

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FONDREN SOUTHWEST TEMPOS

THIS DECLARATION, made on the date hereinafter set forth by TRENDMAKER HOMES, INC., a Texas corporation, of Harris County, Texas, acting herein by and through its

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Harris, State of Texas, being that certain residential subdivision to be known as FONDREN SOUTHWEST TEMPOS, and which property is more particularly described in the attached Exhibit "A";
and

WHEREAS, it is deemed to be in the best interests of Declarant and any other persons who may purchase property in FONDREN SOUTHWEST TEMPOS, that there be established and maintained a uniform plan for the improvement and development of FONDREN SOUTHWEST TEMPOS as a highly restricted and modern townhouse subdivision of the highest quality.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to FONDREN SOUTHWEST TEMPOS ASSOCIATION, INC., a Texas Non-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Building Plot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

inbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Building Plot to an Owner other than a Declarant is described in the attached Exhibit "B".

Section 5. "Building Plot" shall mean and refer to each of the individual tracts of land or resubdivision of same, into which the Properties, excepting the Common Area,

ship. The Building Plots are to be arranged in groups, each such group for convenience of description being designated as a "Block" and described in the attached Exhibit "C". Each Building Plot conveyed shall be designated by separate metes and bounds description and shall constitute a freehold estate subject to the terms, conditions and provisions thereof.

Section 6. "Declarant" shall mean and refer to TRENDMAKER HOMES, INC., its successors and assigns, if such successors and assigns should acquire more than one undeveloped Building Plot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Building Plot, subject to the following provisions:

(a) the right of the Association to make, publish and enforce reasonable Rules and Regulations for the use of the Common Area and any facilities situated thereon;

(b) the right of the Association to suspend the voting rights and right to use of the facilities owned or operated by the Association by the Owner for any period during which any assessment against his Building Plot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations;

(c) the right of the Association to grant or dedicate any part of the Common Area to any public agency, authority, or utility for any service to the Properties or any part thereof;

(d) the right of the Association to utilize the Common Area for the use of Owners using any portion of the Common Area and any facilities located thereon;

(e) the right of the Association, in accordance with its Articles of Incorporation or By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property. The rights of any such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder;

(f) the right of the Association to contract for exclusive services such as water, sanitary sewage and trash collection to each Building Plot, and

(g) the right of the Association to charge reasonable fees for the use of any recreational facilities situated on the Common Area.

Section 2. Delegations of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Rights. Each dwelling is on a Building Plot which is not designed for on-site parking of an automobile and parking is provided in the Common Area. The ownership of each Building Plot shall entitle the Owner or Owners thereof to the use of one (1) carport which shall be as near and convenient to said Building Plot as reasonably possible, together with the right of ingress and egress in and upon said carport. The Association shall permanently assign one (1) carport for each Building Plot.

The use of all other parking areas situated in the Common Area shall be subject to the exclusive control and management of the Board of Directors of the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Declarant and every Owner of a Building Plot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Building Plot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership.

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Building Plot owned. When more than one person holds an interest in any Building

shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Building Plot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Building Plot owned. 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:

- (a) One hundred twenty (120) days after seventy-five (75%) per cent of the Townhouse Units in the Properties or in

the first [REDACTED]

[REDACTED]

- (b) Five (5) years following the conveyance of the first Townhouse Units in the Properties to an Owner.

ARTICLE IV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Building Plot owned within the Properties, hereby covenants, and each Owner of any Building Plot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the property against which each such assessment is made. Each such assessment, together with 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 assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties; the improvement, operation, administration, management, preservation and maintenance of the Common Area and any part thereof; the payment of all expenses and obligations lawfully incurred by the Association in connection with the Common Area or services for all Building Plots. It being understood that the judgment of the Board of Directors of the Association in establishing annual

shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment shall be NINE HUNDRED SIXTY AND NO/100 (\$960.00) DOLLARS for each Building Plot, which shall be due and payable as provided hereinafter.

(a) From and after January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment may be increased each year not more than 10% (such percentage increase may be cumulative from year to year) above the maximum assessment for the previous year without ~~the vote of written assent of at least 51% of each class of members.~~

(b) From and after January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment may be increased above 10% by the vote of written assent of at least 51% of each class of members.

(c) The Board of Directors shall fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments 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, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of a majority of each class of members.

Section 5. Notice and Quorum For Any Action Authorized Under Sections 3 and 4. Any action authorized under Sections 3 or 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Building Plots as follows:

residences owned by TRENDMAKER HOMES, INC.
... none

(b) Vacant Building Plots or Building Plots with uncompleted residences owned by a Declarant other than TRENDMAKER HOMES, INC. for a period of 12 months from date of conveyance of such Building Plots by TRENDMAKER HOMES, INC. to such other Declarant
... none

(c) Vacant Building Plots or Building Plots with uncompleted
[REDACTED]
period of 12 months from date of conveyance of such Building Plots by TRENDMAKER HOMES, INC. 50%

(d) Building Plots with completed but unsold residences for a period of sixty (60) days from date of conveyance of the first Building Plot with a completed residence to an individual homebuyer
... 50%

(e) Building Plots with completed residences (sold or unsold) after a period of sixty (60) days from date of conveyance of the first Building Plot with a completed residence to an individual homebuyer
... 100%

In the event the maximum assessments (including increases allowable under Article IV, Section 3) are insufficient to cover the actual costs of maintaining the Common Area within the Properties, Declarant shall be obligated to provide the Association with the amount required to make up such deficit, until the occurrence of the earliest of the events set forth in Article III, Section 2, at which time the aforesaid obligation shall automatically terminate.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence upon the conveyance of the first Building Plot with a completed residence to an individual homebuyer on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Building Plot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. All common expense assessments, including special assessments, shall be due and payable on a monthly

basis. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Building Plot have been paid.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10%) per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Building Plot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a deed to a Building Plot, hereby expressly vests in the Association, or its agents, the right and power 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 non-judicial foreclosure pursuant to Article 3810 of the Texas Revised Civil Statutes and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all Building Plot Owners. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Building Plot.

