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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

FOUNTAIN LAKE TOWNHOMES

POLK COUNTY, TEXAS

FOR

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
FOUNTAIN LAKE TOWNHOMES

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

FOUNTAIN LAKE TOWNHOMES

THE STATE OF TEXAS X
COUNTY OF POLK X

KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION, made on the date hereinafter set forth by FOUNTAIN LAKE, INC., a Texas corporation, hereinafter referred to as "Declarant",

W I T N E S S E T H :

WHEREAS, Declarant is the Owner of certain property in the County of Polk, State of Texas, known as FOUNTAIN LAKE TOWNHOMES and which is more particularly described on the attached Exhibit "A", and further depicted as Townhome Tract 'F' and Townhome Tract 'G' on the plat of Fountain Lake recorded in Volume 10, Pages 3 and 4 of the Plat Records of Polk County, Texas.

NOW THEREFORE, Declarant hereby declares that all of the Properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and be binding on all parties having or acquiring any right, title or interest in the above described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

1.1 ASSOCIATION. "Association" shall mean and refer to FOUNTAIN LAKE TOWNHOME ASSOCIATION, INC., its successors and assigns.

1.2 COMMON AREA. "Common Area" shall mean that portion of the Property owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area shall mean and refer to all of the Property save and except the thirty-four (34) numbered Lots shown on the Plat of Fountain Lake as recorded in Volume 10, Pages 3 and 4 of the Plat Records of Polk County, Texas, on which there is, or will be, constructed a single-family Townhouse. The Common Area is more particularly described in Exhibit "A".

1.3 CONSTRUCTION AND SALE PERIOD. "Construction and Sale Period" shall mean that period of time during which Declarant is developing the Premises and

selling the Townhouses, which time period shall extend from the date hereof until such time as the Declarant transfers title to all of the Lots, including all Lots annexed pursuant to Paragraph 10.9.

1.4 LIENHOLDER OR FIRST MORTGAGEE. "Lienholder" or "First Mortgagee" shall mean the holder of a first mortgage lien on any Townhouse in the development.

1.5 LOT. "Lot" shall mean and refer to those thirty-four (34) certain numbered tracts or parcels of land within the existing Property and more particularly shown as Lots numbered 101 through 124 of Townhome Tract 'G', and Lots numbered 125 through 134 in Townhome Tract 'F' upon the Plat of Fountain Lake as recorded in Volume 10, Pages 3 and 4 of the Plat Records of Polk County, Texas (which does not include the Common Area), and any tract or parcel of land within any additions to the existing Property as may hereafter be made pursuant to Paragraph 10.9 hereof, on which there is or will be constructed a single-family Townhouse which is to be individually and separately owned. Declarant shall be the Owner of all of said Lots SAVE AND EXCEPT only those particular Lots which Declarant conveys in fee simple title by recordable deed from and after the date hereof.

1.6 MASTER ASSOCIATION. "Master Association" means Fountain Lake Recreational Association, Inc., a Texas Non-Profit Corporation, its successors and assigns.

1.7 MASTER DECLARATION. "Master Declaration" means the Declaration of Covenants, Conditions and Restrictions of Fountain Lake.

1.8 MEMBER. "Member" shall mean and refer to every person or entity who holds membership in the Association.

1.9 OWNER. "Owner" shall mean and refer to the record Owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any Mortgagee or Lienholder who acquires fee simple title to any Lot which is a part of the Property, through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure.

1.10 PROPERTY, PREMISES OR DEVELOPMENT. "Property" shall mean and refer to that certain real property hereinbefore described and as shown on Exhibit "A", and such additions as may hereafter be brought within the jurisdiction of the Association.

1.11 TOWNHOUSE OR TOWNHOME. "Townhouse" or "Townhome" shall mean a single-family residential Unit constructed on a Lot.

ARTICLE II

PROPERTY RIGHTS

2.1 OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. the right of the Association to charge reasonable admission and other fees for the use of any recreational or storage facility upon the Common Area;

b. the right of the Association to suspend a Member's voting rights and right to the use of recreational or other facilities owned or operated by the Association for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

c. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless (i) an instrument of agreement to such dedication or transfer, signed by two-thirds (2/3) of each class of Members entitled to vote is properly recorded, in the Deed Records of Polk County, Texas, and (ii) written notice of proposed action under this provision is sent to every Owner and Lienholder not less than thirty (30) days, nor more than sixty (60) days in advance of said action;

d. the right of the Association to limit the number of guests of Members; and

e. the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and, subject to the consent of all Lienholders, to mortgage said property; however, the rights under such improvement mortgage shall be subordinate and inferior to the rights of the Owners hereunder.

2.2 DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area to the members of his family, his tenants or contract purchasers who reside on the Property. The

3.2 VOTING RIGHTS. The Association shall have two (2) classes of voting membership:

a. Class A. Class A Members shall be all Owners, with the exception of FOUNTAIN LAKE, INC., a Texas corporation, the Declarant, and its successors and assigns, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

*25 units to buy.
1/10/5
1/10/5
1/10/5*

b. Class B. The Class B Member(s) shall be FOUNTAIN LAKE, INC., a Texas corporation, the Declarant, and its successors and assigns, and shall be entitled to three (3) votes for each Lot owned, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

*1. Member
2. 9x3
3. 1/10/5*

(1) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(2) Five (5) years from the filing date hereof in the Deed Records of Polk County, Texas.

