 feet to the POINT OF BEGINNING and containing 9.480 acres of land, more or less.

Unofficial Copy

EXHIBIT A, Page 3

92028 3098

EXHIBIT "B"
DESCRIPTION

BEING a 50 foot wall and landscape easement lying and being situated in the J.T. HELMS SUR ABSTRACT NO. 1095 in the City of Mesquite, Dallas County, Texas, and being part of that 1 described as "TRACT 2" in a deed from Estelle Chenault to Basil Georges, recorded in Volu 67227, Page 1159 of the Deed Records of Dallas County, Texas, and being part of the same property conveyed to Basil Georges by Deed dated 7-2-79, filed 7-9-79, recorded in Volume 79135, Page 0044, Deed Records, Dallas County, Texas, and being more particularly describ as follows:

BEGINNING at a point in the East line of a tract of land conveyed to Dallas Power and Lig Company by Estelle Chenault by deed recorded in Volume 5535, Page 254 of said Deed Record said point being the most Southwesterly corner of Palos Verdes Estates No. 5, Phase II, an addition to the City of Mesquite according to the plat thereof recorded in Volume 7901 Page 0280 of said Deed Records, a point for corner;

THENCE S 87°57'18" E, a distance of 588.60' along the said Palos Verdes Estates No. 5, Phase II, to a point for corner;

THENCE S 00°51'21" W, a distance of 555.09 feet, along the most Southerly West line of sa Palos Verdes Estates, No. 5, Phase II to a point in the North line of Towne East Blvd. (50 feet from the centerline thereof, according to the deed recorded in Volume 83205, Pag 1514 of said Deed Records), a point for corner;

THENCE N 89°11'13" W a distance of 50.00 feet, along said North line, to a point for corr.

THENCE N 00°51'21" E, a distance of 506.16', to a point for corner;

THENCE N 87°57'18" W, a distance of 553.94', to the East line of the aforementioned Dallas Power and Light Company Tract, to a point for corner;

THENCE N 27°58'30" E a distance of 55.60 feet, along said East line, to the POINT OF BEG; and containing 55,345 square feet or 1.271 acres of land, more or less.

