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SUPPLEMENTARY DECLARATION NO. 40

LAS COLINAS AREA XL

DALLAS COUNTY, TEXAS



This Supplementary Declaration, made this 12th day of November, 1998, by COLINAS LAND LIMITED PARTNERSHIP, a Delaware limited partnership (Declarant).

WITNESSETH:

- A. Declarant's predecessor in interest, Las Collnas Corporation (LCC), executed a Declaration (as previously corrected and supplemented the Declaration) on the 22nd of August, 1973, applicable to certain real property described in Exhibit "A" attached thereto and located in or adjacent to the City of Irving, County of Dallas, State of Texas.
- B. The Declaration was filed of record in Volume 73168, Page 1001, of the Deed Records of Dallas County, Texas, a Correction to Declaration was filed of record in Volume 77154, Page 1096, of the Deed Records of Dallas County, Texas, a Second Correction to Declaration was filed of record in Volume 79122, Page 0749, of the Deed Records of Dallas County, Texas, and a Third Correction to Declaration was filed of record in Volume 82071, Page 3244, of the Deed Records of Dallas County, Texas.
- C. LCC assigned all of its rights as "Declarant" under the Declaration to Declarant under a Corrected Assignment and Transfer of Rights of Declarant under Declaration dated as of June 29, 1988, recorded in Volume 82041, Page 0446, of the Deed Records of Dallas County, Texas.
- D. Additional real property has been added to the scheme of the Declaration as contemplated in Article I, Section 3, thereof by recording Supplementary Declarations in the Deed Records of Dallas County, Texas.
- E. Article V of the Declaration (entitled Protective Covenants), as originally written and as modified by the previous Supplementary Declarations is applicable only to the real property described in Exhibit "A" to the Declaration and in Exhibits to the previous Supplementary Declarations and not to additional real property which may be added to the scheme of the Declaration by subsequent Supplementary Declarations.
- F. Article I, Section 3, of the Declaration permits the addition of additional property to the scheme thereof by filing a Supplementary Declaration of record, which Supplementary Declaration may modify Article V of the Declaration as it pertains to the additional property.
- G. Declarant desires to add additional property located within the boundaries of the property described in Exhibit "A-40" to the Declaration to the scheme of the Declaration and to modify Article V of the Declaration as it pertains to the additional property.

H. The following terms have the following definitions: **Lake** means Lake Carolyn, the 125 acre flood control lake located within the Las Colinas Urban Center; **District** means Dallas County Utility and Reclamation District; and **Architectural Control Committee** means the Architectural Control Committee of The Las Colinas Association.

NOW THEREFORE, Declarant declares as follows:

1. The real property described in Exhibit "A-40" attached hereto and incorporated herein by reference for all purposes (designated as **Area XL** for purposes of this Supplementary Declaration) is and shall be subject to the scheme of the Declaration, and is and shall be held, transferred, sold, conveyed, used, and occupied subject to covenants, restrictions, easements, charges, and liens set forth in the Declaration (the Declaration being incorporated herein by reference for all purposes) as modified herein.

2. Article V of the Declaration is modified by the addition thereto of the following Section 40, which is applicable only to Area XL:

Section 40. Covenants Applicable to Area XL. The following provisions are applicable to any and all construction, improvement, alteration, addition, and use of, in, or to Area XL of the Properties:

- a. Use Limitations. Sites in Area XL may be used for a Class A 350-room luxury hotel with restaurants and conference facilities, health clubs, child care facilities, and other retail sales facilities contained wholly within the hotel buildings. The following uses of sites in Area XL are not permitted:
- (1) Warehouses and manufacturing.
 - (2) Residential.
 - (3) Any use which involves a noxious odor or any excessive noise level which constitutes a nuisance.
 - (4) Any use which violates any part of this Section 40.
 - (5) Any use which involves the raising, breeding, or keeping of any animals or poultry for commercial purposes.
- b. Minimum Setback Lines.
- (1) No structure of any kind and no part thereof may be placed within these setback lines:
 - (A) 25 feet from Las Colinas Boulevard.
 - (B) 25 feet from the dry wall of the Lake.