3.3 NO CUMULATIVE VOTING. At all meetings of the Owners Association there shall be no cumulative voting.

3.4 MEMBERSHIP IN MASTER ASSOCIATION. Each Owner of a Lot shall also be a Member of the Master Association and shall be responsible for assessments thereto as provided in the Master Declaration.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessment to be fixed, established and collected as hereinafter provided. The annual and special

assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

4.2 PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property and in particular for the improvement and maintenance of the Property, the Common Area and services and facilities relating to the use and enjoyment thereof and of the Townhomes situated thereon. Assessments shall include, but are not limited to, funds to cover actual Association costs for all taxes, insurance, repair, replacement and maintenance of the Common Area and exterior maintenance of the Lots or Townhomes, as herein authorized or as may from time to time be authorized by the Board of Directors; legal and accounting fees, costs incurred in any condemnation hearing, as provided in Paragraph 10.8, and any fees for management services; and the cost of other facilities and service activities, including, but not limited to, mowing grass, grounds care, sprinkler system, landscaping, roofs and exterior walls and fences of the Townhomes, and other charges required by this Declaration of Covenants, Conditions and Restrictions or that the Board of Directors of the Association shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified in Paragraph 4.6 herein.

4.3 BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

- a. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$720.00 per Lot.
- b. From and after January 1 of the year immediately following the conveyance of the first (1st) Lot to an Owner, the maximum annual assessment may be set effective January 1 of each year without a vote of the membership by an amount not to exceed one hundred and twenty percent (120%) of the assessment rate of the previous year.

c. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be set above one hundred and twenty percent (120%) only by the written approval of the Owners entitled to cast two-thirds (2/3) of the votes of the Members attending the meeting at which a quorum is present.

d. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

*
4.4 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENT. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the written approval of the Owners entitled to cast a majority of the votes of each class of the Association.

4.5 NOTICE QUORUM FOR ANY ACTION AUTHORIZED UNDER PARAGRAPHS 4.3 AND

4.4. Written notice of any meeting called for the purpose of taking any action authorized under Paragraph 4.3 and 4.4 shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast a majority of all the votes of each class of membership entitled to be cast by the Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice and quorum requirements. In lieu of a meeting, a door to door canvass may be used to get the written consent of a majority of the Class A Owners and a majority of the Class B Owners.

*
4.6 RESERVE AND WORKING CAPITAL FUNDS. The Association shall establish an adequate reserve fund for replacement of Common Area components and fund the same by regular monthly payments rather than by extraordinary special assessments. The Declarant shall make regular monthly contributions to the reserve fund on all Lots owned by the Declarant on the same basis as other Owners. The reserve fund shall be held in a segregated account from those funds maintained for ordinary operating expenses. In addition, there shall be

established a working capital fund for the initial operation of the Project equal to at least two (2) months' estimated Common Assessments charge for each Lot, said deposit to be collected at closing of Townhome sale. At the end of the Declarant Control Period, Declarant shall contribute to the working capital fund on all unsold Townhomes. Said Working Capital Fund shall be kept in a segregated account and shall be placed into the general operating account of the Association at the end of the Declarant Control Period.

4.7 UNIFORM RATE OF ASSESSMENT. Both annual and special assessments shall be fixed at a uniform rate for all Lots regardless of location and size, and shall commence and be due in accordance with the provisions of Paragraph 4.8 hereof.

4.8 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES.

a. As to each Lot owned by an Owner other than Declarant, the annual assessment shall commence on the date that such Lot is conveyed by Declarant to Owner.

b. As long as Declarant holds any Class B voting rights as set out in Article III, Paragraph 3.2 herein, Declarant shall not be liable for annual assessments as set out in Paragraph 4.3a of this Article IV. However, Declarant shall be responsible for the difference in the cost of maintenance borne by the Association and the assessments received from the Unit Owners holding Class A votes.

c. The annual assessment shall be due and payable in advance by each Owner to the Association in monthly installments.

d. The annual assessment for the first assessment year shall be fixed by the Association prior to the sale of the first Lot to an Owner. Except for the first assessment year, the Association shall fix the amount of the annual assessment at the annual meeting of the Association; provided, however, that the Association shall have the right to adjust the annual assessment upon thirty (30) days' written notice given to each Owner, as long as any such adjustment does not exceed the maximum permitted hereunder. Written notice of the annual assessment shall be sent as soon as is practicable to every Owner subject thereto. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the annual and special assessments on a specified Lot have been paid and the amount of any

delinquency. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

4.9 EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

a. All payments of the assessments shall be made to the Association at its principal place of business in Polk County, Texas, or at such other place as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any Owner has any dispute with the Declarant, the Association, any other Owner or any other person or entity regarding any matter to which this Declaration relates or pertains. Payment of the assessments shall be both a continuing affirmative covenant personal to the Owner (other than the Declarant) and a continuing covenant running with the land. Each Owner, and each prospective Owner, is hereby placed on notice that such provision may operate to place upon him the responsibility for the payment of assessments attributable to a period prior to the date he purchased his Townhome.

b. Any assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such assessment is not paid within thirty (30) days after the date of delinquency, the assessment shall bear interest from the date of delinquency, until paid, at the rate of ten percent (10%) per annum. The Association may, at its option, bring an action at law against the Owner personally obligated to pay the same; or, upon compliance with the notice provisions set forth in Subparagraph "c" of this Paragraph 4.9, foreclose the lien against the Lot, as provided in Subparagraph "d" of this Paragraph 4.9. There shall be added to the amount of such assessment the late charge, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with costs of action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosing against such Owner or the collection of such delinquent assessments. Under no circumstances, however, shall the Declarant or the Association be liable to any

Owner or to any other person or entity for failure or inability to enforce or attempt to enforce any assessments. In addition, to the extent permitted by law, Declarant reserves and assigns to the Association, without recourse, a vendor's lien against each Lot to secure payment of a common assessment and special assessment which is levied pursuant to the terms hereof. Such liens may be enforced by appropriate judicial proceedings and the expenses incurred in connection therewith, including interest, costs and reasonable attorney's fees shall be chargeable to the Owner in default.

