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DECLARATION OF PROTECTIVE COVENANTS  
AND PERFORMANCE STANDARDS FOR  
WESTOVER HILLS - PHASE IV

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**DECLARATION OF PROTECTIVE COVENANTS  
AND PERFORMANCE STANDARDS FOR  
WESTOVER HILLS - PHASE IV**

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List of Exhibits

- |             |  |
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| Exhibit "A" | Real Property Description of Westover Hills-<br>Phase IV |
| Exhibit "B" | Golf course Tract  |
| Exhibit "C" | Hotel Tract  |

DECLARATION OF PROTECTIVE COVENANTS  
AND PERFORMANCE STANDARDS FOR  
WESTOVER HILLS - PHASE IV

STATE OF TEXAS           §  
                                  §  
COUNTY OF BEXAR       §

This Declaration is made this 6th day of September, 1990, by ED M. WISEMAN, Trustee for the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased, MARY ANN SIMPSON, Trustee for the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased, and CHARLES R. WISEMAN, Trustee for the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased (collectively hereinafter called "Declarant").

W I T N E S S E T H :

WHEREAS, Declarant is the owner of approximately 130.229 acres of real property in Bexar County, Texas, described on the attached Exhibit "A" (herein referred to as "Westover Hills-Phase IV" or the "Real Property"); and

WHEREAS, Declarant desires to develop Westover Hills - Phase IV as a part of Westover Hills, a coordinated multi-use development in the vicinity of Loop 1604, State Highway 151 and Potranco Road in Northwest Bexar County, Texas (herein referred to as "Westover Hills", and being more particularly defined in Section 1.30, below), such coordinated development to include providing a uniform plan of development which will enhance and protect the value, utilization, desirability and attractiveness of Westover Hills - Phase IV and protect the Owner of each Building Site located therein against any improper or undesirable development or use; and

WHEREAS, San Antonio Resort Limited Partners, L.P. (the "Hotel Owner") and San Antonio Resort Limited Partners, L.P. (the "Golf Course Owner"), (the Hotel Owner and the Golf Course Owner are presently the same entity, but it is being granted rights in the two separate capacities in case the ownership of the two facilities is split in the future) are, respectively, the owners of the Hotel Tract and the Golf Course Tract (as hereinafter defined), which sites are adjacent to, but do not constitute a portion of, Westover Hills - Phase IV; and

WHEREAS, as a condition to their purchase of the Hotel Tract and Golf Course Tract, the Hotel Owner and the Golf Course Owner have required the imposition of certain restrictions upon Westover Hills - Phase IV to protect the resort nature of the

Hotel Tract and Golf Course Tract and protect the value, utilization, desirability, and attributes thereof; and

WHEREAS, Declarant expects to derive substantial benefit from the contemplated development of a destination resort hotel on the Hotel Tract and an 18-hole golf course on the Golf Course Tract; and, in consideration of such contemplated benefits and as an inducement to the Hotel Owner and the Golf Course Owner to acquire the Hotel Tract and the Golf Course Tract, Declarant is willing to restrict the use and development of Westover Hills-Phase IV as herein provided, both for the benefit of itself and its successors as owners of portions of the Real Property as well as for the benefit of the Hotel Owner and the Golf Course Owner; and

WHEREAS, Declarant desires to adopt, prescribe and impose certain protective covenants and performance standards on Westover Hills - Phase IV to accomplish the above objectives;

NOW, THEREFORE, Declarant does, as owner of Westover Hills-Phase IV, hereby impose on Westover Hills - Phase IV the following conditions, covenants, performance standards and restrictions (hereinafter collectively called the "Protective Covenants"), which shall be covenants running with the Real Property and which shall be binding upon any purchaser, grantee, owner, lessee, tenant or occupant of all or any part of Westover Hills - Phase IV and/or Improvements located thereon, and their respective heirs, executors, administrators, devisees, successors and assigns.

## ARTICLE I

### CERTAIN DEFINITIONS

1.1 Applicant shall mean and refer to each Owner or prospective Owner submitting to the Committee, for its approval, plans and specifications for any Improvement or Improvements to be constructed on a Building Site on any portion of Westover Hills - Phase IV, as more particularly described in Article II, below.

1.2 Architectural Design Guidelines shall mean and refer to the set of standards and procedures for exterior construction for Westover Hills - Phase IV dated of even date herewith which are hereby adopted by Declarant, subject to subsequent amendment from time to time by the Committee as herein provided.

1.3 Association shall mean and refer to the Property Owners' Association described in Article VI, below.

1.4 Building Setback Line shall mean that lineal distance measured at a right angle from the Owner's property line to a

point a designated number of feet away, such line to run parallel with the property line its entire length.

1.5 Building Site shall mean any contiguous plot of land, the size and dimensions of which shall be established by the legal description in the original conveyance from Declarant to the first fee owner of said plot of land, other than Declarant. A Building Site may also be established by the Committee by an instrument in writing, executed, acknowledged and recorded by the Committee, which designates a plot of land as a Building Site for purposes of these covenants. If two or more Building Sites, as defined hereinabove, are acquired by the same owner in fee, such commonly owned Building Sites may, at the option of said owner, be combined and treated as a single Building Site for purposes of the Covenants contained herein. Any Building Site may be subdivided by the Owner thereof into two or more developable parcels, but only with the consent of the Committee, as hereinafter provided. In the event Declarant desires to construct any Improvements (other than temporary Improvements permitted by Section 2.3(c) hereof) on any portion of the property it then owns in Westover Hills - Phase IV, it must first designate the site of such Improvements as a Building Site for purposes thereof.

1.6 Committee shall mean and refer to the Architectural Control Committee described in Article II, below.

1.7 Common Areas and Common Facilities shall be the areas within Westover Hills - Phase IV designated by the Committee, from time to time, but only with the consent of Declarant (so long as it (and/or the beneficiaries of any of said trusts) owns any undeveloped portion of Westover Hills - Phase IV), for any of the following: (i) landscaped areas in or adjacent to all streets, roads and alleys which have been dedicated to the City of San Antonio or Bexar County, Texas, or, property in Westover Hills - Phase IV then owned by Declarant or by the Association; (ii) designated drainage easements and detention ponds; (iii) common recreational facilities; (iv) areas designated for signage, including entrance signs and traffic control devices; (v) helipads for common use; (vi) bus and transit stops (excluding any Park & Ride or similar regional mass transit facility); (vii) designated areas for sculpture; and (viii) other landscaped areas as designated by Declarant or the Association, from time to time, as applicable to the property they each then own, including landscaped areas around signage for Westover Hills, medians, cul-de-sacs and other structures located within public rights-of-way in or adjacent to the Real Property. For purposes of common area assessments and obligations of the Declarant or the Association to maintain, Common Areas may also include the medians on Westover Hills Boulevard, Hunt Lane and Military Drive West on those portions which are contiguous to Westover Hills - Phase IV, as well as the median of Rogers Road

from Military Drive West to Westover Hills Boulevard. Provided, however, in no event will the Common Areas and Common Facilities include: (a) the Landscaped Setback defined in Subsection 5.1.2, below; or (b) any easements on an Owner's property (unless in any particular case a drainage easement may be designated from time to time, by Declarant or the Association on the property it then owns, as Common Areas).

1.8 Construction Plan Submittal shall mean and refer to the final plans and specifications for an Improvement, to be submitted by an Applicant to the Committee pursuant to Section 2.7, below.

1.9 Core Tract shall mean the area bounded by State Highway 151, Westover Hills Boulevard, Hunt Lane and Military Drive West in Bexar County, Texas.

1.10 D.B.H. shall mean, when referring to measurement of the diameter of trees, Diameter-at-Breast-Height.

1.11 Declarant shall mean ED M. WISEMAN, Trustee for the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased, MARY ANN SIMPSON, Trustee for the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased, and CHARLES R. WISEMAN, Trustee for the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased (and shall include any beneficiaries of any such trusts). Such Trustees and beneficiaries may from time to time designate one or more persons to act on behalf of Declarant, and any such designation shall be in writing and filed of record in the Deed Records of Bexar County, Texas. Declarant hereby authorizes either Ed Wiseman, Charles Wiseman or Mary Ann Simpson to act on behalf of Declarant.

1.12 Design and Planning Coordination Meeting shall mean the preliminary meeting between an Applicant and the Committee to coordinate preliminary design and planning concepts, as further described in Section 2.4, below.

1.13 Design Development Submittal shall mean and refer to the design plans for an Improvement to be submitted by an Applicant to the Committee pursuant to Section 2.6, below.