Section 9. Subordination of the Lien to Mortgages. The Vendor's Lien securing payment of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the Owner of any Building Plot to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Building Plot. Sale or transfer of any Building Plot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Building Plot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Insurance.

(a) The Board of Directors of the Association shall obtain and continue in effect blanket property insurance to insure the buildings and

or damage by fire and other hazards as are covered under standard extended coverage provisions, and said insurance may include coverage against vandalism. The policy shall be in an amount equal to 100% of current replacement cost of such improvements.

(b) The Board of Directors of the Association shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and ~~and each Owner~~, from and against liability in connection with the Common Areas. Such coverage shall be at least \$1,000,000.00 for ~~property damage~~ arising out of a single occurrence.

(c) Each Owner shall be responsible at his own expense and cost for obtaining his own personal insurance of the contents of his own residence, garage, carport or parking space, including decorations, furnishings and personal property therein, and his personal property stored elsewhere on the Properties; and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense.

(d) Except as otherwise provided in sub-section (e) below, the Board of Directors of the Association, or its duly authorized agent, shall obtain insurance for such Owner's townhouse against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard. All such insurance coverage shall be written in the name of the Association as Trustee for the townhouse Owner. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense but shall be an expense of the specific townhouse or townhouses covered and a debt owed by the Owner and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within thirty (30) days after notice of such debt, such amount shall automatically become a lien upon such Owner's building plot and townhouse and shall continue to be a lien until fully paid. This lien shall be subordinate to the lien of any purchase money and/or improvement mortgages and shall be enforceable in the same manner as any

of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors, shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a ~~bank or other financial institution~~ insured 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 the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such townhouses to make up any deficiency, except that the special assessment shall be levied against all townhouse Owners, as established by Article IV, Section 1 above, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a townhouse unit. In the event that such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and Owners of the damaged townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such townhouses.

(e) Nothing contained in sub-section (d) above shall preclude an Owner from obtaining his own personal insurance on his own townhouse, provided that such Owner is able to supply proof of adequate coverage to the Board of Directors' complete satisfaction. In the event of damage or destruction by fire or other casualty to any townhouse or other property covered by insurance written in the name of an individual Owner, said

the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of such townhouse or other property in a good workmanlike manner in conformance with the original plans and specifications of said townhouse. If for any reason whatsoever, such Owner should refuse or fail to so repair and rebuild any and all the damage to such townhouse or other property within thirty (30) days regardless of whether or not the insurance proceeds are sufficient to pay all costs of repair and restoration, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such townhouse or other property in a good and workmanlike manner in conformance with their original plans and specifications. The Owner shall then promptly repay the Association the amount actually expended for such repairs plus interest therein at the rate of 10% per annum, and the Association shall have a lien securing the payment of same identical to that provided above in this Section securing the payment of insurance premiums and subject to foreclosure as above provided.

(f) Should any mortgagee fail to concur in the application of the insurance proceeds to the cost of repair and restoration, such proceeds shall first be applied to the sums secured by the first mortgage, with the excess, if any, applied to the cost of repair and restoration of such townhouse and other property.

(g) All costs, charges and premiums for all insurance that the Board of Directors authorized as provided herein, except on the individual townhouses, shall be a common expense of all Owners and be a part of the maintenance assessment.

(h) Policies may not be cancelled or substantially modified without at least 10 days' prior written notice to the Association.

Section 12. Taxes. Each Owner shall directly render for taxation his own Building Plot and improvements and property thereon, and shall at his own cost and expense directly pay all taxes, levied or assessed against or upon his Building Plot and improvements and property thereon. The Association shall render for taxation and as part of the common expenses of all Owners shall pay all taxes levied or assessed against or upon the Common Area and the improvements and property appertaining thereto.

Section 13. Utility Bills. Each Owner shall pay directly to the utility company for electricity used or consumed by him. The cost of water, sewage disposal, and any

collect each Owner's share thereof. Such cost shall not be part of the common expense, but shall be a debt owed by the Owners of the specific townhouse or townhouses so served and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within thirty (30) days after notice of such debt, such amount shall automatically become a lien upon such Owner's building plot and townhouse and shall continue to be a lien until fully paid. This lien shall be subordinate to the lien for any purchase money and/or improvement mortgage. ~~any lien created by failure to pay assessments.~~

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

MAINTENANCE AND REPAIRS

Section 1. Definition. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Building Plot which is subject to assessment hereunder as follows: paint, repair, replace (but not in the event of fire, or other casualty loss normally covered by insurance on the premises) and care for roofs, gutters and downspouts, (if any), exterior building surfaces, fences (including perimeter fences), trees, shrubs, grass, walks, water distribution system owned by the Association, and other exterior improvements, including access control gates, if any. Such exterior maintenance shall not include: glass surfaces, enclosed patio areas (if any), windows and doors and their fixtures of hardware, landscaping installed by Owner (if any), exterior light fixtures operated from a residence, and air

conditioning equipment, circuit breakers and other service lines.