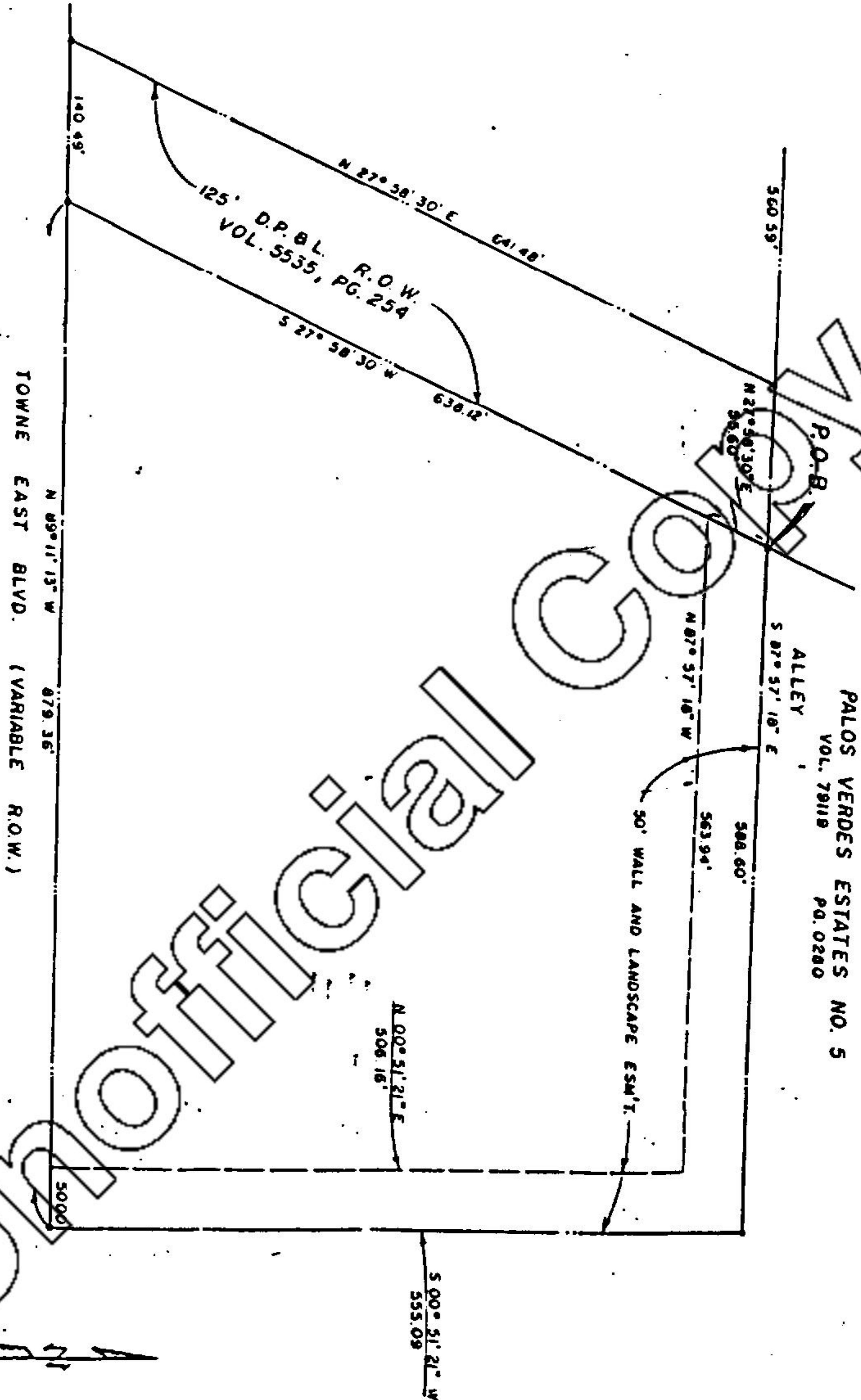


EXHIBIT
 SCALE: 1" = 100'

13 N 110 T1305

92028 3100

N

DESCRIPTION

BEING a 50 foot wall and landscaping easement lying and being situated in the J.T. HELMS SURVEY, ABSTRACT NO. 1095, Dallas County, Texas, and being part of that land conveyed to Georges by Raleigh Blakely, Trustee, by deed recorded in Volume 20006, Page 1298, and a part of that land conveyed to Basil Georges by Estelle Chenault by deed recorded in Volume 67, Page 1159, both of the Deed Records of Dallas County Texas, and being a part of the same property conveyed to Basil Georges by Deed dated July 3, 1979, filed July 9, 1979, recorded in Volume 79135, Page 0044, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point in the East line of Interstate Highway No. 635 (variable width R.O.W.) said point being the Northwest corner of said Raleigh Blakely tract, a point for corner;

THENCE S 89°16'17" E, along the North line of said Blakely tract, and along the South line of Country Meadows No. 2, an addition to the City of Mesquite according to the plat thereof recorded in Volume 80139, Page 0990 said Deed Records, a distance of 3038.14 feet to the proposed West line of Shackelford Drive extension (50 foot R.O.W.) a point for corner;

THENCE S 00°48'06" W a distance of 403.46 feet, along said West line to the proposed South line of Devonshire Lane extension (50 foot R.O.W.) a point for corner;

THENCE S 89°11'54" E a distance of 180.00 feet, along said South line to a point on the West line of Palos Verdes Estates No. 5, Phase III, an addition to the City of Mesquite according to the plat thereof recorded in Volume 79211, Page 0578, of said Deed Records;

THENCE S 00°48'06" W a distance of 574.14 feet, along said Palos Verdes Estates No. 5, Phase III, to a point for corner;

THENCE N 89°11'13" W, a distance of 50.00 feet to a point for corner;

THENCE N 00°48'06" E, a distance of 524.13 feet, to a point for corner;

THENCE N 89°11'54" W, a distance of 180.00 feet, to a point for corner;

THENCE N 00°48'06" E, a distance of 403.40 feet, to a point for corner;

THENCE N 89°16'17" W, a distance of 2981.75 feet, to the East line of IH NO. 635 (variable width R.O.W.);

THENCE N 06°28'46" W, a distance of 50.40 feet, along said East line to the POINT OF BEGINNING, and containing 207,126 square feet or 4.755 acres of land, more or less.