- (C) 25 feet from any other interior boundary line (i.e. a common boundary line with another owner).
- (2) The following improvements are expressly excluded from this restriction:
- (A) Structures below and covered by the ground.
 - (B) Steps, walks, driveways, and curbing.
 - (C) Planters, walls, fences, or hedges, not to exceed four feet in height.
 - (D) Landscaping.
 - (E) Guardhouses.
 - (F) Gatehouses.
 - (G) Aerial pedestrian crossings or connections.
 - (H) Canopies.
 - (I) Minor encroachments of adequately screened parking structures or parking areas.
- (3) No parking area and no part thereof may be placed within these setback lines:
- (A) 25 feet from Las Colinas Boulevard.
 - (B) 0 feet from the district pump station property line.
 - (C) 25 feet from the Lake.
 - (D) 5 feet from the interior property line (i.e., common boundary line with the adjacent owner).
- (4) Declarant may grant exceptions to or variances from any setback lines established in b(1) and b(3) above, except for b(1)(B) and b(3)(C) [setbacks from the Lake], provided that any variances or exceptions must be in writing.
- (5) Exceptions to or variances from b(1)(B) and b(3)(C) may be granted only upon written approval of the Board of Directors of the District. If the District ceases to function as a separate political subdivision of the State, exceptions to or variances from b(1)(B) and b(3)(C) may be granted only by the Architectural Control Committee, provided any exceptions or variances must be in writing.

c. Minimum Building Height Requirements. Principal structures erected on sites in Area XL shall conform to the minimum height requirements set forth below:

1. Not less than twelve (12) stories, the floor level of the first story being at or above elevation 425 mean sea level.

Exceptions to or variances from minimum building heights established in this paragraph c may be granted only upon written approval of the Declarant.

d. Minimum Habitable Building Floor Level. The lowest habitable floor level of any building, other than basement mechanical storage and parking levels may not be lower than elevation 425 mean sea level. No opening through the outside wall of any building or parking structure is permitted lower than elevation 425 mean sea level.

e. Parking Areas. Parking areas shall:

- (1) Be curbed and guttered with concrete and paved with 5" reinforced concrete placed on a 6" lime stabilized base or an equivalent pavement section engineered by a registered professional engineer as approved by the Architectural Control Committee.
- (2) Have a maximum grade slope of 5% and a minimum grade slope of 1½%.
- (3) Not be provided in front of the minimum setback lines established above.
- (4) Be adequately screened by use of berms, trees, landscaping or other means reasonably acceptable to the Architectural Control Committee in accordance with its customary use of discretion. Screening shall occur between all surfaced parking lots, adjacent public streets and adjacent exterior boundary lines.
- (5) Be sufficient to accommodate all parking needs for employees, company vehicles, customers and visitors without the use of onstreet parking. If parking needs increase, additional offstreet parking shall be provided by the Owner. Parking shall meet or exceed the off-street parking requirements of the City of Irving, Development Codes, Zoning and Subdivision Ordinances as amended from time to time or as otherwise approved by the City of Irving.

Declarant may grant exceptions to or variances from any part of this subsection e, provided that any variances or exceptions must be in writing.

f. Driveways. Driveways must:

- (1) Be constructed as specified in paragraph e(1) above.

(2) Have a minimum width of 12 feet.

g. Signs. All signs must be approved by the Architectural Control Committee in writing prior to installation. Normally, approval will be limited to those signs that:

(1) Identify the name and business of the occupant, or give directions, or offer the premises for sale or for lease.

(2) Are not of an unusual size or shape when compared to the building or buildings on the premises.

(3) Preserve the quality and atmosphere of the area.

No signs, symbols, advertising insignia or similar items are permitted on top of or on the face of buildings at a location higher than the area immediately above those levels where there are ground level outside entrances into the buildings; provided, Declarant may grant exceptions to or variances from the restrictions in this sentence as long as they are in writing. Signs of a flashing or moving character or inappropriately colored signs are not permitted. The Association may, but is not obligated to, remove any sign erected without written approval.

h. Landscaping. Landscaping shall:

(1) Be completed on all sites contemporaneously with completion of other improvements, but in no event later than 180 days after first occupancy of buildings.

(2) Conform to a landscaping plan approved by the Architectural Control Committee under Article IV of the Declaration. Normally, approval will be limited to landscaping plans that:

(A) Provide automatic underground sprinkling systems for all landscaped areas;

(B) Permit reasonable access to public and private utility lines and easements for installation and repair, and

(C) Include at least one tree for each 4,500 square feet of area between exterior building (including parking structures) walls and public street right-of-way lines and adjacent boundary lines.