Section 2. Owner's Maintenance. The Owner shall maintain and keep in repair the following equipment and lines located outside the residence: air conditioning compressor condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric circuit breakers, any portion of telephone service lines located on the Building Plot but not maintained by the telephone company; provided, however, that any lines, pipes, wires, conduits or systems running through a residence which serve one or more other residences and which are not maintained by any utility company, shall be operated, repaired and maintained by the Association, and shall not be disturbed or relocated by an Owner without the written consent and approval of Declarant or the Association.

An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their Owners.

Section 3. Neglect of Owner. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, invitees, employees or agents, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Building Plot is subject.

Section 4. Authority of Association. In the event an Owner is responsible for certain exterior maintenance as set forth in the Rules and Regulations of the Association and such Owner shall fail to maintain the premises and the improvements situated thereon 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 Building Plot and to repair, maintain and restore the Building Plot and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Building Plot is subject. The Association shall have a reasonable right of entry upon any Building Plot to make emergency repairs and to do other work reasonably necessary for the proper maintenance or operation of the project.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing

inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence willful acts or omissions shall apply thereto. If a wall which is intended as a party wall is situated entirely or partly on one townhouse building plot instead of on the dividing line between townhouse building plots, due to error in construction, such wall shall nevertheless be deemed to be on the dividing line and shall constitute a party wall for the purposes of this Article. Reciprocal easements shall exist upon and in favor of the adjoining townhouse building plots for the maintenance, repair and reconstruction

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. 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 the elements.

Section 5. 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.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to choose 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

RE-SUBDIVIDING OF BUILDING PLOTS

Any Building Plot or part hereof may be re-subdivided or consolidated with any adjoining Building Plot or Building Plots or part or parts thereof to constitute a

shall be approved by the Architectural Control Committee.

ARTICLE IX

USE RESTRICTIONS

The Building Plots and the Common Area shall be occupied and used as follows:

Section 1. Residential Use. No Owner shall occupy or use his Building Plot or building thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private single family residence for the Owner, his family, guests and tenants of not less than 700 square feet of floor area, measured through the exterior walls of the building. ~~No Building Plot shall be used or occupied for any~~ business, commercial, trade or professional purposes either apart from or in connection with the use thereof as a residence.

Section 2. Obstruction of Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior written consent of the Board of Directors.

Section 3. Insurance. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in the Common Area which will result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area.

Section 4. Nuisances. No noxious or offensive activity shall be carried on upon any Building Plot, or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No repair work, dismantling or assembling of motor vehicles or any other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street, or in the Common Area. No vehicle shall be parked on streets or driveways so as to obstruct ingress and egress by the Owners of Building Plots, their families, guests and invitees except for the reasonable needs of emergency, construction, or service vehicles for a time limited to as briefly as possible. For a period not to exceed Forty-Eight (48) hours, family, guests and invitees of Owners of Building Plots may park their vehicles in the guest parking areas. Guest parking areas are not intended for use by the Owners of Building Plots for parking or storing boats, trailers, camping units, or any personal vehicles and the Architectural Control Committee may insure the proper use of said areas in such legal manner as it deems necessary.

Section 5. Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, barn, servants quarters or other out buildings shall be used on any Building Plot at any time as a residence either temporarily or permanently; nor shall any used residence or other used structure be moved onto any Building Plot. During the construction and sales period of the dwelling units the builder may erect and maintain such structures as is customary in connection with such construction and sale of such property, including, but without limitation, a business office, storage areas, construction yards, construction trailers, signs, model units and sales offices.

Section 6. Signs. No advertisement, poster or sign of any kind shall be
~~_____~~
Association. During the construction and sales period of the dwelling units the builder may use other signs and displays to advertise the merits of the property for sale or rent.

Section 7. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Building Plot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Building Plot.

Section 8. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Building Plot, except that dogs, cats or other household pets, not to exceed a total of two (2) pets, may be kept provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purposes.

Section 9. Garbage and Refuse Disposal. No Building Plot shall be used or maintained as dumping ground for rubbish. Trash, garbage or other waste shall be kept screened by adequate planting or fencing so as to conceal them from public view. There is reserved in favor of the Association the determination of the method of garbage disposal, that is, whether it shall be through public authority or through private garbage disposal contractor(s). All equipment for the storage or disposal of such materials shall be kept in clean and sanitary condition.

Section 10. Sewage and Water. No sewage treatment system nor water well shall be permitted on any Building Plot.

Section 11. Use of Common Area. Except in enclosed areas on a Building Plot, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Properties 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 architectural committee. Except for the

the Owners are hereby prohibited and restricted from using any of the Properties outside the interior property lines of each Building Plot, except 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 the Properties, and any additions thereto, and is necessary for the protection of said Owners. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and the exteriors and roofs of the residences, including but not limited to, parking areas and walks, shall be taken by the Board of Directors or by

Section 12. Outside 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 to be located upon the Properties, nor upon any structure situated upon the Properties other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 13. Non-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.

Section 14. Annoyance. No activity shall be carried on upon any Building Plot or the 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 Properties as a residential neighborhood, even though such activity be 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.