Unofficial Copy

COUNTRY MEADOW NO. 2
VOL. 80139, PG. 0990

POB
I.H. 635 (L.B.J. FRWY.)
(VARIABLE R.O.W.)

N06°28'46"W
50.40'

BRAZONIA

S 49° 16' 17" E
N 89° 16' 17" W
2987.75'

3039.14' DRIVE

50' WALL AND LANDSCAPE ESM'T

N 00° 48' 06" E
403.40'

N 89° 11' 54" W
180.00'

N 00° 48' 06" E
524.13'

N 89° 11' 13" W
50.00'

SHACKELFORD DRIVE

S 00° 48' 06" W
403.40'

S 89° 11' 54" E
180.00'

S 00° 48' 06" W
574.18'

PALOS VERDES ESTATES NO 5
PHASE III
VOL. 79211
PG. 0578

DEVONSHIRE LANE

EXHIBIT
SCALE: 1" = 300'

JAB NO 71302

92028 3102

EXHIBIT "C"

DESCRIPTION

BEING a 50 foot wall and landscaping easement lying and being situated in the J.T. HELMS SURVEY, ABSTRACT NO. 1095 in the City of Mesquite, Dallas County, Texas and being a part of the land conveyed in a deed by Estelle Chenault to Dallas Power and Light Company recorded in Volume 5535, Page 254 in the Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at the Northwest corner of the said Dallas Power and Light Company tract, a point for corner;

THENCE S 87°57'18" E, a distance of 138.99 feet, along the North line of said tract, to a point for corner;

THENCE S 27°58'30" W, a distance of 55.60 feet, along the East line of said tract, to a point for corner;

THENCE N 87°57'18" W, a distance of 138.99 feet to the West line of said tract, a point for corner;

THENCE N 27°58'30" E, a distance of 55.60 feet along the said West line to the POINT OF BEGINNING containing 0.1595 acres or 6949.63 square feet of land, more or less.