1.14 Design Guidelines means, collectively, the Architectural Design Guidelines, the Landscape Guidelines, the Lighting Guidelines and the Signage Guidelines.

1.15 Existing Covenants means, collectively, (i) Declaration of Restrictions and Protective Covenants dated September 30, 1985, by Westover Hills, Ltd., Westover Hills II, Ltd. and Westover Hills-1604, Ltd. recorded at Volume 3517, Page 1684, of

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the Real Property Records of Bexar County, Texas, as supplemented by Statement of Intent Regarding the "Sea World" Declaration of Restrictions and Protective Covenants dated as of September 30, 1985, among Westover Hills, Ltd., Westover Interests, Inc., S/T Westover Hills II, Westover Hills-1604, Ltd., and Sea World of Texas, Inc. recorded at Volume 4245, Page 1520, of the Real Property Records of Bexar County, Texas; (ii) Declaration of Protective Covenants dated January 14, 1988, recorded at Volume 4221, Page 1891, of the Real Property Records of Bexar County, Texas.

1.16 Golf Course Tract means the approximately 173.035 acre parcel of real property more particularly described on Exhibit "B" attached hereto and made a part hereof for all purposes.

1.17 Hotel Tract means the approximately 34.088 acre parcel of real property more particularly described on Exhibit "C" attached hereto and made a part hereof for all purposes.

1.18 Improvements: Improvements shall mean and include all buildings and roofed structures, parking areas, concrete pads, loading areas, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any new exterior construction or exterior improvement exceeding \$2,000.00 in cost which may not be included in any of the foregoing. It does include both original improvements and all later changes in improvements. It does not include (i) shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances and is consistent with the landscaping plans previously approved by the Committee for the Building Site in question, or (ii) temporary structures erected from time to time by Declarant for development and sale of Westover Hills - Phase IV pursuant to Section 2.3(c) hereof.

1.19 Landscape Guidelines shall mean and refer to the set of standards and procedures for landscaping for Westover Hills-Phase IV dated of even date herewith which are hereby adopted by Declarant, subject to subsequent amendment from time to time by the Committee as herein provided.

1.20 Lighting Guidelines shall mean and refer to a set of standards and procedures for exterior lighting for Westover Hills - Phase IV dated of even date herewith which are hereby adopted by Declarant, subject to subsequent amendment from time to time by the Committee as herein provided.

1.21 Non-Residential shall refer to all Improvements other than single family detached and duplex dwellings. All office buildings, shopping centers and other commercial projects, as well as apartment complexes, condominium developments and other residential properties other than single family or duplex dwellings shall be considered "Non-Residential" for purposes hereof.

1.22 Owner or Building Site Owner shall mean and refer to the record owner of a Building Site or any portion of Westover Hills - Phase IV (or the ground lessee under a ground lease), excluding, however, the City of San Antonio, County of Bexar, Texas, and any other governmental or quasi-governmental entities to which any portion of the Westover Hills - Phase IV may be conveyed or dedicated for easements, streets, landscape areas or other use from time to time designated by Declarant. Notwithstanding any applicable theory, a mortgagee or beneficiary of a deed of trust shall not be an "Owner" unless and until such mortgagee or assignee has acquired title to the Building Site or portion thereof pursuant to a foreclosure proceeding or by way of a deed in lieu of foreclosure.

1.23 Person shall include a natural person or a firm, partnership, organization, association, trust, corporation or other entity.

1.24 Real Property shall mean and refer to the approximately 140 acres described on Exhibit "A" attached hereto and incorporated herein by reference (being also herein referred to as "Westover Hills - Phase IV").

1.25 Residential shall mean single family detached and duplex dwellings only, unless specifically designated otherwise.

1.26 Resort Tract shall mean collectively the Hotel Tract and the Golf Course Tract.

1.27 Sea World Site shall mean that one certain 496.18 acre tract of real property more fully described on Exhibit "D" to the Declaration of Restrictions and Protective Covenants filed of record in Volume 3517, Page 1684 of the Real Property Records of Bexar County, Texas, which is the site of the Sea World Park, as therein defined.

1.28 Schematic Design Submittal shall mean and refer to the schematic design plans and drawings for an Improvement to be submitted by an Applicant to the Committee pursuant to Section 2.5, below.

1.29 Signage Guidelines shall mean and refer to a set of standards and procedures for exterior signs for Westover Hills-Phase IV dated of even date herewith which are hereby adopted by

the Declarant, subject to subsequent amendment from time to time by the Committee as herein provided.

1.30 Westover Hills shall mean a coordinated, planned multi-use development of approximately 1,854.47 acres in the vicinity of Loop 1604, State Highway 151 and Potranco Road in Northwest Bexar County, Texas, of which Westover Hills - Phase IV is a part. This Declaration expressly does not include, encumber, burden or restrict such 1,854.47 acres excepting only for the land comprising Westover Hills - Phase IV.

1.31 Westover Hills - Phase IV shall mean the Real Property referred to in Section 1.24, above.

## ARTICLE II

### ARCHITECTURAL CONTROL COMMITTEE

2.1 General. The sound economic development and aesthetic and ecological quality of Westover Hills - Phase IV, as well as the proper development setting for the Resort Tract requires that all Improvements be compatible with other Improvements and be in harmony with Westover Hill's landscaping and natural surroundings, as well as those on the Resort Tract. Westover Hills - Phase IV shall, in all respects, be developed in such a manner as to maintain overall visual continuity with the other component parts of Westover Hills - Phase IV, as well as the Resort Tract. The most critical elements of this continuity includes: (i) uniform landscape materials and landscape application, (ii) compatible forms and site grading, (iii) consistent building orientation, set backs and view, (iv) appropriate treatment of site utilities, and (v) uniform site fixtures, including signage and lighting. To this end, an Architectural Control Committee (the "Committee") has been created. No Improvements shall be erected, constructed, placed or altered (by addition or deletion), maintained or permitted to remain in Westover Hills - Phase IV (i) unless in strict compliance with this Declaration and the Design Guidelines, except if a variance from strict compliance in any particular case is granted by the Committee in writing, and (ii) until such site has been designated as a Building Site and until the Owner or prospective Owner (including Declarant, if applicable) or its representative, shall have submitted to the Committee appropriate plans and specifications, in accordance herewith and in such form and detail as the Committee may deem necessary, and such plans and specifications shall have been approved in writing by the Committee.

## 2.2 Designation of Committee.

(a) The Committee shall be a body of five (5) natural persons.

(b) Declarant shall designate, and thereafter from time to time replace, with or without cause, three (3) of the members of the Committee. Declarant does hereby designate Charles R. Wiseman, Mary Ann Simpson and James M. Summers as initial members.

(c) Charles Martin Wender ("Wender") shall designate, and thereafter from time to time replace, with or without cause, one (1) member of the Committee. Wender hereby designates himself as an initial member.

(d) The Hotel Owner shall designate, and thereafter from time to time replace, with or without cause, one (1) member of the Committee. The Hotel Owner hereby designates John Field Scovell as an initial member.

(e) Any Person entitled to designate a member of the Committee may designate one (1) or more alternates to appear on its behalf at any meeting or otherwise to take actions authorized to be taken by the member(s) of the Committee designated by such Person if the original designee is not able to appear at any meetings or otherwise take such actions, any such alternate to have, in the absence of the designated member of the Committee, the same rights and authority as the original designee.

(f) Declarant, Wender or the Hotel Owner may each specifically assign their rights under this Section 2.2 by (i) executing and recording such assignment in the Real Property Records of Bexar County, Texas, and (ii) providing a copy of such assignment to the then members of the Committee; provided, that no such rights may be assigned to any person other than the Association or a Person or entity who holds an interest in a portion of the Core Tract.

(g) Except as expressly set forth herein, approvals shall be by a majority of the members of the Committee.

## 2.3 Function And Duties.

(a) Subject to the limitations of Section 2.3(b), below, the committee has the right and responsibility to: (i) interpret, enforce and amend these Protective Covenants and any Design Guidelines provided for herein, (ii) adopt and amend, from time to time, a schedule of fees (as provided for in Section 2.12, below) for processing submittals for Committee approval and for other Committee

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activities, and (iii) in any particular case grant a variance from strict compliance with any particular provision of this Declaration or the Design Guidelines (other than a prohibited use or other than the requirements of Article III, below), so long as any such variance is consistent with the general goals of this Declaration for Westover Hills - Phase IV to be a coordinated multi-use development. Any such variance must be specific and in writing. The Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decisions of the Committee shall be final, conclusive and binding upon all Applicants; except that in the event and to the extent the decision of the Committee is in violation of any applicable statute, regulation, ordinance, directive, decision or order of any court or any state, federal, city or county governmental agency (collectively the "Legal Requirements"), such Legal Requirements shall control.