ARTICLE X

EASEMENTS

Section 1. Construction. Each Building Plot and the Property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure containing two (2) or more residences is partially or totally destroyed, and then rebuilt, the Owners so affected agree that minor encroachments of parts of the adjacent residential units on Common Areas due to

construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. Utility, Emergency and Association. There is hereby created a blanket and perpetual easement upon, across, over, under and above all of the Properties for ingress, egress, installations, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system, if any such system is installed. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and wires on said property and to affix and maintain electrical and/or telephone wires, circuits, and conduits on, above, across and under the roofs and exterior walls of said residences. An easement is further granted to all police, fire protection, ambulance, garbage and trash collector pick-up vehicles and all similar persons to enter upon the Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and any Building Plot to perform the duties of maintenance and repair of the residence or Common Area 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 the Properties 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 or the Association shall have the right to grant such easement without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 3. Use of Easements. Easements for underground utility services may be crossed by driveways and walkways provided the Declarant makes prior arrangements with the utility furnishing service. With the exception of the reciprocal 6 inch wide easements created in Section 6 of Article XII, such easements for underground services shall be kept clear of all other improvements, including building, patios, or other pavings, other than crossing walkways or driveways, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, flowers, or other improvements of the Owner located on the land covered by said easements.

to make minor changes and additions to the above easements to any Building Plots owned by it, for the purpose of efficiently and economically installing and operating above mentioned utilities.

Section 5. Audio and Video. In the event that audio and video communication services and utilities are made available to any said Building Plots by means of an underground coaxial cable system, the company furnishing such services and facilities shall have a two foot (2') wide easement along and centered on the underground wire or cable when and as installed by said company from the utility easement nearest to the point of connection to the permanent improvement or structure, or to be constructed upon said Building Plot, and in a direct line from said nearest utility easement to said point of connection.

ARTICLE XI MORTGAGEES

Section 1. Notice to Association. An Owner who mortgages his Townhouse shall notify the Association giving the name and address of his mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Townhouses".

Section 2. Notice of Default. Upon written request by mortgage holder, insurer or guarantor, the Association shall notify such mortgage holder, insurer or guarantor in writing of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in the Declaration which is not cured within sixty (60) days.

Section 3. Taxes and Other Charges on Common Area. 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; or who may secure new hazard insurance coverage on the lapse of a policy.

Section 4. Examination of Books and Constituent Documents. The Association shall permit Owners, first mortgagees and insurers or guarantors of first mortgages, to examine the books and records of the Association, as well as current copies of the Constituent Documents, including the Declaration, By-Laws and Articles of Incorporation, during normal business hours.

Section 5. Reserve and Working Capital Funds. The Association shall establish an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and upon each Building Plot which is subject to assessment hereunder, and fund the same by regular monthly payments rather than by extraordinary special assessments. Additionally, a working capital fund must be established for the initial months of the project operation equal to at least a two (2)

Each such Building Plot's share of the working capital fund must be collected and transferred to the Association at the time of closing of the sale of each such Building Plot, and shall be maintained in a segregated account for the use and benefit of the Association. The contribution to the working capital fund for each unsold Building Plot with a completed residence shall be paid to the Association within sixty (60) days after the date of the conveyance of the first Building Plot with a completed residence in the project to an individual homebuyer. The purpose of the fund is to insure that the Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment for services deemed necessary or desirable by the Board

Section 6. Annual Audits. The Association shall furnish each mortgagee, insurer or guarantor of a first mortgage, upon written request, free of charge, within a reasonable period of time after such request, an audited financial statement of the Association for the immediately preceding fiscal year of the Association.

Section 7. Notice of Meetings. The Association shall furnish each first mortgagee upon request of such mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such mortgagee to attend such meetings, one such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

Section 8. Approval for Amendments to Declaration, etc. The prior written approval of Owners of Building Plots to which at least 75% of the votes in the Association are allocated, and of the holders of mortgages on Building Plots which have at least 67% of the votes of Building Plots subject to first mortgages, shall be required for the following: (i) abandonment or termination of FONDREN SOUTHWEST TENPOS, as a planned unit development, except for abandonment or termination provided by law, in case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) addition to or amendment of any material provision of the Declaration or By-Laws which establish, provide for, govern or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment lien or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of the common areas (or Units if applicable);
- (4) Insurance or Fidelity Bonds;
- (5) Rights to use of the common areas;
- (6) Responsibility for maintenance and repair of the several portions of the project;
- (7) Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project, except as may be otherwise provided in the Declaration;
- (8) Boundaries of any Building Plot;
- (9) The interests in the common areas;

- areas into Building Plots;
- (11) leasing of townhouse units;
 - (12) 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 Building Plot;
 - (13) Any provisions which are for the express benefit of mortgage holders, insurers or guarantors of first mortgages on townhouse units.

Section 9. Leases. With the exception of a lender in possession of a townhouse it following foreclosure, or any deed or other arrangement in lieu of foreclosure, no owner shall be permitted to lease his unit for transient or hotel purposes. No Owner may lease less than the entire unit. No Owner may lease or rent his unit for a period [REDACTED] The Association shall require that all leases of any units must:

- i) be in writing, and
- ii) provide that such leases are specifically subject in all respects to the provisions of the Declaration and By-Laws of the Association, and that any failure by the lessee to comply with the terms and conditions of such documents shall be a default under such leases. Other than the foregoing, there shall be no restriction on the right of any Owner to lease his unit.

Section 10. Notice of Damage or Destruction. Upon written request by a mortgage holder, insurer or guarantor, the Association shall furnish such mortgage holder, insurer or guarantor timely written notice of any substantial damage or destruction of townhouse units and of any part of the Common Area and facilities if such loss exceeds \$10,000.00, or damage to a townhouse unit exceeds \$1,000.00

Section 11. Notice of Condemnation or Eminent Domain. Upon written request of a mortgage holder, insurer or guarantor, the Association shall furnish such mortgage holder, insurer or guarantor timely written notice of any condemnation, or eminent domain proceeding regarding all or any portion of a Building Plot or of the Common Area and facilities and of any proposed acquisition of all or any part of such properties through condemnation or eminent domain proceedings if such taking exceeds \$10,000.00.