c. No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the Office of the County Clerk of Polk County; said notice of claim must cite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment at the legal rate, plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

d. Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Texas Property Code, as amended by Acts 1983, 68th Leg., Ch. 915 (Art. 3810 Revised Civil Statutes), or in any other manner permitted by law. Each Owner, by accepting a deed to his Lot, expressly grants to the Association a power of sale, as set forth in said Section 51.002, in connection with the assessment lien. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

e. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may

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be, an appropriate release of such notice, and payment by the defaulting Owner of a fee, to be determined by the Association but not to exceed Fifteen Dollars (\$15.00), to cover the costs of preparing and filing or recording such release.

f. Upon written request by a First Mortgagee, the Association shall provide the Mortgagee with written notice of any default by the Owner-Mortgagor in the performance of such Owner's obligations hereunder, including payment of assessments, which is not cured within thirty (30) days after default; provided that any such requirement of notice shall not impair or affect any rights or remedies of the Association, including exercise of the same, provided for in this Declaration.

g. The assessment lien and the right to foreclosure sale hereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its successors or assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

a lower class
4.10 SUBORDINATION OF THE LIEN TO MORTGAGES. ^{*a lower class.*} The lien securing the assessments provided for herein shall be subordinate to the lien of any duly recorded purchase money or first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer, except for its pro-rata share resulting from a reallocation among all Lot Owners. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due, according to the terms herein provided.

4.11 MANAGEMENT AGREEMENTS. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be canceled with or without cause and without penalty by either party with thirty (30) days' written notice. Such termination will be authorized by a majority vote of Members of

the Association. In no event shall such management agreement be canceled prior to execution by the Association or its Board of Directors of a new management agreement unless the new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed three (3) years and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type. The Members of the Association may terminate the professional management of the Property and assume self-management by the Association upon written agreement executed by Members entitled to cast sixty-seven percent (67%) of the votes of the Association and First Mortgagees which have mortgages on Lots holding fifty-one percent (51%) of the votes of the Association.

4.12 INSURANCE REQUIREMENTS.

a. Each Owner shall be required to furnish annually to the Association, and to the complete satisfaction of the Board of Directors, proof of insurance coverage on his Townhouse by a reputable insurance company acceptable to the Association and licensed to do business in the State of Texas in an amount equal to one hundred percent (100%) of the replacement costs of the Townhouse, affording protection against loss or damage from fire or other hazards covered by the standard extended coverage endorsement. In the event of damage or destruction of a Townhouse, the Owner thereof shall repair or rebuild such Townhouse to its former condition. In the event said Owner fails or refuses to do so, the Association is hereby authorized to undertake to rebuild or repair the Townhouse and assess said Owner for the cost of such repair or replacement. Such assessment shall become the personal obligation of said Owner and shall be enforceable as if it were a special assessment as herein provided. Should an Owner fail to provide adequate proof of insurance, the Association shall have the authority to purchase such coverage, as herein described, and premiums for any insurance obtained by the Association on individual Townhouses shall not be a part of the Common Expense but shall be a

debt owed by the Owner of said Townhouse and shall become part of the assessments payable by said Owner and collectible as such as herein provided.

b. The Association through the Board of Directors, or its duly authorized agent, shall obtain the following types of insurance policies covering the Common Area and covering all damage or injury caused by the negligence of the Association or any of its agents:

(1) property insurance in an amount equal to the full replacement value of the common facilities owned by the Owners Association (including all building service equipment and the like) with an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and, if necessary, an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage and any such other risks as shall customarily be covered with respect to projects similar in construction, location and use;

(2) a comprehensive policy of public liability insurance covering all of the Common Area located in the Project insuring the Association, with such limits as it may consider acceptable (and not less than One Million Dollars [\$1,000,000] covering all claims for personal injury and/or property damage arising out of a single occurrence), such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location and use; and

(3) a policy of fidelity coverage to protect against dishonest acts on the part of officers, Directors,

trustees and employees of the Association and all others who handle or who are responsible for handling funds of the Association. Such fidelity bonds shall be of a kind and in an amount not less than three (3) months' assessments plus reserves.

c. Premiums for all such insurance authorized by Subparagraph 4.13b shall be a Common Expense payable from property assessments. Liability and personal property insurance for Lots and the contents of Townhouses shall be the responsibility of and the expense of each individual Owner. In the event of damage or destruction by fire or other casualty to any property in the Common Area covered by insurance written in the name of the Association, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to their former condition. All such insurance proceeds shall be deposited in a bank or other financial institution in which the accounts are insured by a Federal government agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding to the condition formerly existing, the Board of Directors shall levy a special assessment against all Owners, as herein provided, to make up any deficiency.

d. Upon written request to the Association, First Mortgagees shall be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

e. Any decision to not maintain fire and extended coverage on insurable Common Areas on a current replacement cost basis of one

hundred percent (100%) of the insurable value shall require the approval of two-thirds (2/3) of the First Mortgagees (based upon one vote for each mortgage owned).

ARTICLE V

ARCHITECTURAL CONTROL

5.1 PHYSICAL RESTRICTIONS. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, or the patio and/or balcony used in connection with any Lot after the purchase of any Lot from Declarant, its successors or assigns, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, color, kind, shape, height, materials and location of the same are submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee of the Master Association.

ARTICLE VI

MAINTENANCE

6.1 ASSOCIATION RESPONSIBILITIES. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces, enclosed patio areas, window and door fixtures and hardware, air conditioning equipment and Owner landscaping.