(b) Anything herein to the contrary notwithstanding, none of the following actions may be taken by the Committee without the prior or concurrent approval of the Committee member designated by the Hotel Owner, and no such action taken by the Committee without the approval of such Hotel Owner's designee shall be of any force or effect whatsoever:

(i) Any amendment to these Protective Covenants;

(ii) Any amendment or supplement to the Architectural Design Guidelines, the Lighting Guidelines, the Landscape Guidelines and/or the Signage Guidelines;

(iii) Any special permit or approval permitted to be issued under, or any variance from strict compliance with the provisions of this Declaration, the Design Guidelines or any interpretation of any provisions of any of the foregoing with respect to any Improvement any portion of which is located within two hundred feet (200') of the Resort Tract, or the right of way of Rogers Road from Westover Hills Boulevard to Military Drive West.

In exercising the special rights granted in this Section 2.3(b), the designee of the Hotel Owner shall not unreasonably withhold its approval of any matter which has otherwise been approved by the Committee except to the extent such matter would have an adverse effect upon the development (either then existing or

future) of the Resort Tract or a material portion hereof.

2.3.1 Subject to compliance with the standards set forth in this Section 2.3(c), temporary improvements may be constructed by the Declarant to facilitate sales of property in Westover Hills - Phase IV, subject to Committee approval. A variance from the specific provisions of the Protective Covenants and Design Guidelines is hereby granted as to such temporary improvements so long as such temporary improvements are, in the judgment of the Committee, consistent with and compatible with the general goals of this Declaration and the Design Guidelines for development in Westover Hills - Phase IV.

2.4 Design and Planning Coordination Meeting. Each Applicant shall arrange a Design and Planning Coordination Meeting with the Committee early in the Applicant's design and planning process, while Applicant's proposed plans are tentative and preliminary, to permit Applicant and the Committee to discuss and outline in general the Improvements proposed to be constructed by the Applicant, to assure full understanding of the requirements of the Committee, and to coordinate with the Committee preliminary design and planning concepts.

2.5 Schematic Design Submittal. After the Design and Planning Coordination Meeting, the Applicant shall submit to the Committee schematic design plans and drawings for the Improvements proposed to be constructed by the Applicant (the "Schematic Design Submittal"), such Schematic Design Submittal to include the following:

2.5.1 Preliminary clearing, grading and drainage plans;

2.5.2 Preliminary layout of all parking, loading, storage, service and vehicular use areas;

2.5.3 Preliminary building locations, building site coverage, building height(s), building setbacks and interior/exterior relationships, and showing areas designated for open space, pedestrian walkways and/or landscaping;

2.5.4 Location and use of proposed Improvements as they relate to existing adjacent property uses, drainageways, easements and the like; and

2.5.5 Proposed use of the Building Site and Improvements and estimated building occupant load.

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Written approval by the Committee of the Schematic Design Submittal shall be valid for a period of six (6) months from the date of approval (the "Schematic Approval Period"); provided, however, any such approval shall not operate to modify any period of time Owner and/or Applicant may have to commence construction under any agreement, if any, entered into between Declarant and Owner, and/or Declarant and Applicant, regarding commencement of construction.

2.6 Design Development Submittal. After the Applicant has received written approval from the Committee of the Schematic Design Submittal, and prior to the expiration of the Schematic Approval Period and prior to the commencement of construction, the Applicant shall submit to the Committee, for its approval in writing, the following items (the "Design Development Submittal"), which shall include such appropriate modifications to the Schematic Design Submittal as may be reasonably requested by the Committee:

2.6.1 Topographical plan showing existing contour and grades and showing the location of all proposed Improvements, structures, walks, patios, driveways, walls, loading and storage areas, trash receptacles and mechanical equipment; existing and finished grades shall be shown at Building Site corners and at corners of proposed Improvements; Building Site drainage provisions shall be indicated, as well as cut and fill details if any appreciable change in site contours is contemplated;

2.6.2 Exterior elevations;

2.6.3 Exterior materials, colors, textures, finishes and shapes;

2.6.4 Preliminary landscaping plan, including walkways, walls, elevation changes, watering and irrigation systems, vegetation and ground cover;

2.6.5 A tree survey in such form and for such area (not greater than the Building Site) as the Committee may reasonably require to evaluate the impact of the proposed Improvements "per existing trees", and any such survey shall generally not require the location of trees measuring smaller than four (4) inches D. B. H.;

2.6.6 Parking area and driveway plan (including number and location of parking spaces), and paving design and materials specifications;

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- 2.6.7 Screening, including size, location and method;
- 2.6.8 Trash container storage locations and screening;
- 2.6.9 Utility connections;
- 2.6.10 Exterior illumination location and type;
- 2.6.11 Signs, including size, topography, shape, color, location, materials and method of illumination;
- 2.6.12 Construction staging;
- 2.6.13 Adjacent property improvements, where applicable, and their location and use as they relate to existing and proposed Improvements; and
- 2.6.14 Other activity that would alter the natural site must also be included.

Written approval by the Committee of the Design Development Submittal shall be valid for a period of six (6) months from the date of approval (the "Design Approval Period"); provided, however, any such approval shall not operate to modify any period of time Owner and/or Applicant may have to commence construction under any agreement, if any, entered into between Declarant and Owner, and/or Declarant and Applicant, regarding commencement of construction.

2.7 Construction Plan Submittal. During the Design Approval Period, and prior to the commencement of construction, the Applicant shall submit to the Committee, for its approval in writing, final plans and specifications (the "Construction Plan Submittal"), containing such modifications to the Schematic Design and Design Development Submittals as the Committee may reasonably request, and shall include, in addition, the following:

- 2.7.1 Structural design plans;
- 2.7.2 Construction specifications;
- 2.7.3 Final floor plans;
- 2.7.4 Final utility, engineering and drainage plans and specifications;
- 2.7.5 Final landscaping plans and specifications and irrigation systems;

2.7.6 Fire protection systems;

2.7.7 Final exterior illumination and signage plans and specifications, including location, method, luminaire and fixture type, support post and mounting support, height, wiring and photometric information; and

2.7.8 Construction logistics plan, showing project phasing and timeframes expected, all temporary fencing, all construction traffic patterns and access, and litter removal and collection.

Written approval by the Committee of the Construction Plan Submittal shall be valid for a period of one (1) year from the date of approval (the "Construction Approval Period"); provided, however, any such approval shall not operate to modify any period of time Owner and/or Applicant may have to commence construction under any agreement, if any, entered into between Declarant and Owner, and/or Declarant and Applicant, regarding commencement of construction.

2.8 Extension of Approval Periods/Additional Submittal Requirements. The Committee may from time to time extend the foregoing approval periods for such additional amount of time as the Committee, in its sole discretion, deems appropriate and necessary after taking into consideration the particular facts and circumstances at hand. Furthermore, in addition to the foregoing submittal requirements, the Committee (i) may adopt as part of these Protective Covenants or the Design Guidelines such additional submittal requirements as are deemed necessary or appropriate to insure compliance with these Protective Covenants and the Design Guidelines and the general design scheme of Westover Hills - Phase IV, and/or (ii) may require additional or modified submittals in a particular case.

2.9 Basis of Approval. The objective of the Committee's approval process is to insure that Applicant's proposed improvements are compatible with Declarant's objective of a coordinated multi-use development of Westover Hills - Phase IV and with the development of and aesthetic impact of the proposed improvements on the Resort Tract, being a contemplated 18-hole golf course and destination resort hotel. Approval of plans and specifications (both preliminary, and final, as described in Sections 2.5., 2.6 and 2.7, above) shall be based, among other things, upon: (i) adequacy of Building Site dimensions; (ii) conformity and harmony of external design and of location with neighboring structures and Building Sites; (iii) relation of finished grades and elevations to neighboring Building Sites or the Resort Tract, as the case may be; (iv) proper facing of main elevations with respect to nearby streets; (v) operations and uses; and (vi) conformity to both the specific and general intent

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of these Protective Covenants and the Design Guidelines. The Committee shall not arbitrarily or unreasonably withhold its approval.