Section 12. Management Agreements, Contracts and Leases. After the passage of control to the Association, the Association shall enter into a management agreement which shall provide experienced, bonded, professional management of the project; provided however that self-management by the Association may be established with the prior consent of Owners of units to which at least 67% of the votes in the Association are allocated and the prior approval of first mortgagees on units which have at least 51% of the votes of units subject to first mortgages. Any agreement for professional management, or any other contract of lease providing for services of the Declarant, may not exceed a period of three (3) years. Any such agreement, contract or lease must

termination fee upon not more than 90 days' written notice to the other party thereto.

Section 13. Exemption from Right of First Refusal. When any first mortgagee obtains title to a Building Plot pursuant to the remedies provided in the mortgage, such as foreclosure of the mortgage or deed of trust, or deed in lieu of foreclosure, such mortgagee shall be exempt from any "right of first refusal", or other restriction on the sale or rental of the mortgaged Townhouse which the Association might have, including, but not limited to, restrictions on the age of unit occupants and restrictions on the posting of signs pertaining to the sale or rental of Townhouses.

subdivided by the Owner thereof without the prior written approval of at least the holder of the first mortgage lien on such property and the Board of Directors of the Association.

Section 15. Claims for Unpaid Assessments. Any first mortgagee who obtains title to the Building Plot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or pursuant to a deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall not be liable for such Building Plot's unpaid assessments or charges which accrued prior to the acquisition of title to such Building Plot by the holder of such mortgage, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Building Plots including the mortgaged Building Plot.

Section 16. Taxes, Assessments and Charges. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Building Plots and not to the project as a whole.

Section 17. Other Acts by Association Requiring Approval of First Mortgagees and Building Plot Owners. Unless the Owners of Building Plots to which at least 75% of the votes in the Association are allocated, and the holders of mortgages on Building Plot's which have a least 67% of the votes of units subject to first mortgages, have given their prior written approval, the Association shall not be entitled to: (i) partition or subdivide any Building Plot, (ii) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer, the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the property by the subdivision shall not be deemed a transfer within the meaning of this clause; (iii) use hazard insurance proceeds for losses to any subdivision property (whether to Building Plots or to Common Area) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of

substantial loss to the Building Plots and/or Common Area of the subdivision; (iii) change the method of assessment or the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner; (iv) by act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the exterior maintenance of units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the subdivision; (v) fail to maintain fire and extended coverage on insurable Common Area property on a current replacement cost basis in an amount not less than one hundred (100%) per cent of the insurable value (based on current replacement cost).

Section 18. Distribution of Insurance Proceeds or Condemnation Awards. No provision contained in this Declaration shall be construed as giving a Building Plot Owner, or any other party, priority over any rights of first mortgagees in the case of a distribution to Building Plot Owners of insurance proceeds or condemnation awards for losses to or taking of Building Plot and/or Common Area.

Section 19. Notice of Cancellation of Insurance and Fidelity Bonds. Upon written request by a mortgage holder, insurer or guarantor, the Association shall furnish such mortgage holder, insurer or guarantor with timely written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 20. Delegations of Owner's Use of Common Area. Regarding an Owner's delegation of his rights of enjoyment to the Common Areas and facilities as provided for in Article II, Section 2 of this Declaration, no such delegation shall work a severance of the rights of enjoyment of the Common Areas and facilities from the ownership of a Building Plot, and any such delegation by any Owner shall automatically terminate upon conveyance of legal title to such Building Plot by said Owner.

ARTICLE XII

GENERAL PROVISIONS

Section 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. 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.

tions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Duration. The rights, use easements and privileges of the Owners in and to the Common Area as provided for herein shall be deemed to be covenants running with the land and shall be of perpetual duration. All other provisions, restrictions, covenants and conditions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This

signed by not less than ninety (90%) per cent of the Building Plot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) per cent of the Building Plot Owners, except as otherwise provided in Sections 8 and 17 of Article XI hereof. Any amendment must be recorded in the Deed Records of Harris County, Texas.

Section 4. Amendments by Declarant. The Declarant reserves and shall have the right at any time and from time to time, without the joinder or consent of any Owner or any other person, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of correcting any typographical error, ambiguity or inconsistency appearing in this Declaration, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration, and shall not impair the vested property rights of any home Owner or his mortgagee.

Section 5. Rights of Mortgagees, Trustees or Lienholders. No violations of any of these restrictions, covenants or conditions, shall affect or impair the rights of any Mortgagee, Trustee or Lienholder under any mortgage or deed of trust, or the rights of any assignee of any Mortgagee, Trustee or Lienholder under any such mortgage or deed of trust.

Section 6. Dedications. The tract of land described on Exhibit "E" attached, being a portion of the Common Area and designated "Ingress - Egress Easements", is hereby perpetually dedicated, established and set aside as a non-exclusive easement for street purposes for the common use, benefit and enjoyment of the Owners and/or occupants of the Building Plots which form a part of the Properties, to serve the Properties as streets for access, ingress and egress to and from each Building Plot to a street dedicated to public use. The plat of FONDREN SOUTHWEST TEMPOS APARTMENTS, SECTION THREE, recorded in Volume 308, Page 94 of the Map Records of Harris County, Texas, dedicates for public use as such, subject to the limitations set forth therein,

Certain streets shown thereon, and such other streets, easements, limitations, reservations and restrictions applicable to the properties. Easements affecting the Properties are hereby reserved as shown on the recorded plat referred to for the installation, operation and maintenance of utilities and drainage facilities. All dedications, limitations, restrictions and reservations shown on said plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof. ~~Easements, reservations, and restrictions are hereby created on behalf of~~ the Declarant and the Association on adjoining building Plots for the installation, operation and maintenance of utilities, the center lines of such easements to be located on the dividing lines between the adjoining Building Plots.