6.2 OWNER RESPONSIBILITY. All fixtures and equipment installed within a Townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse, shall be maintained and kept in repair by the Owner thereof. In addition, all exterior as well as interior air conditioning systems will be maintained and kept by the Owner thereof. In the event the need for maintenance or repair of a Lot is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner, the cost of such exterior maintenance shall be added to and become part of the

assessment to which such Lot is subject. Notwithstanding anything contained herein, Owner's liability for maintenance and repair is limited to that liability Owner would have under Texas law.

6.3 AUTHORITY OF ASSOCIATION. In the event an Owner is responsible for certain exterior maintenance, as set forth in Paragraph 6.2, and such Owner shall fail to maintain the premises and improvements in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore said Lot and improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VII

PARTY WALLS

7.1 GENERAL RULES OF LAW TO APPLY. Each wall which is built as a part of the original construction of the Townhomes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. If the party wall is on one (1) Lot or another due to an error in construction, such wall shall, nevertheless, be deemed to be on the dividing line and constitute a party wall for purposes of this Article. Reciprocal easements shall exist upon and in favor of the adjoining Townhouse Lots for the maintenance, repair and reconstruction of party walls.

7.2 SHARING OF REPAIR AND MAINTENANCE. The cost of reasonable repair and maintenance of a party wall shall be shared in equal proportions by the Owners who make use of it. If other Owners thereafter make use of the wall, they shall contribute to the cost of any restoration necessary in proportion to such use. This provision is not intended to prejudice the right of any Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

7.3 WEATHERPROOFING. Notwithstanding any other provision of this Article, an Owner, who by his negligent or willful act causes the party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements.

7.4 RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

7.5 ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one (1) arbitrator. Those arbitrators shall in turn choose one (1) additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VIII

USE RESTRICTIONS

8.1 RESIDENTIAL USES AND LIMITATIONS. Except for Common Area facilities, the Property is hereby restricted to residential dwellings for residential use only. The Common Areas shall not be used for any commercial purposes; however, this provision shall not preclude the Association from charging reasonable fees for the use of the recreational or storage facilities which are a part of the Common Area. All Buildings or structures erected upon said Property, except for the Common Areas, shall be of new construction. No Buildings or structures shall be moved from other locations onto said Property, and no subsequent Buildings or structures other than Townhouses shall be constructed. No structures of a temporary character, including trailers, motor vehicles, tents, shacks, garages, barns or other outbuildings, shall be used on any portion of said Property at any time as a residence either temporarily or permanently.

8.2 FREEHOLD ESTATE. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.


8.3 DECLARANT EXEMPTION. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant to maintain, during the Construction and Sale Period, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of said Townhouses. This shall include, but shall not be limited to, a business office, storage area, construction yards, model Units and sales office.

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8.4 DOMESTIC ANIMALS. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that a reasonable number, consistent with a residence, of dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All animals shall be kept on leashes or in cages when outside of the Townhomes and Owners shall be responsible for cleaning up after their pets.

8.5 SIGNS. No advertising signs (except not more than one [1] five [5] square foot "for rent" or "for sale" sign per parcel), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. Declarant, however, shall have the sole right to erect identifying signs of any size at each entrance to the Property. The Board of Directors reserves the right to approve the design and wording of all signs, and reserves the right to enter in and upon any Lot for the purpose of removing any sign being maintained thereon which has not been approved. No business activities of any kind whatever shall be conducted in any Building or in any portion of said Property. However, the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of Buildings, if any, of Declarant, its agents and assigns during the Construction and Sale Period, or of the Association as incorporated or to be incorporated under the laws of the State of Texas, its successors and assigns, in furtherance of its powers and purposes as herein set forth.

8.6 VISUAL CONTROLS. All clotheslines, equipment, service yards or ~~storage piles~~ shall be kept within the patio areas or other screened areas so as to conceal them from view of neighboring Townhouses and streets. All rubbish, trash and garbage shall be kept in containers within the area provided with each Townhouse and designated by the Association for collection purposes.

8.7 SPECIFIC USES. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done; and no fences, hedges or walls shall be erected or maintained upon said Property, except such as are installed in accordance with the initial construction of the Buildings located thereon or as approved by the Association's Board of Directors or their designated representative.  Except for the right of ingress and egress, the

Owners of the Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, and patio and/or balcony areas, ~~except as herein provided or as may be allowed by the Association's Board of Directors.~~ It is expressly acknowledged and agreed by all parties concerned that this Paragraph is for the mutual benefit of all Owners of Lots in the FOUNTAIN LAKE TOWNHOMES Development, and is necessary for the protection of said Owners.

8.8 STRUCTURAL INTEGRITY OF TOWNHOUSES. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Townhouse or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Townhouses or their Owners.

8.9 ANTENNAS. Without prior written approval of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements upon the Property, nor upon any structure situated upon the Property other than an aerial for a master antenna system.

8.10 PARKING AND STORAGE AREA RESTRICTIONS. No parking space on the Property shall, without express permission of the Association, be used for parking or storage of boats, trailers, campers, motor or mobile homes, unused or inoperable automobiles or any other items which the Association deems unsightly or inappropriate.

8.11 ANNOYANCE. No activity shall be carried on upon any Lot or Common Area which might reasonably be considered as giving annoyance to neighbors of ordinary sensibilities and which might be calculated to reduce the desirability of the Property as a residential neighborhood, even though such activity is in the nature of a hobby and not carried on for profit. The Board of Directors of the Association shall have the sole and exclusive discretion to determine what constitutes an annoyance.