2.10 Failure of the Committee to Act. If the Committee shall fail to approve or to disapprove either the Schematic Design Submittal, the Design Development Submittal or the Construction Plan Submittal, or to reject any such submittal as being inadequate, within thirty (30) days after any such submittal, it shall be conclusively presumed that the Committee has approved such submittal; provided, however, that such presumed approval of either the Schematic Design Submittal or the Design Development Submittal shall in no event eliminate the requirement that the Applicant submit to the Committee for approval the Construction Plan Submittal as described in Section 2.7, above, and provided, further, that the failure of the Committee to approve or disapprove any submittal within a thirty (30) day period shall not operate to permit any Improvement to be commenced, erected, constructed, placed or maintained in Westover Hills - Phase IV in a manner inconsistent with any provision of these Protective Covenants or the Design Guidelines. If any submittal (preliminary or final) is not sufficiently complete or is otherwise inadequate, the Committee may reject such submittal as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject as being inadequate the balance.

2.11 Exculpation of Liability. Neither any Declarant, the Hotel Owner, the Golf Course Owner, the Association nor any member of the Committee nor any professional consultants assisting any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications for approval, or to any Owner, Applicant or other Person affected by these Protective Covenants or the Design Guidelines, by reason of mistake of judgment, negligence, nonfeasance or otherwise arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications. Approval by the Committee of any plans, specifications or Improvements shall not constitute an approval, opinion as to legality, ratification or endorsement of the quality of architectural or engineering soundness of the proposed Improvements, and neither the Committee nor its members, nor Declarant, the Hotel Owner, the Golf Course Owner, nor the Association, nor any professional consultants assisting any of them, shall have any liability in connection with, or related to, approval of plans, specifications or Improvements.

2.12 Costs of Review. The Committee may charge each Applicant for all reasonable and customary costs for professional review of plans and specifications and all other reasonable costs of the Committee in the same manner that Declarant may charge and collect such costs. Such fees and expenses may be assessed by

the Committee against the Applicant, and shall be payable in the same manner as provided in Section 5.15.2, below, and if Applicant fails to reimburse the Committee for any such fees and expenses so assessed within such time period, then the Committee may enforce such costs in the manner set forth in Section 5.17, below.

### ARTICLE III

#### LAND USE RESTRICTIONS

3.1 Compliance with Zoning and Subdivision Laws. All uses within Westover Hills - Phase IV (including Improvements located thereon) shall be (i) consistent with the goals and intent of this Declaration and the Design Guidelines and (ii) in accordance with the zoning and subdivision laws of the City of San Antonio and/or Bexar County, Texas, as the same may apply, and all other regulations of governmental and quasi-governmental authorities having jurisdiction over Westover Hills - Phase IV. No Owner or Applicant may subdivide or plat a Building Site or any portion of Westover Hills - Phase IV without the prior written consent of the Committee.

3.2 Storage. No outside storage shall be permitted which is not shielded or screened from view of streets, adjacent Building Site, or the Resort Tract, by buildings or solid walls which have been approved in writing by the Committee.

3.3 Designation of Prohibited Uses. The following uses or activities shall not be permitted on any portion of Westover Hills - Phase IV:

- (a) Any dangerous or unsafe uses.
- (b) Any industrial uses, including, without limitation, any manufacturing, smelting, rendering, brewing, refining, chemical or rubber manufacturing or processing.
- (c) Any mining or mineral exploration or development.
- (d) Any motor homes, recreational vehicles and campground facilities.
- (e) Temporary structures, except those directly related to the construction of Improvements during construction.
- (f) Facilities or activities presenting for sale or viewing (i) x-rated or sexually oriented films (excluding in-room television in any hotel so long as such viewing is not prohibited by the Underlying Covenants in any hotel built on the Resort Tract), tapes, records or articles or

materials of similar nature; (ii) adult or sexually oriented books, magazines or publications as a substantial part of the inventory of books, records, magazines, or publications offered for sale; (iii) performance or appearances featuring nudity; (iv) massage parlors,; or (v) similar facilities.

(g) Any use which is offensive due to odor, fumes, dust, smoke, heat, vibration, illumination, glare, pollution, electrical disturbances, radiation, drainage or other like hazards, it being expressly further provided that any use which entails the discharge and emission of gas, steam or smoke shall be prohibited unless expressly approved in writing by the Committee and Sea World.

(h) No oil, gas or mineral exploration or production shall be permitted.

(i) No entity located on the Real Property shall use the Sea World name in its title, name, logo, advertising or otherwise hold itself out as being associated with Sea World and/or Sea World Surf without Sea World's prior written consent.

(j) Warehouse, manufacturing or vehicle service buildings, except where ancillary to the primary permitted use on the Building Site.

(k) Junk yards or salvage yards.

(l) Uses which in the opinion of the Committee create unsightly conditions which adversely affect the use or value of other property in Westover Hills.

(m) Any agricultural use, or the raising, breeding or keeping of livestock or farm type animals, except with the prior express written consent of the Committee. The Wiseman Parties may continue operating all or any portion of Westover Hills - Phase IV as a working ranch, in the same manner as the property is currently being used, until such time as development has begun on the Property.

(n) Any mobile home facility.

(o) Any storage facilities for mobile homes, campers, boats and trailers which are visible from the streets, any other Building Site or the Resort Tract.

(p) Any use hazardous by reason of excessive danger of fire or explosion.

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(q) Any use in violation of any statute, rule, regulation, ordinance or other law or any governmental entity applicable to the Real Property.

(r) Any common law nuisance.

3.4 Restricted Hotel Development. Without the consent of the Hotel Owner, which consent may be withheld for any reason, no other hotel may be constructed on any portion of Westover Hills-Phase IV for a period of time ending on the earlier of: (i) the date that the Resort (being all facilities located on the entire Resort Tract) has achieved "sustained profitability", (ii) five (5) years after the opening of a hotel on the Hotel Tract or (iii) seven (7) years after the date hereof. The Resort shall be deemed to have achieved "sustained profitability" at such time as the net operating income of the Resort, as computed in accordance with generally accepted accounting principles as applicable to types of facilities contained within the Resort, in the aggregate for a period of any eight (8) consecutive calendar quarters is equal in amount to the product of (i) the total development costs incurred with respect to the development of the Resort (including, without limitation, costs for acquisition of the Resort Tract, hard costs of construction of the various facilities contained therein, capitalized interest expense, engineering and other professional fees and expenses, and all other "soft" costs normally treated as capital costs in the construction and development of similar properties and facilities), multiplied by, (ii) a floating rate three percentage points in excess of the "prime" or base reference rate quoted by Citibank, N.A. from time to time over the period in question, adjusted daily. To the extent that development costs are incurred with respect to the Resort during the eight (8) calendar quarter period in question, the computation provided for above shall be made on a daily basis with respect to the amount of aggregate total development costs incurred through the date in question, and the sum of all such daily amounts shall, in the aggregate, constitute the required return necessary to constitute "sustained profitability". Hotel Owner shall notify Declarant in writing at such time as "sustained profitability" has occurred in accordance with the foregoing requirements, at which time an amendment or supplement to these Protective Covenants to delete the foregoing restrictions on the development of additional hotels shall be executed and recorded.

#### ARTICLE IV

#### SPACE ALLOCATIONS AND DIMENSIONAL STANDARDS

4.1 Building Coverage. The maximum percentage of building coverage to the total Building Site area for the ground level square footage of all buildings and Improvements (other than at grade parking areas) on any Building Site shall be as set forth

in the Architectural Design Guidelines and shall not exceed forty percent (40%) of the total area of the Building Site. Building coverage shall include the ground level square footage of all buildings, above ground improvements and parking structures, but shall exclude natural areas, landscaped areas, walkways and surface parking areas. At the discretion of the Committee, multiple Building Sites developed as part of a coordinated development of a number of Building Sites may exceed the forty percent (40%) requirement on any single Building Site so long as the total complex of buildings on the multiple Building Sites does not exceed the forty percent (40%) requirement. The Committee does not have the authority to require building coverage of less than forty percent (40%). Individual single family residential lots shall be exempt from the building coverage requirements of this section.

#### 4.2 Minimum Building Setback Lines and Building Orientation.

4.2.1 Except as otherwise specifically provided below, no structure of any kind, or any part thereof, shall be placed within the following Building Setback Lines on any Building Site without the prior written consent of the Committee:

(i) For all Improvements, fifty feet (50') from any property line adjacent to State Highway 151, Westover Hills Boulevard, Hunt Lane, Rogers Road, Military Drive West, the Resort Tract entry road or any other boulevard; provided, however, that for any Residential structure along Hunt Lane or Military Drive West, the minimum setback for any side or rear property line shall be twenty-five feet (25');

(ii) For all Non-Residential Improvements, thirty feet (30') from any property line adjacent to an interior street (other than (i), above, and other than any interior driveways not generally available for public use);

(iii) For all Non-Residential Improvements, fifteen feet (15') from any side or rear property line (those not adjacent to an interior street or a Residential development);

(iv) For all Non-Residential Improvements, a twenty-five foot (25') Building Setback Line is required on a Building Site located adjacent to any Residential development.