Unofficial

Copy

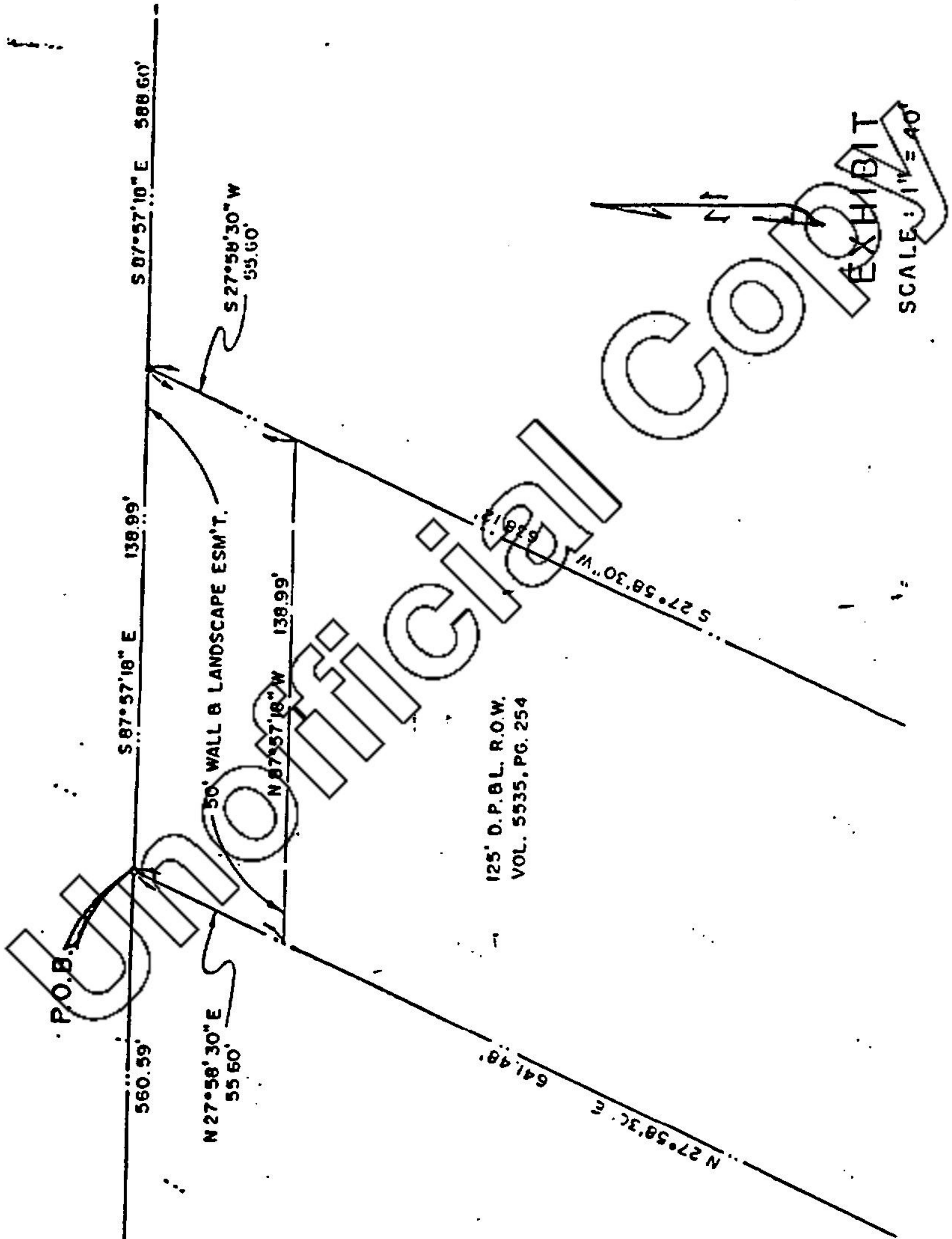


EXHIBIT
SCALE: 1" = 40'

125' D.P.B.L. R.O.W.
VOL. 5535, PG. 254

EXHIBIT "D"

BEING a tract of land situated in the J.T. NELMS SURVEY, ABSTRACT NO. 1095, in the City of Mesquite, Dallas County, Texas, and being a part of the 152.545 acre tract conveyed to LBJ East Joint Venture from Basil Georges by deed recorded in Volume 84031, Page 1645, in the Deed Records of said County and being more particularly described as follows:

COMMENCING at the intersection of the North line of Town East Boulevard with the West line of Emporium Drive (80' R.O.W.) according to the Street dedication plat recorded in Volume 85212, Page 3726 in said deed records;

THENCE Northwesterly along the said West line of Emporium Drive the following:

N 08°33'45" W, 38.98 feet to the beginning of a curve to the left;

Northerly, 200.02 feet along said curve to the left having a central angle of 16°08'28" and a radius of 710.00 feet (chord bears N 16°37'59" W, 199.36 feet) to the end of said curve;

N 24°42'13" W, 273.36 feet to the beginning of a curve to the right;

Northerly, 70.62 feet along said curve to the right having a central angle of 05°07'18", and a radius of 790.00 feet (chord bears N 22°08'34" W, 70.60 feet) to the POINT OF BEGINNING of this tract;

THENCE S 80°04'00" W, 139.14 feet to the beginning of a curve to the right;

THENCE Northwesterly, 181.43 feet along said curve to the right having a central angle of 90°00'00", and a radius of 115.50 feet (chord bears N 54°56'00" W, 163.34 feet) to the end of said curve;

THENCE N 09°56'00" W, 441.53 feet to the beginning of a curve to the right;