8.12 NO DISCRIMINATION. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

ARTICLE IX

EASEMENTS

9.1 ENCROACHMENTS. Each Townhouse and the Property included in the Common Area shall be subject to an easement for minor encroachments created by

construction, settling, overhangs, brick ledges, balconies, fences or other protrusions designed or constructed by Declarant and for the maintenance (if any) of same, so long as it exists. In the event a multi-family structure containing two (2) or more Townhouse Units is partially or totally destroyed and then rebuilt, the Owners of the Townhouses so affected agree that minor encroachments onto parts of the adjacent Townhouse Units or Common Areas due to construction or repair shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

9.2 RESERVATION OF VARIANCE. In the original construction of Townhomes upon the Property, Declarant expressly reserves the right, in order to facilitate construction and to avoid monotony of design, to extend front or back walls of Townhomes into adjoining Common Areas and create a valid permanent easement for the maintenance of same, and for the repair or rebuilding of such encroaching wall in the event of partial or total damage or destruction thereof. Conveyance of the Lot, plot or tract upon which any such home is erected shall, without specific mention thereof, serve as a conveyance of the easement for such encroachment.

9.3 ADDITIONAL EASEMENTS. There is hereby created a blanket easement upon, across, over and under said Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewers, gas, telephones, electricity and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the electric and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electric and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is, in addition, specifically granted to the United States Post Office, its agents and employees to enter upon the streets, Common Areas and Lots in the performance of mail delivery or any other United States Post Office services. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets, Common Area, and Lots in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees or any management company duly selected by the Association, to enter in or to cross over the Common Area and/or any Townhouse to perform the duties of maintenance and repair provided for herein. Notwithstanding anything to the contrary contained in this

Paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said Property, except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right during the Construction and Sale Period to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article IX shall in no way affect any other recorded easement on said Premises.

9.4 UNDERGROUND ELECTRIC SERVICE. Underground single phase electric service may be available to all residential Townhouses on the aforesaid Lots and to the facilities to be constructed on the Common Areas, and the metering equipment shall be located on the exterior surfaces of walls at points to be designated by the utility company. For so long as such underground service is maintained, the electric service to each Townhouse and the Common Area facility shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, alternating current. Easements for the underground service may be crossed by driveways, walkways and patio areas, provided the Declarant makes prior arrangements with the utility company furnishing such service. Such easements for the underground service shall be kept clear of all buildings and neither the Declarant nor the utility company using the easement shall be liable for any damage done by either of them or their assigns, their agents or employees to shrubbery, trees, flowers or other improvements of the Owner located on the land covered by said easements.

ARTICLE X

GENERAL PROVISIONS

10.1 ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the By-Laws and Articles of Incorporation. Failure by the Association or by 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.

10.2 SEVERABILITY. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

10.3 AMENDMENT.

a. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by Owners of not less than sixty-seven percent (67%) of the Lots in the Development. Any amendment must be properly recorded in the Deed Records of Polk County, Texas.

b. However, notwithstanding the above, any amendment hereto or to the By-Laws or to the Articles of Incorporation hereof (i) to change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner, or (ii) to change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior maintenance of the Lots and improvements thereon, the maintenance of Common Areas or the upkeep of lawns and plantings, or (iii) to use hazard insurance proceeds for losses to the Common Areas for other than the repair, replacement or reconstruction of that Common Area have the additional approval of sixty-seven percent (67%) of the First Mortgagees (based upon one vote for each mortgage owned).

c. Any material amendment, including any amendment affecting any of the following must have the additional approval of fifty-one percent (51%) of the First Mortgagees (based upon one vote for each mortgage owned):

- (1) Voting;
- (2) Reserves for maintenance, repair and replacement of the Project;
- (3) Insurance or fidelity bonds;
- (4) Rights to use of the Common Area;
- (5) Responsibility for maintenance of the Property;

Maint. fees
bind the land

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(6) Expansion or contraction of the Project or the addition or withdrawal of property to or from the Project, except as provided in Paragraph 10.9 herein;

(7) Boundaries of any Lot;

(8) The interests in the Common Area;

(9) Convertibility of Lots into Common Areas or of Common Areas into Lots;

(10) Leasing of Townhomes;

(11) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Lot;

(12) A decision by the owners' association to establish self management when professional management had been required previously by an eligible mortgage holder;

(13) Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;

(14) Any action to terminate the legal status of the project after substantial destruction or condemnation occurs; and

(15) Any provisions which are for the express benefit of mortgage holders, or eligible insurers or guarantors of first mortgages on Lots.

d. The Declarant reserves the right during the Construction and Sale Period, without joinder or consent of any Owner or Mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veteran's Administration, or Federal Housing Administration, provided that no such amendment shall change the vested property rights of any Townhome Owner.

10.4 COMMON AREA ALIENATION. Except as to the Owners Association's right to grant easements for utilities and similar or related purposes, the Common Area and facilities may not be alienated, released, abandoned, partitioned,

subdivided, transferred or otherwise encumbered without the approval of sixty-seven percent (67%) of the First Mortgagees (based upon one vote for each mortgage owned).

10.5 MORTGAGEE RIGHTS.

a. Upon written request to the Owners Association any holder of a first mortgage lien will be entitled to: (i) inspect the books and records of the Association during normal business hours, (ii) receive annual financial statements audited and otherwise, within ninety (90) days following the end of the Association's fiscal year, (iii) receive notice of the Association's meetings and designate a representative to attend such meetings, (iv) receive notice of any default in the performance of its mortgagor of any obligation under this Declaration or the By-Laws which is not cured within sixty (60) days, and (v) receive notice of any proposed action which requires the consent of a specified percentage of eligible mortgage holders.

b. The Association shall immediately reimburse First Mortgagees who may, jointly or singly pay taxes or other charges which are in default and which may or have become a charge against the Common Area; or who may pay overdue premiums on hazard insurance policies on the Common Area; or who may secure new hazard insurance coverage on the lapse of a policy on the Common Area.