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(v) For all Improvements, no driveway or parking areas may be constructed within twenty-five (25) feet of the Resort Tract, other than one curb cut on each side of the Resort Tract entry road approximately halfway between State Highway 151 and Rogers Road; each such curb cut shall be made at a location designated by Owner of the Resort Tract and constructed at the expense of the Owner of the First Building Site to be served by such curb cut at the time such Building Site is developed.

(vi) For all Improvements, no Improvement shall be constructed closer to the Resort Tract than two (2) horizontal feet for every one (1) vertical foot of building height, but not less than twenty-five (25) feet, measured on a line perpendicular from the nearest Resort Tract property line to such Improvement's outer wall; provided, that in certain instances, certain Improvements (such as swimming pools, hot tubs, and similar items) having a vertical above-ground height not exceeding thirty-six (36) inches may be located not less than fifteen (15) feet from the Resort Tract.

Boulevard, as used in this Declaration shall mean a street of at least eighty-six feet (86') in width, with a center median.

4.2.2 The minimum width for any non-residential Building Site shall be one hundred (100) feet at the front Building Setback Line.

4.2.3 Buildings adjoining any portion of a golf course fairway on the Resort Tract between the tees and the green shall be oriented with the direction of play, i.e., glass areas facing against the direction of play should be minimized. Building orientation shall respect all street and golf course frontages as well as any pedestrian circulation routes. All elevations of all buildings shall have a finished architectural facade.

4.2.4 Any Building Setback Line may be (i) increased to comply with governmental regulations, or (ii) increased or decreased at the time the Committee approves the site plan for Improvements to be located thereon when, in the Committee's opinion, to do so is reasonably necessary or appropriate to accommodate maneuvering and loading areas and/or to maintain the architectural integrity of Westover Hills;

however, no Building Setback Line from the Resort Tract will be decreased without the prior written consent, in each case, of the Hotel Owner.

4.2.5 The following Improvements are expressly excluded from the setback restrictions created by this Section 4.2 but are subject to the landscape setbacks as set forth in the Landscape Guidelines, and may not be placed within the landscape setbacks except as expressly permitted in the Landscape Guidelines or with the prior written approval of the Committee:

- (i) Steps, walks and curbing;
- (ii) Planters, retaining walls, hedges, fountains, park tables and benches;
- (iii) General landscaping and lawn sprinkling systems;
- (iv) Signs and lighting devices;
- (v) Surface parking facilities (except as provided in Section 4.2.1(v), above); and
- (vi) Any other Improvement approved in writing by the Committee.
- (vii) The perimeter fence to be built contiguous to the Golf Course Tract, as set forth herein and in the Design Guidelines.

#### 4.3 Parking.

4.3.1 The Owner, tenant or occupant of a Building Site, and employees, tenants, visitors and customers of any such Owner, tenant or occupant, shall not be permitted to park on any street, drive, alley or any place other than paved parking areas. Owners, tenants and occupants of each building shall use all reasonable efforts to enforce this provision as to any violation occurring on or adjacent to the property they own or occupy. It shall be the responsibility of each Owner, tenant and occupant to provide adequate off-street parking for their employees, visitors and customers and to use their best efforts to prevent their visitors and customers from parking on adjacent properties. Each Building Site shall have not less than the minimum number of parking spaces required by the City of San Antonio regulations, or, if greater, the minimum required by the Design Guidelines, except, however, the Committee shall have the right to increase

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the minimum number of parking spaces required for any individual Building Site when (i) the plans and specifications for Improvements are submitted to the Committee for approval or (ii) an Owner, tenant or occupant changes the use of the Improvements or Building Site from the use indicated in the plans and specifications finally approved by the Committee, if in either case the Committee is of the opinion that the anticipated use of the Improvements will require additional parking spaces. No parking or parking areas shall be permitted within the Landscaped Setback (as defined in Section 5.1.2, below).

4.3.2 All parking areas shall be curbed with concrete, covered with asphalt, concrete or enhanced paving, and have appropriate surface markings and proper drainage; provided, however, that concrete or enhanced paving shall be used in all construction between (i) streets and (ii) the street right-of-way. Surface markings shall be white stripes unless otherwise approved by the Committee. Parking areas shall also conform to the Pedestrian Circulation System, as set forth in the Landscape Guidelines.

4.3.3 All parking areas must be architecturally screened by Owners, in accordance with the Landscape Guidelines, on all street sides and the Resort Tract side of the Building Site, and, where practical, parking should be to the side of buildings.

4.3.4 Driveways shall: (i) not intersect roads, streets or thoroughfares within thirty (30) feet of intersections; (ii) be constructed as specified in Subsection 4.3.2, above; and (iii) have a minimum width of twelve (12) feet per lane.

4.3.5 Multi-level parking structures shall be considered building structures and shall be subject to Building and Landscape Setback Lines and all other provisions of this Declaration.

4.3.6 An allotment for parking spaces for the handicapped shall be made by the Owner/tenant and/or occupant pursuant to Federal, State and/or local regulations.

#### 4.4 Off-Street Loading Areas and Truck/Trailer Parking.

4.4.1 No loading or unloading areas shall be permitted to face the Resort Tract or be between a building and the Resort Tract. On Building Sites adjoining the Resort Tract, entrances to garages shall

not be permitted to face the Resort Tract nor shall driveways accessing garages be allowed between the garage and the Resort Tract.

4.4.2 On-street loading and/or parking shall be strictly prohibited. Owners tenants and occupants of each building shall use all reasonable efforts to enforce this provision as to any violation occurring on or adjacent to the property they own or occupy.

4.4.3 The parking areas for all trucks, trailers and other commercial or industrial vehicles (except transit buses) shall be to the rear or sides of buildings and screened from street view. All repair and maintenance work on trucks, trailers or other vehicles shall be screened from public view from street level.

4.4.4 All dock height openings and loading doors, shall be to the rear or sides of buildings and screened completely from view of anyone within any street, right-of-way, or the Resort Tract. With the Committee's prior written consent, dock openings may be permitted on the front of buildings where docks are set back one hundred (100) feet or more from the street property line and completely visually screened from street view.

4.4.5 No loading or unloading shall be permitted within the Landscaped Setback.

4.4.6 All loading areas shall be paved with a concrete or asphalt surface material and shall be kept free of trash and other debris.

4.5 Easements and Rights-of-Way. Dedicated and/or proposed easements and rights-of-way may be depicted in a subdivision plat or plats of Westover Hills - Phase IV filed of record from time to time in the Deed and Plat Records of Bexar County, Texas, although none are currently filed at this time, so long as any such dedicated easements do not interfere in any material manner with any then permitted existing use. Notwithstanding any such depiction of easements and rights-of-way, no conveyance or deed for any part of the Real Property shall be construed to be a conveyance to any grantee of the Real Property of any easement or right-of-way over all or any portion of such Real Property unless such easement or right-of-way is specifically described in the deed or unless and until such easement or right-of-way is expressly dedicated for public use. Declarant in all events retains the right to alter, change or close, partially or completely, any such easements, streets or rights-of-way until such time as such easements, streets or rights-of-way have been

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dedicated to the City of San Antonio, Texas or other appropriate governmental entity, excepting for any easements contractually agreed to by Declarant. Declarant further retains the right to dedicate any portion of the Real Property, whether owned by Declarant or not, for use as a utility easement, with no consideration paid to any Owner; provided such easement is reasonably necessary for development of the adjacent property within Westover Hills - Phase IV or development of a destination resort hotel and/or golf course on the Resort Tract, and does not materially impair or affect the value or use of the Building Site of the Real Property dedicated.

4.6 Sidewalks. As part of the Schematic Design Submittal, the Owner shall submit to the Committee, for the Committee's reasonable approval, a plan for pedestrian walkways and sidewalks on the Owner's Building Site. The plan shall address the overall need for pedestrian circulation, including (i) security requirements, (ii) the need for sidewalks adjacent to streets and boulevards, and (iii) requirements of local governmental authorities. Construction of sidewalks shall be completed no later than the completion of construction of the first Improvements to be placed on each of Owner's Building Sites.