(3) Owners of sites adjacent to the Lake must provide landscaping, including hardscape structures and public walks as well as plant materials, within the twenty (20) foot Lake wall maintenance easement adjacent to the Lake in accordance with plans submitted by the Owners and subjectively approved by the Board of Directors of the District and the Architectural Control Committee. Owners shall maintain the

improvements within this area along the Lake in accordance with standards established from time to time by the District and the Association.

- (4) Owners shall provide landscaping, including hardscape structures and walks as well as plant materials within the area adjacent to any public or private street in accordance with plans submitted by the Owners and subjectively approved by the Architectural Control Committee. Owners shall maintain the improvements within these areas in accordance with standards established from time to time by the Association.

i. Screening.

- (1) Storage areas, incinerators, storage tanks, trucks based on the premises, roof objects (including fans, vents, cooling towers, skylights and all roof mounted equipment which rises above the roof line), trash containers and maintenance facilities must either be housed in closed buildings or otherwise screened from public view in a manner and at a location approved in writing by the Architectural Control Committee. Screening at ground level would normally include landscaping, earthen berms or permanent fences of solid materials and be located as far from property lines as reasonably possible.
- (2) Antennas, including, without limitation, dish type antennas, and towers must be approved by the Architectural Control Committee, which may consider things like size, location, and ability to screen the antenna(s) and tower(s) from view from adjacent properties and from public and private streets and highways.

j. Loading Docks and Areas.

- (1) Loading docks and areas may not be located on the street-side of any building or structure, except that the Architectural Control Committee may approve a street-side location in writing (subject to express screening requirements).
- (2) Loading areas may not encroach setback areas, except that Declarant may give written approval for such encroachments.
- (3) Loading docks and areas must be screened in a manner approved in writing by the Architectural Control Committee considering factors like location and views from adjacent and nearby properties and public rights-of-way.

- k. Exterior Illumination. Illumination is required for all exterior building walls that face existing or proposed public or private streets the Lake and for all parking areas and walkways between buildings and parking areas unless otherwise

waived or modified by Declarant in writing. All exterior illumination must conform to plans approved in writing by the Architectural Control Committee.

I. Special Lake Front Requirements.

- (1) Development plans and architectural plans for sites facing on the Lake must:
 - (A) Provide restaurant and other similar uses at the Lake level that will attract people to the Lake and that are conducive to use by pedestrians;
 - (B) provide attractive facades on the Lake, which facades must provide a "front door" atmosphere rather than a "rear door" or "service entrance" feeling or "back side" look; and
 - (C) provide public pedestrian access around the perimeter of the site, within the twenty (20) foot Lake wall maintenance easement adjacent to the Lake, and from the public street right-of-way.
- (2) Automobile parking areas, loading docks, cooling towers, antennas, and other similar equipment and installations must be screened from view from the Lake and from boats traveling on the Lake, as specified in paragraph 2.i above.
- (3) Driveways viewed from the Lake must be minimized and carefully landscaped so that views of vehicles from across the Lake and from boats traveling on the Lake are minimized.
- (4) Special attention must be given to landscaping and its drainage in all areas that lie between building structures and the Lake, and must conform to plans and specifications approved by the Architectural Control Committee. Owners shall maintain the improvements within these areas in accordance with standards established from time to time by the Association.
- (5) Boat docking, loading and unloading facilities, and storm sewers and storm sewer discharge structures, may be constructed only at locations approved in advance in writing by the Board of Directors of the District and the facilities must conform to designs approved by the District. All roof drainage and other collected storm water run-off must be carried into either a public storm sewer facility or into the Lake in a manner subjectively approved by the District. All discharge structures into the Lake for all collected storm water run-off must be below elevation 417 mean sea level and must be subjectively approved by the District.

m. Construction Standards.