10.6 LEASES. Any lease agreement between an Owner and a lessee shall be in writing and provide that the terms of the lease are subject to the provisions of the Declaration, By-Laws and Articles of Incorporation, and any violation of any provision of said documents will be a default under the terms of the lease.

10.7 SUBSTANTIAL TAKING OR DESTRUCTION. Any holder of a first mortgage lien will be entitled to timely written notice of substantial damage to or destruction of any Unit on which it holds the mortgage or any part of the Common Area.

10.8 CONDEMNATION. If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all First Mortgagees known to the

Association to have an interest in any Lot. The expense of participation in such proceedings by the Association shall be borne by the Common Fund. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as provided herein. In the event that an action in eminent domain is brought to condemn a portion of the Common Area, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such Property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to the account of each Owner and First Mortgagee, if any, as their interest may appear. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible, the Common Area so taken or damaged. In the event it is determined that such Common Area should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Plat of Fountain Lake, shall be duly amended by instrument executed by the Association on behalf of the Owners.

10.9 ANNEXATIONS.

- a. Additional residential property and Common Area may be annexed to the Property with the consent of two-thirds (2/3) of each class of Members;
- b. Notwithstanding anything contained in Subparagraph "a" above, or any other provision herein, Declarant shall have the right, without the consent of any other Owners or any Mortgagee, to bring within the scheme of the Declaration, in one (1) or more future stages or additions of the Development, those additional Properties described in Exhibit "B" attached hereto and made a part hereof within five (5) years of the date of recording of this instrument. Nothing in this Declaration shall be construed to

represent that Declarant, its successors or assigns, are under any obligation to add or annex additional Property to this residential Development.

c. Any such additions shall be developed in a manner similar to the development of the existing Property in accordance with a general plan of development under which the architectural standards prevailing within the existing Property will be continued in such annexed Properties, the residential dwellings to be constructed on Lots within such annexed Properties will be Townhomes and will be similar to the Townhomes constructed on the existing Property, and the Lots within the annexed Properties will become subject to assessment in the same manner as then prevailing for the existing Property. All the provisions of this Declaration shall apply to the Property being annexed with the same force and effect as if said Property were originally included in this Declaration as part of the original Development.

d. The additions authorized under this Paragraph shall be made by filing of record: (a) Supplementary Declaration(s) of Covenants, Conditions and Restrictions with respect to the additional Property which shall (i) extend the scheme of the covenants and restrictions of this Declaration to such Property and (ii) provide that the proportionate ownership interests in the Common Area of the Owners by virtue of Association membership immediately prior to the filing of such Supplementary Declaration shall be equal to the number of Lots owned by such Owner divided by the total number of Lots within the Property then subject to this Declaration after such annexation; and (b) a deed from Declarant to the Association which shall convey to the Association all of the area within such additions (except for the Lots therein) as Common Area for the benefit and use of the Owners, with reservation of Declarant's rights set forth in Paragraph 8.3 of Article VIII hereof.

10.10 GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, in all cases shall be assumed as though fully expressed in each case.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereto set its hand and seal the 9th day of December A.D., 1985.

FOUNTAIN LAKE, INC.

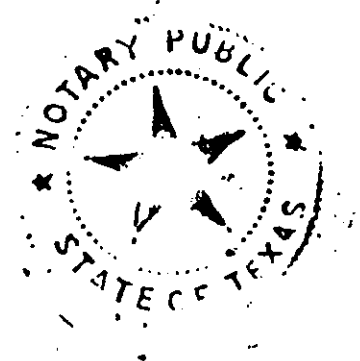
By: [Signature]
Name: Robert Kay
Title: President

ATTEST:
By: [Signature]
Secretary

THE STATE OF TEXAS X
COUNTY OF POLK X

BEFORE ME, the undersigned authority, on this day personally appeared Robert Kay, as President of FOUNTAIN LAKE, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL of office this the 9th day of December, A.D., 1985.



[Signature]
Notary Public in and for
The State of Texas
Printed Name: James W. Wright
Commission Expires: 10-4-89

FIELDNOTE DESCRIPTION OF A 0.927 ACRE TRACT
 FOR DB, INC. (TRACT F)
 FOUNTAIN LAKE DEVELOPMENT, POLK COUNTY, TEXAS

BEING all that certain tract or parcel of land lying and situated in Polk County, Texas out of the John Burgess Survey, Abstract No. 7 and being part of that certain 12.617 acre tract described in a deed from Earl L. Goen and wife, Ruth H. Goen and Charles H. Smith to Robert Kay and wife Deborah Kay in a deed dated July 26, 1984 and recorded in Volume 462 on Page 368 of the Deed Records of Polk County, Texas, to which reference is hereby made for any and all purposes. Said tract being described by metes and bounds as follows, to wit:

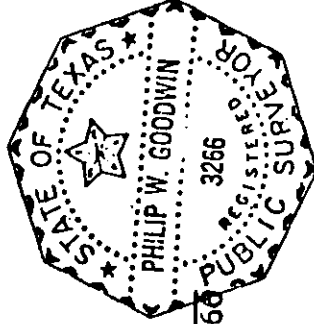
COMMENCING at a 5/8-inch iron pin found for the Northeast corner of the referred to 12.617 acre Kay tract in the West Right-of-Way Line of Farm to Market Highway 3152;

THENCE N 78°43'27" W, 77.70 feet, S 77°20'02" W, 744.07 feet, and S 12°39'58" E, 57.97 feet to the POINT OF BEGINNING;