4.7 Pedestrian Circulation System. A continuous concrete pedestrian circulation system of a minimum width of six (6) feet shall be provided as set forth in the Landscape Guidelines. The pedestrian circulation system shall connect all adjacent developed Building Sites and the primary pedestrian entrance(s) of the building(s) as well as connecting to any existing or planned pedestrian circulation system(s) adjacent to the site. The design of the pedestrian circulation system shall provide for ramp transition from the pedestrian circulation system level to the street level or for any other required grade changes. It will be the responsibility of each Owner to construct that portion of the Pedestrian Circulation System located on each Owner's Building Site, such construction to be contemporaneous with the construction of Improvements on such Building Site.

4.8 Rogers Road Median Cuts. There shall be no more than six (6) median crossovers on Rogers Road between Westover Hills Boulevard and Military Drive West without the prior approval of the Committee.

## ARTICLE V

### ARCHITECTURAL AND AESTHETIC STANDARDS

#### 5.1 Landscaping.

5.1.1 All landscaping shall be designed so as to protect and promote the natural environment through use of (i) native materials, (ii) irrigation systems, and

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(iii) site design. To achieve these objectives, Declarant has developed the Landscape Guidelines. All Owners shall be required to install and maintain landscaping in accordance with this Declaration and the Landscape Guidelines. The Landscape Guidelines include, but are not limited to, standards for plant material type, size, spacing and quality. The Committee may amend, alter or modify the Landscape Guidelines from time to time, as herein provided.

5.1.2 Each Owner shall install and maintain on its Building Site a twenty-five foot (25') landscaped area along State Highway 151, Westover Hills Boulevard, Hunt Lane, Military Drive West, Rogers Road, the Resort Tract entry road and any other boulevard located within Westover Hills -Phase IV; and a fifteen foot (15') landscaped area along all interior streets other than interior driveways not generally available for public use (the "Landscaped Setback"), such area being measured from street right-of-way lines, which Landscaped Setback shall run the full length of the frontage. All unpaved areas within the Landscaped Setback and all unpaved portions of street rights-of-way adjacent to the Landscaped Setback which are not utilized for driveways and approaches shall be landscaped by the Owner of each Building Site at such time as Improvements are constructed upon the Building Site, with a combination of trees, berms, ground cover, sod and shrubbery, all as provided for in the Landscape Guidelines. Such landscaping shall be installed contemporaneously with (i) any construction of Improvements on such Owner's Building Site or (ii) any other activity which disturbs the natural vegetation on the Building Site in question. Prior to such time, landscaping need not be installed by the Owner but Declarant and Owner shall maintain any undisturbed (that is, the natural vegetation has not been significantly disturbed and no construction has been commenced on any portion of a Building Site) property it owns in Westover Hills - Phase IV within the first twenty (20) feet from the curb of any boulevard, free of weeds greater than fifteen (15) inches high.

5.1.3 Side setback areas which are not paved shall be landscaped by the Owner utilizing sod or seeded grass, ground cover, shrubbery and trees.

5.1.4 Undeveloped areas within any Building Site shall be maintained, cut and trimmed by the Owner at all times, and kept free of debris and trash.

5.1.5 Prior to installation, all landscaping shall be approved in writing by the Committee. The landscaping for each Building Site, as approved by the Committee, must be fully completed within thirty (30) days following completion of the first building or other Improvement on the Building Site, or as soon as practical allowing for seasons of the year, but in no event later than one hundred eighty (180) days after completion of such building.

5.1.6 All landscape and irrigation plans and sprinkler systems submitted to the Committee by or on behalf of an Applicant shall be prepared by a professional landscape architect registered in the State of Texas, must comply with the Landscape Guidelines and must be submitted as part of the plans and specifications to, and approved in writing by, the Committee before any landscape or irrigation work is commenced.

5.1.7 The design choice and placement of landscape materials shall not obstruct the cross-visibility of street traffic, on-site traffic, or pedestrian areas. The cross-visibility area is that area created by measuring from the intersecting point of any two travelways a distance of twenty-five (25) feet along their right of way and the driveway with a connecting point between the terminal points, thereby creating a triangular shaped cross-visibility area. The landscape material shall not obstruct visibility in the cross-visibility area between 1 foot and 8 feet from the ground.

5.1.8 Only the following uses shall be permitted within the Landscaped Setback,:

- (i) Landscaping (consistent with the Landscaping Guidelines);
- (ii) Sidewalks;
- (iii) Slopes;
- (iv) Signage consistent with Signage Guidelines;
- (v) Bicycle trails (but motorized vehicles shall be prohibited);
- (vi) Monumentation (consistent with the Signage Guidelines);

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(vii) Driveways (consistent with the Architectural Design Guidelines);

(viii) Informational kiosks (subject to approval by the Committee);

(ix) Benches, trash receptacles and other street furniture (subject to approval by the Committee);

(x) Bus turnouts and bus stops;

(xi) Guard houses;

(xii) Covered walkways; and

(xiii) Such other uses the Committee from time to time determines meet the intent of these protective Covenants.

5.1.9 The following uses shall be prohibited within the Landscaped Setback:

(i) Parking;

(ii) Structures (except for those described in Section 5.1.8, above or otherwise expressly permitted in the Landscape Guidelines);

(iii) Vendors;

(iv) Storage; and

(v) Such other uses the Committee from time to time determines are not consistent with the intent of these Protective Covenants.

## 5.2 Grading and Drainage.

5.2.1 A detailed grading plan for each Building Site shall be submitted by the Owner to the Committee with the landscape plans showing existing and proposed grades throughout the site and such plan shall be in conformance with the Landscape Guidelines. Generally, slopes intended to be covered with mowed grass should not exceed thirty percent (30%), and any slope with a grade steeper than thirty percent (30%) should be covered with erosion netting and shrub or ground cover plantings. All berms and sloped areas shall be graded in such a manner that transition into such areas is smoothly made with no abrupt changes.

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5.2.2 All drainage to and across the Resort Tract shall be approved by the Committee and the Hotel Owner.

5.3 Exterior Construction. All buildings erected in Westover Hills - Phase IV shall be of finished masonry construction or its equivalent or better and shall conform to this Declaration and the Design Guidelines. All exterior walls must be finished with concrete, brick, stone, glass or their equivalent. The Committee's written approval of the exterior elevations and materials of all Improvements or additions must be obtained by Owner before commencement of construction.

5.4 Signage Restrictions.

5.4.1 All signage in Westover Hills - Phase IV must conform with the Signage Guidelines and also the minimum signage standards contained herein. Further, all signage must be approved in writing by the Committee prior to installation. The Committee, or its agents, shall have the right to enter a Building Site to remove and confiscate any sign erected without its written approval. The location, size, color and construction of signs will be in keeping with the character of the development in Westover Hills.

5.4.2 Plans and specifications for the construction, installation or alteration of all signs, including those on loading docks, parking facilities, buildings, storage areas, etc., shall be first submitted by Owner to the Committee for written approval. Such plans and specifications for any sign shall include, but not be limited to, the color(s), dimensions, location on the site, height, copy, type of construction, type of illumination, length of time sign shall be displayed, and other characteristics. No sign shall be erected, substituted, changed or modified on the Real Property or Improvements without the Committee's prior written approval of plans and specifications therefor.

5.4.3 The words "Sea World" may not be used in the name of any building or project in Westover Hills-Phase IV by any Owner, tenant or occupant. Owner, tenant and occupant hereby recognize Declarant's exclusive right to the use of the name "Westover Hills", and the same may not be used without Declarant's prior written approval, other than to denote the location of property within Westover Hills.

5.4.4 Except for the directional graphics for the Resort to be installed at the intersection of

Rogers Road and Westover Hills Boulevard, and Rogers Road and Military Drive West, which in each case shall not require the prior approval of the Committee, none of the following advertising devices shall be used to promote or attract attention: any banner; balloons; flags; statuary; pennant; propeller; oscillating, rotating, or pulsating light source; or similar contrivance.

5.4.5 No signs shall be permitted within the Landscaped Setback of any public street unless approved by the Committee.

5.4.6 No flashing, blinking, gyrating or moving signs shall be permitted.

#### 5.5 Outdoor Storage and Display.

5.5.1 Except during and as needed for construction of Improvements, no materials, supplies or equipment shall be stored, parked or displayed in any area in Westover Hills - Phase IV other than areas located behind the front Building Setback Line, which areas are screened from view from streets, adjacent Building Sites and the Resort Tract, by buildings and/or solid natural screens or man-made solid walls approved by the Committee. All equipment and facilities for the bulk storage of liquids, petroleum products, fuels, water and similar materials shall be deemed to be outside storage.