Section 7. Underground Electric Distribution System. An underground electric distribution system will be installed in that part of FONDREN SOUTHWEST TEMPOS APARTMENTS, SECTION THREE., designated herein as Subdivision, which underground service area embraces all of the building plots which are located in FONDREN SOUTHWEST TEMPOS APARTMENTS, SECTION THREE. The Owner of each building plot containing a single dwelling unit, shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each building plot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the Owner of each building plot containing a single dwelling unit, shall at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the

uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Subdivision at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Subdivision is being developed for residential dwelling units, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent.

The two preceding paragraphs also apply to any future residential development in FONDREN SOUTHWEST TEMPOS APARTMENTS, SECTION THREE.

Section 9. Annexation. Additional residential property and Common Area may be annexed to the Properties.

(a) With the consent of two-thirds (2/3) of each class of members;

(b) Notwithstanding anything contained in (a) above, additional land within the area described in the attached Exhibit "D" may be annexed from time to time by the Declarant, its successors or assigns, without the consent of other Owners within seven (7) years of the date of recording of this instrument.

(c) The annexation or addition may be accomplished by the execution and filing for record by the Owner of the property being added or annexed of an instrument which may be called "ARTICLES OF ANNEXATION" which shall at least set out and provide in substance: the name of the Owner of the property being added or annexed who shall be called the "Declarant"; the perimeter description of the property being added or annexed which for descriptive purposes may be designated as the second or third, etc., as the case may be, section of FONDREN SOUTHWEST TEMPOS; the description of the residential areas and of the Common Area of the property being added or annexed and the rights and easements of the Owners in and to the Common Area; that the property is being added or annexed in accordance with the provisions of this Declaration of Covenants, Conditions and Restrictions, and that the property being annexed shall be developed, held, used, sold and conveyed in accordance with and subject to the provisions of this Declaration of Covenants, Conditions and Restrictions; that all of the provisions of the Declaration of Covenants, Conditions and Restrictions shall apply to the property being added or annexed with

the same force and effect as if said property were originally included therein as part of the original development; that the property being added or annexed is submitted to the jurisdiction of the Association with the same force and effect as if said property were originally included in this Declaration of Covenants, Conditions and Restrictions as part of the original development; that the "Common Area" of the property being added or annexed will be conveyed to the Association subject to the rights of the Owners therein, prior to the sale of the first Building Plot in the

each other provisions which are not inconsistent with the provisions of this Declaration of Covenants, Conditions and Restrictions or the general scheme or plan of development of FONDREN SOUTHWEST TEMPOS a. a residential development. Nothing in this Declaration shall be construed to represent or imply that Declarant, its successors or assigns, are under any obligation to add or annex additional property to this residential development.

(d) At such time as the "Articles of Annexation" are filed for record and the Common Area of the annexed property has been conveyed to the Association, as hereinabove provided, the annexation shall be deemed accomplished and the annexed area shall be a part of the Properties and subject to each and all of the provisions of this Declaration of Covenants, Conditions and Restrictions and to the jurisdiction of the Association in the same manner and with the same force and effect as if such annexed property had been originally included in this Declaration of Covenants, Conditions and Restrictions as part of the initial development.

(e) After additions or annexations are made to the development, all assessments collected by the Association from the Owners in the annexed areas shall be commingled with the assessments collected from all other Owners so that there shall be a common Maintenance Fund for the Properties.

(f) Approximately one hundred twenty-six (126) residential units of comparable size, cost, structure, quality and design, may be constructed on the lands which Declarant may (but shall not be obligated to) annex.

(g) All intended improvements in future phases must be substantially completed prior to annexation.

condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board of Directors shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation issues affecting such Common Area. The Owners may by vote of 75%, or more, of the total voting power hereunder, agree to distribute the proceeds of any condemnation or taking by eminent domain to each Owner and his Mortgagee, if any, as their interest may appear. In the event that the Owners shall not so agree, such proceeds shall be added to the funds of the Association, and the Association shall decide on whether or not to replace or repair any property taken or damaged.

The Association shall give timely notice of the existence of such proceedings to all Owners and their Mortgagees, if any. The expense of participation in such proceedings shall be a common expense chargeable to the Owners.

IN WITNESS WHEREOF, the undersigned, has hereunto set its hand and seal this 13th day of August, A. D., 1982.

ATTEST:

Lucille G. Gentry
Lucille Gentry
Secretary

TRENDMAKER HOMES, INC.

BY:

Arthur W. Mayer
Arthur W. Mayer
"DECLARANT" President

THE STATE OF TEXAS |

COUNTY OF HARRIS |

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared A. W. Mayer, President, 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 the said TRENDMAKER HOMES, INC., a corporation, and that he executed the same as 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 13th day of August, A. D., 1982.



Jeanette O. King
Notary Public in and for Harris County,
TEXAS.