THENCE Northeasterly, 181.43 feet along said curve to the right having a central angle of 90°00'00", and a radius of 115.50 feet (chord bears N 35°04'00" E, 163.34 feet) to the end of said curve;

THENCE N 80°04'00" E, 127.97 feet to a point in the West line of the aforementioned Emporium Drive;

THENCE S 09°56'00" E, 31.00 feet along said West line to a point for corner;

THENCE S 80°04'00" W, 127.97 feet to the beginning of a curve to the left;

THENCE Southwesterly 132.73 feet along said curve to the left having a central angle of 90°00'00" and a radius of 84.50 feet (chord bears S 35°04'00" W, 119.50 feet) to the end of said curve;

THENCE S 09°56'00" E, 441.53 feet to the beginning of a curve to the left;

THENCE Southeasterly, 132.73 feet along said curve to the left having a central angle of 90°00'00", and a radius of 84.50 feet (chord bears S 54°56'00" E, 119.50 feet) to the end of said curve;

THENCE N 80°04'00" E, 134.50 feet to a point in the curving West line of Emporium Drive;

THENCE Southerly, 31.35 feet along said West line and along a curve to the left having a central angle of 02°16'25", and a radius of 790.00 feet (chord bears S 18°26'42" E, 31.35 feet) to the POINT OF BEGINNING and containing 31,632 square feet or 0.726 acres of land, more or less.

EXHIBIT "E"

DESCRIPTION
WALL & LANDSCAPE EASEMENT
IN TRACT I

BEING a tract of land lying and being situated in the J. T. NELMS SURVEY, ABSTRACT NO. 1095, Dallas County, Texas, and being part of that land conveyed to Basil Georges by Raleigh Blakely, Trustee, by deed recorded in Volume 70004, Page 2398, and a part of that land conveyed to Basil Georges by Estelle Chenault by deed recorded in Volume 67227, Page 1159, both of the Deed Records of Dallas County, Texas, and being a part of the same property conveyed to Basil Georges by deed dated July 3, 1979, filed July 9, 1979, recorded in Volume 79135, Page 0044, Deed Records, Dallas County, Texas -- save and except that portion of the property conveyed to the City of Mesquite for the widening of Town East Boulevard, and being more particularly described as follows:

COMMENCING at the most Northerly Northeast corner of that land described as Tract I in said Chenault deed, said point also being the Southeast corner of Country Meadow No. 2, an addition to the City of Mesquite according to the plat thereof recorded in Volume 80139, Page 0990, of said Deed Records, an iron stake found for corner;

THENCE S 00°48'06" W, along the West line of Palos Verdes Estates No. 5, Phase III, an addition to the City of Mesquite according to the plat thereof recorded in Volume 79211, Page 0578, of said Deed Records, 977.83 feet to the POINT OF BEGINNING;

THENCE continuing along said West line of Palos Verdes Estates No. 5, S 00°48'06" W, 469.68 feet to the Southwest corner thereof, an iron stake found for corner;

THENCE S 87°57'18" E, along the South line of said Palos Verdes Estates No. 5, Phase III, 560.59 feet to a point in the West line of a tract of land conveyed to Dallas Power and Light Company by Estelle Chenault by deed recorded in Volume 5535, Page 254, of said Deed Records, an iron stake found for corner;