5.5.2 Garbage and refuse containers shall be concealed by a combination of screening and proper placement behind buildings so that containers cannot be seen from streets, and shall be screened on all sides, and such screening shall be constructed of materials set forth above. Such containers must be screened from street and golf course views and should additionally consider the view from the surrounding residential buildings and adjacent properties so as not to detract from the overall quality and character of the area. The construction materials and proposed locations of all refuse containers shall be shown on the plans and specifications submitted to the Committee for approval before commencement of construction. No refuse collection areas shall be permitted in front of any building.

5.6 Vehicle Storage. No trailer, tent, boat, recreational vehicle, truck, car or other vehicle shall be parked or stored on a permanent basis in Westover Hills - Phase IV. Stripped-down, wrecked, junked, abandoned or wholly inoperable vehicles are

prohibited and shall be removed by the Owner at the Owner's expense from its premises. No stripped down, wrecked, junked or wholly inoperable vehicle shall be kept, parked, stored or maintained on any portion of a Building Site; and no dismantling or assembling of motor vehicles, boats, trailers or other machinery or equipment shall be permitted on any Building Site. No commercial vehicle shall be parked on any Building Site except within an enclosed structure or a fully screened area which prevents the view thereof from adjacent Building Sites, streets and the Resort Tract, unless such vehicle is temporarily parked for the purpose of servicing such Building Site.

5.7 Radio and Television Antennae, Satellite Dishes and Solar Panels. No radio or television aerials, wires, towers, transmitters, antennae, discs, satellite dishes, or other special television or cable apparatus or equipment, or solar panels or other similar apparatus, shall be erected, installed or placed in Westover Hills - Phase IV unless screened by Owner from street view with natural or manmade screens approved by the Committee, or unless otherwise approved by the Committee.

5.8 Mail Boxes. Except for single family residences, no mail boxes shall be erected or maintained within Westover Hills-Phase IV without the prior written approval of the Committee.

5.9 Screens, Fences and Retaining Walls. All screens, fences, and retaining walls must conform with the Landscaping Guidelines. The Landscape Guidelines specifically require the construction of a natural limestone masonry and/or decorative iron perimeter fence on any Building Site in Westover Hills-Phase IV which is contiguous to the Resort Tract. Such fence must be constructed in conformity with such Landscape Guidelines, by and at the expense of the Owner of each such Building Site, at such time as any Improvements are constructed on such Building Site.

5.10 Access Criteria. The number of access cuts serving a Building Site shall be as provided in the Design Guidelines.

5.11 Exterior Illumination. All exterior lighting within Westover Hills - Phase IV must conform with the Lighting Guidelines.

5.12 Utilities. Declarant and/or utility companies shall have the right to bring primary service lines overhead to each Owner's Building Site, although no overhead electrical lines shall be placed within one hundred (100) feet of the Golf Course Tract, or within two hundred (200) feet of boundary of the Resort Tract entry road or within one hundred feet (100') of Rogers Road. Declarant cannot, however warrant or represent as to placement of overhead electrical lines by public utility companies. All of Owner's "on-site" electrical lines,

connections and telephone lines, and similar cable located within Westover Hills - Phase IV shall be placed underground unless otherwise approved in writing by the Committee. Transformers and terminal equipment which are a part of such "on-site" electrical lines shall be visually screened from view from streets.

5.13 Maintenance.

5.13.1 The Owners, tenants or occupants of Building Sites, portions of Building Sites or buildings within Westover Hills - Phase IV shall, jointly and severally, have the duty of and responsibility for keeping such portions of Westover Hills - Phase IV, including the land, buildings, other Improvements and appurtenances, and landscaping so owned or occupied, in a well-maintained, safe, clean and attractive condition at all times. Declarant and/or Owner shall be responsible for maintaining any undisturbed (that is, the natural vegetation has not been significantly disturbed and no construction has commenced on any portion of the Building Site) property it owns in Westover Hills - Phase IV within the first twenty (20) feet from the curb of any boulevard free of weeds greater than fifteen (15) inches high.

For Building Sites on which commencement of construction has begun on all or any portion thereof, as well as any Building Site which has been disturbed, maintenance shall include, but not be limited to, the following:

(i) Maintaining a safe and clean condition during construction;

(ii) Prompt removal of all litter, trash and waste;

(iii) Lawn mowing on improved portions of the Building Site on a regular basis, including the removal of all cut debris on the lawn area and on hard surfaced areas adjacent to lawn areas; the entire Building Site (improved or unimproved) shall be kept clean and neat in appearance at all times;

(iv) Tree and plant trimming, pruning and fertilization on improved portions of the Building Site;

(v) Watering of all lawn and garden areas and keeping the same alive and free of

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weeds, and replacing any and all damaged and dead vegetation and trees;

(vi) Maintaining exterior lighting and mechanical facilities in good working order;

(vii) Maintaining parking areas, walks, driveways and roads clean and in good repair;

(viii) Striping all parking and driveway areas and repainting all improvements so all such painting is maintained in a neat fashion;

(ix) Maintaining all required landscaped areas, buffers and screens, including replacement of any and all damaged landscaping;

(x) Repairing all exterior damage, including the effects of normal wear and tear to any improvements and landscaping from any cause whatsoever;

(xi) Maintaining drainage canals, rights-of-way and/or easements, if any, within the Building Site;

(xii) Repairing and replacing, as may be required, the irrigation system; and

(xiii) Keeping vacant land well maintained to a depth consistent with the building or paving setback line, whichever is lesser, for the street and/or Resort Tract on which the property fronts, and the entire site free of trash and weeds in excess of fifteen (15) inches in height.

5.13.2 Enforcement. If, in the opinion of Declarant, the Committee, the Hotel Owner and/or the Golf Course Owner (the "Enforcing Party"), any Owner, tenant and/or occupant shall fail to properly install or maintain landscaping on any portion of Westover Hills - Phase IV for which it is responsible (i.e. owns and/or occupies), then the Enforcing Party may give such Owner, or all of them, written notice of such fact (with a copy to the Committee), and such Owner, tenant and/or occupant must, within ten (10) days of such notice, (1) undertake and diligently pursue the care and maintenance required to restore such Owner's Building Site or property to a safe, clean and

attractive condition consistent with these Protective Covenants and the Design Guidelines or (ii) appeal such determination to the Committee (the "Notice of Violation"). To appeal the determination, the Owner may file a written request with the Committee. The Committee shall arrange an appointment to review the Notice of Violation and to allow the Owner to present evidence to rebut the determination. After all of the facts have been reviewed, the Committee will write a Decision setting out its reasoning. The Decision shall be delivered to the Owner personally or by certified or registered mail within ten (10) days after the meeting or hearing. If the Committee determines the Notice of Violation is appropriate, the Owner shall have ten (10) days after receipt of such Decision to comply with the Notice of Violation. If no response is made to the Notice of Violation, or if an appeal is made and the Committee determines that the Notice of Violation is appropriate and no action is taken by the Owner within ten (10) days after receipt of such determination, then in either such case, the Enforcing Party shall have the right and power, but not the obligation, to perform such care and maintenance, and the Owner of the Building Site or property on which such work is performed shall promptly reimburse the Enforcing Party for the cost thereof. If such Owner shall fail to so reimburse the Enforcing Party within fifteen (15) days after being billed therefor by the Enforcing Party, then such unreimbursed cost shall be and become a debt of such Owner (including interest thereon to be calculated from the expiration of said fifteenth (15th) day at the highest legal rate allowed by applicable law), payable to the Enforcing Party and shall, when the applicable law permits, be secured by a lien against such Building Site and/or property and the Improvements thereon. Such lien shall be subordinate and inferior to all liens securing amounts due or to become due under any mortgage held by Bexar Savings Association as of the date hereof granted from Declarant or any mortgage given for Building Site purchase money or improvements held by a bona fide financial institution (e.g., state or federally chartered bank or savings and loan association or life insurance company) affecting the Building Site or property subject to such charge if such mortgage has been filed of record in Bexar County, Texas, prior to the date the charge of the Enforcing Party for maintenance or repairs shall become due and payable. The rights and remedies granted to an Enforcing Party are cumulative of any other rights and remedies available to an Enforcing Party as a result of a violation, or alleged violation, of these Protective

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Covenants. No adverse determination by the Committee is intended to be binding upon any Enforcing Party or preclude the Enforcing Party from exercising and enforcing all other rights and remedies available at law or in equity; provided, however, that if the Committee determines that such Notice of Violation is not appropriate, the Enforcing Party may take action under this Section 5.13.2 (as distinguished from other actions available to the Enforcing Party) only if a court of competent jurisdiction finds in favor of the Enforcing Party, in which case the Enforcing Party shall be entitled to the benefits of the liens herein provided for all expenses (including enforcement costs) incurred by the Enforcing Party in connection with the enforcement of its rights. Any foreclosure by the holder of such mortgage, whether by power of sale as set out in the deed of trust or other applicable security instruments, or through court proceedings, shall cut off and extinguish the liens in favor of the Enforcing Party as to indebtedness or obligations which may have accrued prior to such foreclosure date; provided, however, that such foreclosure shall not remove or free any Building Site or property from liens securing charges thereafter becoming due and payable under this Subsection 5.13.2, nor shall the personal obligation to the Enforcing Party of any Owner, tenant and/or occupant foreclosed upon be extinguished by such foreclosure.