JEANETTE O. KING
My Commission Expires June 14, 1986

EXHIBIT "A"

LEGAL DESCRIPTION

FONDREN SOUTHWEST TEMPOS, SECTION THREE

BOUNDARY - PHASE ONE

2.5283 acres of land out of the Demas Elliott Survey, A-1071, Harris County, Texas, being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas, and being more particularly described by metes and bounds as follows:

~~Beginning at a found 5/8 inch iron rod for corner of the Fondren Southwest Tempos Apartments, Section Three; said iron rod further being located at the most northerly end of a cut-back corner at the intersection of the easterly right-of-way line of Bobwhite Drive (60.00 feet wide) and the southerly right-of-way line of Ludington Drive (60.00 feet wide);~~

THENCE North $87^{\circ} 15' 14''$ East, a distance of 316.50 feet, along the southerly right-of-way line of said Ludington Drive, to a point for corner;

THENCE leaving the southerly right-of-way line of said Ludington Drive and along the following courses:

South $02^{\circ} 44' 46''$ East, a distance of 255.36 feet to a point on curve;

Southerly along the arc of a curve to the left, having a radius of 126.00 feet, through a central angle of $60^{\circ} 18' 54''$ and an arc length of 132.64 feet to a point of curve;

South $87^{\circ} 15' 14''$ West, a distance of 147.69 feet to the point of curvature;

Westerly along the arc of a curve to the left, having a radius of 60.00 feet, through a central angle of $16^{\circ} 37' 25''$ and an arc length of 17.41 feet to a point of reverse curve;

Westerly along the arc of a curve to the right having a radius of 140.00 feet, through a central angle of $16^{\circ} 37' 25''$ and an arc length of 40.62 feet to the point of tangency;

South $87^{\circ} 15' 14''$ West, a distance of 40.00 feet to a point for corner; said point further being in the easterly right-of-way line of said Bobwhite Drive;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 350.54 feet, along the easterly right-of-way line of said Bobwhite Drive, to a found 5/8 inch iron rod for corner;

THENCE North $42^{\circ} 15' 14''$ East, a distance of 14.14 feet, along the aforementioned cut-back corner to the POINT OF BEGINNING and containing 2.5283 acres (110,134 square feet) of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

EXHIBIT "B"

~~LEGAL DESCRIPTION~~

~~FOR FONDREN SOUTHWEST TEMPOS, SECTION THREE~~

~~COMMON AREA~~

1.6575 acres of land out of the Demas Elliott Survey, A-1071, Harris County, Texas, being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas, and being more particularly described as follows:

Being all that certain 2.5283 acre tract as described in the preceding legal description, Exhibit "A", attached hereto and made a part hereof; SAVE AND EXCEPT those six (6) non-contiguous blocks described in the succeeding legal description, Exhibit "C", attached hereto and made a part hereof; said six (6) blocks having an aggregate area of 0.8708 acres, leaving a net area of 1.6575 acres of land.

FONDREN SOUTHWEST TEMPOS, SECTION THREE

BLOCK 1

Being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas; and further being out of the Demas Elliott Survey, A-1071, Harris County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8 inch iron rod marking the most northerly northwest corner of said Fondren Southwest Tempos Apartments; said rod further marking the most northerly end of a cut back corner at the street intersection of the easterly right-of-way line of Bobwhite Drive (60.00 feet wide) and the southerly right-of-way line of Ludington Drive (60.00 feet wide);

THENCE South $16^{\circ} 47' 02''$ East, a distance of 20.62 feet to a set 1/2 inch iron rod for the POINT OF BEGINNING of the herein described tract of land;

THENCE North $87^{\circ} 15' 14''$ East, a distance of 81.00 feet to a set 1/2 inch iron rod for corner;

THENCE South $02^{\circ} 44' 46''$ East, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE South $87^{\circ} 15' 14''$ West, a distance of 81.00 feet to a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 82.50 feet to the POINT OF BEGINNING and containing 0.1534 acres of land.

BLOCK 2

Being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas; and further being out of the Demas Elliott Survey, A-1071, Harris County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8 inch iron rod marking the most northerly northwest corner of said Fondren Southwest Tempos Apartments; said rod further marking the most northerly end of a cut back corner at the street intersection of the easterly right-of-way line of Bobwhite Drive (60.00 feet wide) and the southerly right-of-way line of Ludington Drive (60.00 feet wide);

THENCE South $82^{\circ} 00' 42''$ East, a distance of 107.30 feet to a set 1/2 inch iron rod for the POINT OF BEGINNING of the herein described tract of land;

THENCE North $87^{\circ} 15' 14''$ East, a distance of 106.00 feet to a set 1/2 inch iron rod for corner;

THENCE South $02^{\circ} 44' 46''$ East, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE South $87^{\circ} 15' 14''$ West, a distance of 106.00 feet to a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 82.50 feet to the POINT OF BEGINNING and containing 0.2008 acres of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR

EXHIBIT "C"

LEGAL DESCRIPTION

FONDREN SOUTHWEST TEMPOS, SECTION THREE

BLOCK 7

Being a portion of Fondren Southwest Tempos Apartments,
Section Three, Block Seven of Record, as recorded in
Volume 108, Page 94, Map Records, Harris County, Texas;

Harris County, Texas, and being more particularly described
by metes and bounds as follows:

COMMENCING at a found 5/8 inch iron rod marking the most
northerly northwest corner of said Fondren Southwest Tempos
Apartments; said rod further marking the most northerly end
of a cut back corner at the street intersection of the
easterly right-of-way line of Bobwhite Drive (60.00 feet
wide) and the southerly right-of-way line of Ludington Drive
(60.00 feet wide);

THENCE South $31^{\circ} 12' 12''$ East, a distance of 149.00 feet to
a set 1/2 inch iron rod for the POINT OF BEGINNING of the
herein described tract of land;