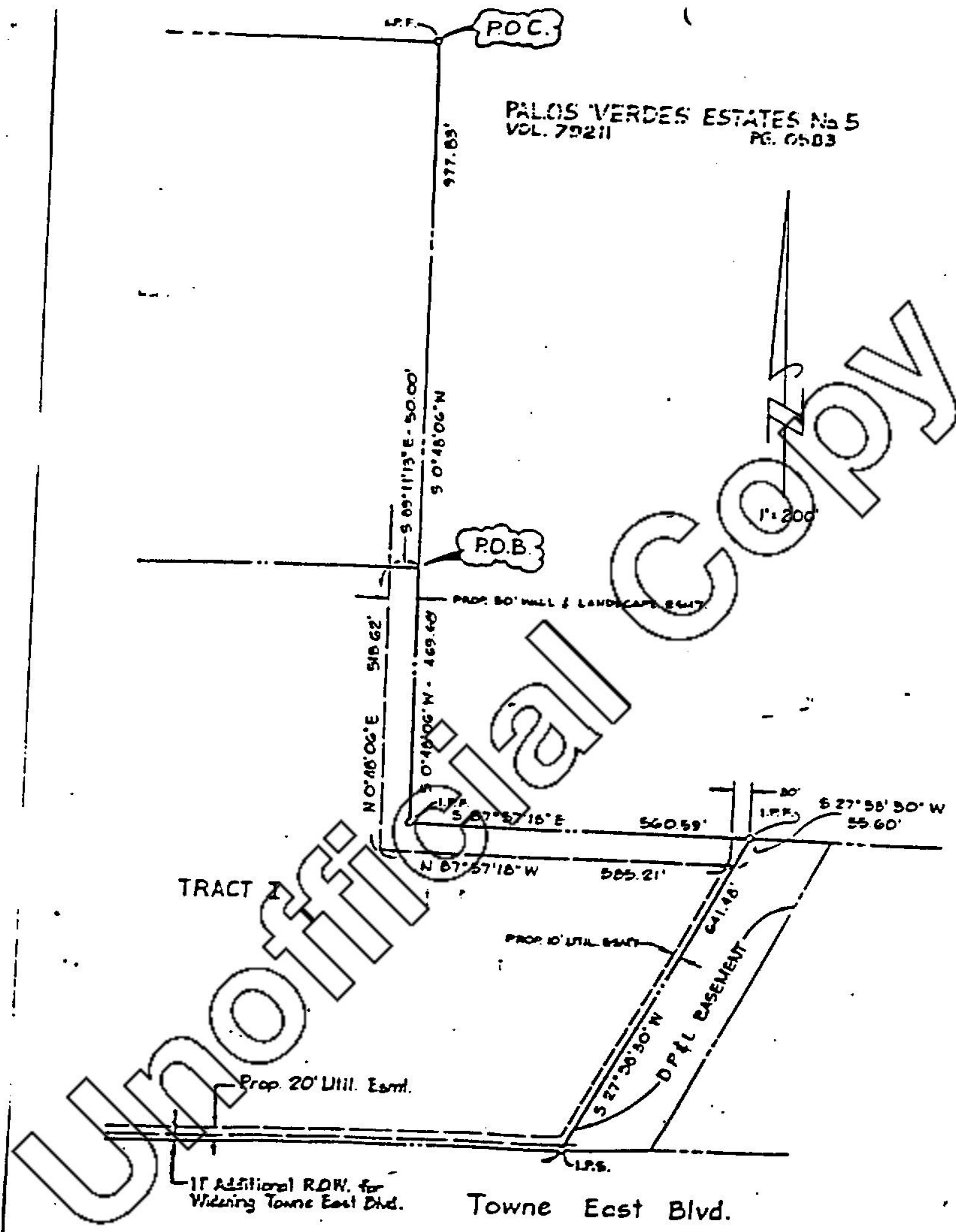
THENCE S 27°58'30" W, 55.60 feet to a point for corner;

THENCE N 87°57'18" W, 585.21 feet to a point for corner;

THENCE N 00°48'06" E, 518.62 feet to a point for corner;

THENCE S 89°11'13" E, 50.00 feet to the POINT OF BEGINNING and containing 53,352.25 square feet or 1.2248 acres of land, more or less.

PALOS VERDES ESTATES No 5
VOL. 79211
PG. 0503



FILED
Core Burch
COUNTY CLERK
DALLAS COUNTY

99 FEB -7 AM 9:48

COUNTY CLERK, Dallas County, Texas

Core Burch



FEB 11 1997

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.
I hereby certify this instrument was filed on the date and time stamped herein by me and was duly recorded in the volume and page of the named records of Dallas County, Texas as stamped herein by me.

Unofficial Copy