THENCE N 17°24'45" E, at 50.15 feet, a point for corner;
 THENCE S 72°35'12" E, at 38.00 feet, a point for corner;
 THENCE N 17°24'48" E, at 9.40 feet, a point for corner;
 THENCE S 72°35'12" E, at 25.38 feet, a point for corner;
 THENCE N 77°20'02" E, at 108.67 feet, a point for corner;
 THENCE S 01°28'36" E, at 58.35 feet, a point for corner;
 THENCE S 45°05'36" W, at 21.17 feet, a point for corner;
 THENCE S 12°30'05" E, at 56.81 feet, a point for corner;
 THENCE N 77°29'55" E, at 9.40 feet, a point for corner;
 THENCE S 12°30'05" E, at 37.11 feet, a point for corner;
 THENCE S 07°19'59" W, at 52.58 feet, a point for corner;
 THENCE S 22°37'05" W, at 37.17 feet, a point for corner;
 THENCE S 28°49'50" W, at 120.34 feet, a point for corner;
 THENCE N 83°33'08" W, at 55.40 feet, a point for corner;
 THENCE N 62°11'50" W, at 62.19 feet, a point for corner;
 THENCE N 09°54'37" E, at 88.86 feet, a point for corner;
 THENCE N 77°20'02" E, at 103.63 feet, a point for corner;
 THENCE N 12°39'58" W, at 135.00 feet, a point for corner;
 THENCE S 77°20'02" W, at 92.15 feet, a point for corner;

THENCE N 12°39'58" W, at 37.03 feet, the POINT AND PLACE OF BEGINNING and containing 0.927 acres of land, more or less.

Goodwin-Lasiter, Inc.



Philip W. Goodwin

Philip W. Goodwin, R.P.S. No. 3266
 October 11, 1985

FIELDNOTE DESCRIPTION OF A 2.378 ACRE TRACT
FOR DB, INC. (TRACT G)
FOUNTAIN LAKE DEVELOPMENT, POLK COUNTY, TEXAS

BEING all that certain tract or parcel of land lying and situated in Polk County, Texas out of the John Burgess Survey, Abstract No. 7 and being part of that certain 12.617 acre tract described in a deed from Earl L. Goen and wife, Ruth H. Goen and Charles H. Smith to Robert Kay and wife Deborah Kay in a deed dated July 26, 1984 and recorded in Volume 462 on Page 368 of the Deed Records of Polk County, Texas, to which reference is hereby made for any and all purposes. Said tract being described by metes and bounds as follows, to wit:

BEGINNING at a concrete monument found for the Northwest corner of the referred to 12.617 acre Kay tract in the East Boundary Line of a fee strip owned by the United States of America (Lake Livingston). Said corner also being the Northwest corner of that certain 1.06 acre tract described in a deed from Republic National Bank of Dallas to E.E. Cochran dated July 15, 1970 and recorded in Volume 247 on Page 196 of the Deed Records of Polk County, Texas;

THENCE N 77°23'25" E with the most Northerly Boundary Line of the referred to 12.617 acre Kay tract at 131.76 feet, a point for corner;

THENCE S 17°47'01" E at 82.05 feet, a point for corner;
 THENCE S 62°33'04" W at 20.00 feet, a point for corner;
 THENCE S 03°19'43" E at 45.03 feet, a point for corner;
 THENCE S 62°17'07" E at 10.96 feet, a point for corner;
 THENCE S 27°42'53" W at 38.00 feet, a point for corner;
 THENCE N 62°17'07" W at 10.00 feet, a point for corner;
 THENCE S 27°42'53" W at 30.38 feet, a point for corner;
 THENCE S 89°18'36" E at 18.55 feet, a point for corner;
 THENCE S 00°41'24" W at 40.00 feet, a point for corner;
 THENCE N 89°18'36" W at 10.00 feet, a point for corner;
 THENCE S 00°41'24" W at 22.34 feet, a point for corner;
 THENCE S 70°04'45" E at 18.64 feet, a point for corner;
 THENCE S 19°55'15" W at 34.87 feet, a point for corner;
 THENCE S 70°04'45" E at 12.00 feet, a point for corner;
 THENCE S 19°55'15" W at 36.00 feet, a point for corner;
 THENCE N 70°04'45" W at 10.00 feet, a point for corner;
 THENCE S 04°27'43" W at 10.42 feet, a point for corner;
 THENCE S 51°13'57" E at 40.68 feet, a point for corner;
 THENCE S 38°46'03" W at 43.18 feet, a point for corner;
 THENCE S 65°29'34" E at 20.47 feet, a point for corner;
 THENCE S 24°30'27" W at 34.87 feet, a point for corner;
 THENCE S 65°29'34" E at 10.00 feet, a point for corner;
 THENCE S 24°30'27" W at 36.00 feet, a point for corner;
 THENCE N 65°29'34" W at 31.01 feet, a point for corner;
 THENCE S 26°45'21" W at 47.49 feet, a point for corner;
 THENCE S 74°59'08" E at 86.56 feet, a point for corner;
 THENCE S 09°04'58" E at 37.02 feet, a point for corner;
 THENCE N 80°55'03" E at 8.96 feet, a point for corner;
 THENCE S 09°04'58" E at 38.00 feet, a point for corner;
 THENCE N 61°50'52" W at 9.86 feet, a point for corner;
 THENCE S 04°27'43" W at 45.03 feet, a point for corner;
 THENCE S 78°20'30" E at 21.19 feet, a point for corner;
 THENCE S 09°54'37" W at 85.61 feet, a point for corner;
 THENCE N 78°20'30" W at 97.62 feet, a point for corner;

THENCE S 20°18'18" W at 31.74 feet, a point for corner in the South Boundary Line of the referred to 12.617 acre Kay tract;

THENCE N 63°32'52" W with the South Boundary Line of the referred to Kay tract at 87.37 feet, a 5/8-inch iron pin found for corner in the Easterly Boundary Line of the said U.S.A. fee strip.