THENCE North $87^{\circ} 15' 14''$ East, a distance of 39.00 feet to
a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 13.50 feet to a
set 1/2 inch iron rod for corner;

THENCE North $87^{\circ} 15' 14''$ East, a distance of 55.50 feet to
a set 1/2 inch iron rod for corner;

THENCE South $02^{\circ} 44' 46''$ East, a distance of 82.50 feet to
a set 1/2 inch iron rod for corner;

THENCE South $87^{\circ} 15' 14''$ West, a distance of 55.50 feet to
a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 13.50 feet to
a set 1/2 inch iron rod for corner;

THENCE South $87^{\circ} 15' 14''$ West, a distance of 39.00 feet to
a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 55.50 feet to
the POINT OF BEGINNING and containing 0.1548 acres of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS
INSTRUMENT WAS FOUND TO BE INADEQUATE
FOR THE BEST PHOTOGRAPHIC REPRODUCTION
BECAUSE OF ILLEGIBILITY, CARBON OR
PHOTO COPY, DISCOLORED PAPER, ETC.

FONDREN SOUTHWEST TEMPOS, SECTION THREE

BLOCK 8

Being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas; and further being out of the Demas Elliott Survey, A-1071, Harris County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8 inch iron rod marking the most northerly northwest corner of said Fondren Southwest Tempos Apartments; said rod further marking the most northerly end of a cut back corner at the street intersection (60.00 feet wide) and the southerly right-of-way line of Ludington Drive (60.00 feet wide);

THENCE South $02^{\circ} 44' 47''$ East, a distance of 122.50 feet to a set 1/2 inch iron rod for the POINT OF BEGINNING of the herein described tract of land;

THENCE North $87^{\circ} 15' 14''$ East, a distance of 55.00 feet to a set 1/2 inch iron rod for corner;

THENCE South $02^{\circ} 44' 46''$ East, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE South $87^{\circ} 15' 14''$ West, a distance of 55.00 feet to a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 82.50 feet to the POINT OF BEGINNING and containing 0.1042 acres of land.

BLOCK 9

Being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas; and further being out of the Demas Elliott Survey, A-1071, Harris County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8 inch iron rod marking the most northerly northwest corner of said Fondren Southwest Tempos Apartments; said rod further marking the most northerly end of a cut back corner at the street intersection of the easterly right-of-way line of Hobwhite Drive (60.00 feet wide) and the southerly right-of-way line of Ludington Drive (60.00 feet wide);

THENCE South $05^{\circ} 20' 56''$ East, a distance of 220.23 feet to a set 1/2 inch iron rod for the POINT OF BEGINNING of the herein described tract of land;

THENCE North $87^{\circ} 15' 14''$ East, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE South $02^{\circ} 44' 46''$ East, a distance of 55.00 feet to a set 1/2 inch iron rod for corner;

THENCE South $87^{\circ} 15' 14''$ West, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE North $02^{\circ} 44' 46''$ West, a distance of 55.00 feet to the POINT OF BEGINNING and containing 0.1042 acres of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLIGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

EXHIBIT "C"

LEGAL DESCRIPTION

FONDREN SOUTHWEST TEMPOS

BLOCK 14

Being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas; and further being out of the Demas Elliott Survey, A-1071, Harris County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8 inch iron rod marking the most northerly northwest corner of said Fondren Southwest Tempos Apartments; said rod further marking the most northerly end of a cut back corner at the street intersection of the easterly right-of-way line of Bobwhite Drive (60.00 feet wide) and the southerly right-of-way line of Ludington Drive (60.00 feet wide);

THENCE South ~~29~~¹⁹° 18' 41" East, a distance of 240.38 feet to a set 1/2 inch iron rod for the POINT OF BEGINNING of the herein described tract of land;

THENCE North 87° 15' 14" East, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE South 02° 44' 46" East, a distance of 81.00 feet to a set 1/2 inch iron rod for corner;

THENCE South 87° 15' 14" West, a distance of 82.50 feet to a set 1/2 inch iron rod for corner;

THENCE North 02° 44' 46" West, a distance of 81.00 feet to the POINT OF BEGINNING and containing 0.1534 acres of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLIGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

LEGAL DESCRIPTION

FONDREN SOUTHWEST TEMPOS, SECTION THREE

ANNEXATION TRACT

7.7251 acres of land out of the Demas Elliott Survey, A-1071, Harris County, Texas, being a portion of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas, and being more particularly described as follows:

10.2534 acres of land, being all of said Fondren Southwest Tempos Apartments, Section Three; SAVE AND EXCEPT that certain 2.5283 acres of land described in the preceding legal description, Exhibit "A", attached hereto and made a part hereof, leaving a net area of 7.7251 acres of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

EXHIBIT "E"

LEGAL DESCRIPTION

FONDREN SOUTHWEST TEMPOS, SECTION THREE

INGRESS-EGRESS EASEMENTS

Being all those "Private Streets" and "Private Drives," as shown on the plat of Fondren Southwest Tempos Apartments, Section Three, a subdivision of record, as recorded in Volume 308, Page 94, Map Records, Harris County, Texas, contained within the boundaries of the preceding legal description, Exhibit "A", attached hereto and made a part hereof.

STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in
File Number Sequence on the date and at the time stamped
hereon by me; and was duly RECORDED, in the Official
Public Records of Real Property of Harris County, Texas on

SEP 21 1982



Quita L. Lush
COUNTY CLERK,
HARRIS COUNTY, TEXAS

Hold
COUNTY CLERK
HARRIS COUNTY, TEXAS

1982 SEP 21 AM 9:53

FILED