- (1) All building sides must be faced with face brick, stone, architectural precast or with similar quality face materials approved in writing by the Architectural Control Committee; in no case shall exterior insulation framing system (EIFS) or simulated stucco be utilized. Windows may not be glazed or reglazed with mirrored or reflective glass and the spandrel area between window openings may not be faced with a glass material without prior written approval of both the Architectural Control Committee and Declarant.
- (2) The design of all buildings fronting on Las Colinas Boulevard must be designed so that the maximum amount of space within the building abutting the exterior walls facing Las Colinas Boulevard will be of a construction plan that will facilitate the utilization of the space for shop, boutique, restaurant, or other purposes requiring a shop front appearance. The exterior facade at ground or street level facing Las Colinas Boulevard of all buildings must be of an attractive "store front design" or otherwise attractively screened.
- (3) Construction must conform to plans and specifications approved in writing by the Architectural Control Committee under Article IV of the Declaration. Normally, approval will be limited to those plans which:
 - (A) Do not include wooden frames.
 - (B) Preserve the quality and atmosphere of the area and do not detract from adjacent property.
 - (C) Do not include exterior fire escapes.
- (4) The collection, storage, sorting, removing, and disposing of all waste materials must be housed or screened in a manner approved in writing by the Architectural Control Committee. All facilities and plans for the disposal of wastes other than through public sanitary sewers (including, without limitation, shredding, compaction, incineration, reclamation, or chemical dissolution) must be approved in writing by the Architectural Control Committee and the District.
- (5) All structures must be equipped with gutters, downspouts, or other drainage conveyances approved by the Architectural Control Committee.
- (6) All utility lines (public or private) shall be underground.
- (7) Once commenced, construction must be diligently pursued so it is not left in a partly finished condition for a period longer than eighteen (18) months without written approval from the Architectural Control Committee.

3. No approval of plans and specifications and no publication of requirements or guidelines herein or in the Declaration or otherwise by the Association or the Architectural Control Committee or granting of any exceptions or variances by Declarant may be construed as representing or implying that improvements built in accordance therewith will be free of defects or comply with applicable laws or ordinances. Any approvals and observations incident thereto concern matters of an aesthetic nature. No approvals and guidelines may be construed as representing or guaranteeing that any improvements built in accordance therewith will be designed or built in a good and workmanlike manner. The granting of any exceptions or variances by Declarant shall be in Declarant's sole discretion. Declarant, the Association, their respective directors, officers, employees, and agents, the Architectural Control Committee, and members of the Architectural Control Committee are not responsible or liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land subject to the Declaration for any defects in any plans or specifications submitted, revised, or approved, any loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, any loss or damage arising from the noncompliance of the plans or specifications with any governmental ordinance or regulation, or any defects in construction undertaken pursuant to the plans and specifications. Approval of plans and specifications by the Architectural Control Committee may not be construed as approval by the City of Irving, Texas, as the approval processes are mutually exclusive. Unconditional approval of a complete set of plans and specifications by the Architectural Control Committee satisfies the requirements of all applicable subsections of this Supplementary Declaration that require written approval by the Architectural Control Committee for the plans and specifications. Any determination made by Declarant under this Supplementary Declaration, and the grant or denial of any exception or variance by Declarant under this Supplementary Declaration, is in Declarant's sole discretion.
4. The Declaration, except as expressly modified herein, remains in force and effect and is ratified and confirmed.

EXECUTED as of the day and year first written above.

LAS COLINAS LAND LIMITED PARTNERSHIP, a
Delaware limited partnership

By: Faison-Stone, Inc., a Texas corporation, Manager

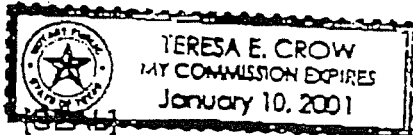
By: Charles E. Cotten

Charles E. Cotten
As its: Vice President

THE STATE OF TEXAS
COUNTY OF DALLAS

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This instrument was acknowledged before me on November 12, 1998, by Charles E. Cotten, Vice President of Falson-Stone, Inc., a Texas corporation, Manager of Las Colinas Land Limited Partnership, a Delaware limited partnership, on behalf of said corporation and partnership.