THENCE N 00°37'45" W continuing with the said fee strip, at 305.48 feet, a 5/8-inch iron pin found for corner;

THENCE N 06°42'03" W continuing with the said fee strip, at 109.87 feet, a 1/2-inch iron pin found for corner;

THENCE S 78°04'52" E at 77.00 feet, a point for corner;

DB, INC.
2.378 ACRE TRACT (TRACT G)
PAGE 2.

THENCE N 11°55'08" E at 90.00 feet, a point for corner;

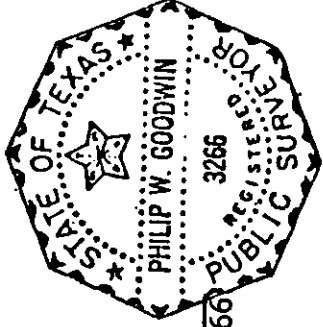
THENCE N 78°04'52" W at 77.00 feet, a point for corner in the Easterly Boundary
Line of the said U.S.A. fee strip;

THENCE N 11°55'08" E with the said fee strip at 114.08 feet, a 5/8-inch iron
pin found for corner;

THENCE N 02°52'01" W continuing with the said U.S.A. fee strip at 55.83 feet, a
5/8-inch iron pin found for corner;

THENCE N 10°03'56" E continuing with the said U.S.A. fee strip at 1.90 feet,
the POINT AND PLACE OF BEGINNING and containing 2.378 acres of land, more or
less.

Goodwin-Lasiter, Inc.



Philip W. Goodwin

Philip W. Goodwin, R.P.S. No. 3266
October 11, 1985

FIELDNOTE DESCRIPTION OF A 3.579 ACRE TRACT
FOR DB, INC. (TRACT E)
FOUNTAIN LAKE DEVELOPMENT, POLK COUNTY, TEXAS

BEING all that certain tract or parcel of land lying and situated in Polk County, Texas out of the John Burgess Survey, Abstract No. 7 and being part of that certain 12.617 acre tract described in a deed from Earl L. Goen and wife, Ruth H. Goen and Charles H. Smith to Robert Kay and wife Deborah Kay in a deed dated July 26, 1984 and recorded in Volume 462 on Page 368 of the Deed Records of Polk County, Texas, to which reference is hereby made for any and all purposes. Said tract being described by metes and bounds as follows, to wit:

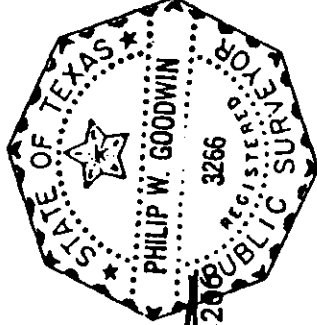
COMMENCING at a railroad spike found for the Southeast corner of the referred to 12.617 acre Kay tract, in the West Right-of-Way Line of Farm to Market Highway 3152;

THENCE N 63°32'52" W with the South Boundary Line of the referred to 12.617 acre Kay tract at 71.88 feet, and N 26°27'08" E at 55.13 feet, the POINT OF BEGINNING;

THENCE N 63°32'52" W, at 316.04 feet, a point for corner;
THENCE N 28°49'50" E, at 131.18 feet, a point for corner;
THENCE N 07°19'59" E, at 97.58 feet, a point for corner;
THENCE N 86°10'23" E, at 10.00 feet, a point for corner;
THENCE N 03°49'38" W, at 50.00 feet, a point for corner;
THENCE S 88°31'24" W, at 18.74 feet, a point for corner;
THENCE N 01°28'36" W, at 110.97 feet, a point for corner;
THENCE N 77°20'02" E, at 129.36 feet, a point for corner;
THENCE N 12°39'58" W, at 25.00 feet, a point for corner;
THENCE N 77°20'02" E, at 85.00 feet, a point for corner;
THENCE S 12°39'58" E, at 25.00 feet, a point for corner;
THENCE N 77°20'02" E, at 80.62 feet, a point for corner;
THENCE S 30°13'06" E, at 65.00 feet, a point for corner;
THENCE S 29°42'37" W, at 75.34 feet, a point for corner;
THENCE S 00°59'44" E, at 63.75 feet, a point for corner;
THENCE S 30°39'37" E, at 99.85 feet, a point for corner;
THENCE S 09°27'20" W, at 20.60 feet, a point for corner;
THENCE N 80°32'40" W, at 52.30 feet, a point for corner;
THENCE S 09°27'20" W, at 40.00 feet, a point for corner;
THENCE S 80°32'40" E, at 52.30 feet, a point for corner;
THENCE S 09°27'20" W, at 210.40 feet, a point for corner;

THENCE S 59°57'22" W, at 79.13 feet, the POINT AND PLACE OF BEGINNING and containing 3.579 acres of land, more or less.

Goodwin-Lasiter, Inc.



Philip W. Goodwin
Philip W. Goodwin, R.P.S. No. 3266
October 11, 1985

STATE OF TEXAS }
COUNTY OF POLK }

I, ALINE STEPHENSON, hereby certify that this instrument was filed in the number sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the volume and page of the named RECORDS of Polk County, Texas as stamped hereon by me on

FILED FOR RECORD

1985 DEC 10 AM 9:52

ALINE STEPHENSON-COUNTY CLERK
POLK COUNTY, TEXAS



DEC 10 1985

Aline Stephenson
COUNTY CLERK
POLK COUNTY, TEXAS

By Shirley Cain