Teresa E. Crow

Notary Public in and for
the State of TEXAS

Return to (Closer 04):
AMERICAN TITLE COMPANY
6029 Beltline Road, Suite 250
Dallas, TX 75240

EXHIBIT 'A-40'
(LEGAL DESCRIPTION)

SDAD 11-11-88

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EXHIBIT A - 40

LEGAL DESCRIPTION

DESCRIPTION, of a tract situated in the Elizabeth Crockett Survey, Abstract No. 217 and McKinney and Williams Survey, Abstract No. 1056, Dallas County, Texas; said tract being Tract 1-29, as conveyed to Las Colinas Land Limited Partnership by Special Warranty Deed recorded in Volume 89128, Page 759 of the Deed Records of Dallas County, Texas; said tract being more particularly described as follows:

COMMENCING, at the intersection of the westerly right-of-way line of Las Colinas Boulevard (a 110 foot wide right-of-way) as dedicated by the plat recorded in Volume 82073, Page 878 of the Deed Records of Dallas County, Texas; with the northeasterly corner of a corner clip in the northerly right-of-way line of Fuller Drive (a 135 foot wide right-of-way) as dedicated by the plat recorded in Volume 82073, Page 878 of the Deed Records of Dallas County, Texas;

THENCE North 78 degrees, 53 minutes, 56 seconds East, a distance of 110.00 feet to a point in the easterly right-of-way of said Las Colinas Boulevard; said point being the beginning of a curve to the left whose center bears North 78 degrees 53 minutes, 56 seconds East, a distance of 1577.02 feet from said point;

THENCE, easterly, along said curve to the right, through a central angle of 15 degrees, 32 minutes, 40 seconds, an arc distance of 427.84 feet on a chord bearing and distance of South 18 degrees, 52 minutes, 26 seconds East, 426.53 feet to a ½-inch iron rod with "Pacheco Koch" cap set at the POINT OF BEGINNING;

THENCE, North 62 degrees, 57 minutes, 35 seconds East, departing said east line, a distance of 359.95 feet to a ½-inch iron rod with "Pacheco Koch" cap set at an angle point;

THENCE, North 45 degrees, 35 minutes, 45 seconds East, a distance of 418.83 feet to a ½-inch iron rod with "Pacheco Koch" cap set; said point being on the back (dry) side of a concrete retaining wall around Lake Carolyn and a boundary agreement recorded in Volume 86157, Page 172 of the Deed Records of Dallas County, Texas; said point being the beginning of a non-tangent curve to the right whose center bears South 56 degrees, 11 minutes, 01 seconds West, a distance of 219.33 feet from said point;

THENCE, generally along said back side of a concrete retaining wall the following four courses and distances;

Easterly and southeasterly, along said curve to the right, through a central angle of 54 degrees, 00 minutes, 41 seconds, an arc distance of 206.76 feet, on a chord bearing and distance of South 06 degrees, 48 minutes, 17 seconds East, 199.19 feet to a ½-inch iron rod found at the end of said curve;

South 20 degrees, 11 minutes 47 seconds West, a distance of 466.23 feet to a ½-inch iron rod found for corner;

North 79 degrees, 19 minutes, 23 seconds West, a distance of 65.97 feet to a ½-inch iron rod found for corner;

South 43 degrees, 55 minutes, 33 seconds West, a distance of 148.05 feet to a ½-inch iron rod found for corner; said point being the east corner of a Pump Station Site described in deed recorded in Volume 86242, Page 330 of the Deed Records of Dallas County, Texas.

THENCE, North 46 degrees, 04 minutes, 27 seconds West, departing said concrete retaining wall and along the northeast line of said Pump Station Site, a distance of 74.46 feet to a 5/8-inch iron rod found for corner at the north corner of said Pump Station Site;

THENCE, South 51 degrees, 48 minutes, 39 seconds West, along the northwest line of said Pump Station Site, a distance of 100.27 feet to a ½-inch iron rod found at the west corner of said Pump Station Site; said point being in the said east right-of-way line of Las Colinas Boulevard; said point being the beginning of a non-tangent curve to the right whose center bears North 51 degrees, 05 minutes, 01 seconds East, a distance of 1577.02 feet from said point;

THENCE, northeasterly, along said curve to the right and said east line of Las Colinas Boulevard, through a central angle of 12 degrees, 16 minutes, 12 seconds, an arc distance of 337.72 feet, on a chord bearing and distance of North 32 degrees, 46 minutes, 53 seconds West, 337.08 feet to the POINT OF BEGINNING;

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COUNTY CLERK, BELL COUNTY, TEXAS



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BELL COUNTY
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