5.14 (a) Maintenance of Common Areas and Common Facilities. Declarant shall maintain all of the Common Areas and Common Facilities within or directly adjacent to Westover Hills - Phase IV, such maintenance to include, but not be limited to: (i) landscaping and planting trees and vegetation; (ii) installing and maintaining lighting and irrigation equipment; (iii) maintaining medians, parkways, entrances, etc., (iv) the removal of all litter, trash and waste; (v) mowing; (vi) tree and plant trimming and pruning; (vii) replacement of plants and trees; (viii) fertilization and watering; (ix) maintaining the general signage; (x) maintaining general mechanical facilities in good working order; and (xi) providing general security services if and as Declarant shall deem appropriate. All such landscaping and lighting shall be in such manner as Declarant shall deem appropriate so long as it is consistent with the Landscape Guidelines and the Lighting Guidelines. This Section 5.14 shall not be deemed in any way to limit or reduce the obligations of Owner, tenant and/or occupant to maintain its Building Site as elsewhere set out herein. Any and all costs of maintenance of Common Areas and Common Facilities shall be assessed to the Owners as set out in Section 5.1.5, below, which assessments shall be secured by a lien upon each Owner's Building Site or property. Declarant may temporarily close any part of the Common

Areas or Common Facilities for such period of time as is necessary to make repairs or alterations to the Common Areas or Common Facilities. The Association, when formed, shall succeed to Declarant's rights and responsibilities under this Section 5.14 and under Section 5.15, below.

5.14 (b) Enforcement of Common Area Obligations. If, in the opinion of either the Hotel Owner or the Golf Course Owner, (for purposes of this Section, the "Enforcing Party"), the Declarant (or, as applicable, the Association) shall fail to properly discharge its obligations pursuant to Section 5.14(a), above, with respect to the maintenance of the Common Areas and/or Common Facilities, then the Enforcing Party may give the Declarant (or Association, as applicable) written notice of such failure to maintain, and if the Declarant (or Association, as applicable) fails to undertake the required maintenance within ten (10) days after such notice and/or to diligently pursue the required maintenance activities thereafter to completion in accordance with the requirements and standards herein set forth, then the Enforcing Party shall have the right and power, but not the obligation, to perform such maintenance on behalf of, and at the expense of, the Declarant (or the Association, as applicable), and the Declarant (or Association, as applicable) shall promptly reimburse the Enforcing Party for all costs and expenses incurred in connection therewith within fifteen (15) days after being billed therefor by the Enforcing Party. Amounts due to the Enforcing Party and not reimbursed within fifteen (15) days shall thereafter bear interest at the highest legal rate until repaid. Amounts due to the Enforcing Party pursuant to this Section 5.14(b) shall constitute Common Area expenses to be borne by the Owners in accordance with the provisions of Section 5.15 hereof, and the Declarant (or Association, as applicable) shall assess and collect the applicable amounts from the Owners pursuant to said Section 5.15 as quickly as reasonably practicable and promptly repay such amounts to the Enforcing Party if the Declarant (or Association) does not have sufficient funds therefor on hand at the times the amounts in question become due. The Enforcing Party shall have the right to obtain a writ of mandamus or other appropriate legal orders or process to enforce the foregoing rights, including the right to require the levy and collection of appropriate assessments to permit the repayment by the Declarant (or Association, as applicable) of the sums due to the Enforcing Party.

5.15 Allocation of Costs. All costs of Common Areas and/or Common Facilities maintenance, including, without limitation, (i) planting, general maintenance (including the cost of water usage and sprinkler repair), illumination (including related utilities and light and/or fixture installation and replacements), signage, sweeping, striping, lighting, and improving and maintaining streets and roads, where applicable, (ii) maintenance, repair and relocation of improvements to

enhance and beautify Common Areas, (iii) taxes attributable to Common Areas and Common Facilities, (iv) liability insurance premiums attributable to Common Areas and Common Facilities, (v) Declarant's reasonable overhead costs attributable to Common Areas and Common Facilities maintenance, (vi) costs of capital reserves established for the replacement and repair of improvements located in Common Areas, (vii) security costs, (viii) all other such similar expenses incurred by Declarant, in its discretion, in good faith to maintain and beautify the Common Areas and/or Common Facilities and carry out these Protective Covenants, and (ix) costs incurred by the Golf Course Owner and/or the Hotel Owner pursuant to Section 5.14(b), above, shall be assessed to and shared by the Owners as set out below:

5.15.1 Maintenance expenses (as described in Section 5.14, above) of Common Areas and Common Facilities shall be allocated to the Owners in Westover Hills - Phase IV in the same proportion as the assessed value of each Building Site (including Improvements, if any) as assessed by the Bexar County Tax Assessor for ad valorem tax purposes for the preceding year, bears to such assessed value for the balance of Westover Hills - Phase IV (excluding Common Areas).

5.15.2 Declarant shall estimate in advance the total expenses for maintenance of the Common Areas and Common Facilities for each calendar year and shall send an invoice to each Owner once each quarter during such calendar year billing such Owner for such Owner's share of such estimated expenses. Each Owner shall have thirty (30) days from the date of each invoice to pay Declarant the invoiced amount. After the end of each calendar year, Declarant shall provide each Owner with an itemized accounting of all expenses of Common Areas and Common Facilities maintenance actually incurred by Declarant during such preceding calendar year (to include, without limitation, a five percent (5%) administrative charge payable to Declarant). Based upon such accounting, each Owner shall either immediately remit to Declarant the difference between the expenses allocated to such Owner's Net Area and the sums actually paid by such Owner for the preceding calendar year, or such Owner shall be entitled to a credit against the next succeeding quarterly assessments for the amount of any surplus which may have been collected by Declarant.

5.15.3 Declarant may increase or decrease the estimate of annual maintenance charges at any time. The books and records of Declarant for the maintenance of the Common Areas and Common Facilities shall be open to each Owner's inspection at reasonable business hours

at Declarant's office upon forty-eight (48) hours prior written notice.

5.16 Exemption from Assessments. Anything herein to the contrary notwithstanding, all Common Areas and/or Common Facilities and similar areas dedicated or designated by the Committee shall be exempt from assessments and charges for Common Areas and/or Common Facilities maintenance.

5.17 Enforcement of Changes or Assessments. If any Owner shall fail to pay to Declarant and/or the Committee any charges under Section 2.12, above, or any quarter-annual assessment or any year-end adjustment for the maintenance of Common Areas and/or Common Facilities within thirty (30) days from the date of the statement therefore, then such sums due Declarant and/or the Committee shall be a debt of such Owner payable to Declarant and/or the Committee, and shall be secured by a lien against such Building Site and Improvements thereon and/or other property upon the same terms as the liens described in Subsection 5.13.2, above. To the extent necessary to enforce its rights as provided in Section 5.14(b), the Hotel Owner and/or the Golf Course Owner shall have the right to require the Declarant (or the Association or Committee, as applicable) to enforce the levy and collection of the assessments provided for in Section 5.15, above, including The right to obtain writs of mandamus or other appropriate legal orders.

5.18 Drainage Easements. Notwithstanding any maintenance of Common Areas and/or Common Facilities undertaken by Declarant or the Association, it shall be the obligation of the Owner of each Building Site on which a drainage easement is located to water and otherwise maintain in a "first-class manner" that portion of any drainage easement located on such Owner's Building Site. Declarant or the Association nevertheless shall have the right to maintain any such drainage easement in whole or in part, and all costs incurred by Declarant or the Association in connection therewith shall be assessed against such Owner.

5.19 Responsibility of Declarant. Neither Declarant nor the Association shall be responsible for any damage, destruction or deterioration of landscaping or other improvements within any Common Areas or Common Facilities which is beyond the control of Declarant or the Association, as the case may be.

5.20 Right to Approve Removal of Plants. In addition to the authority otherwise granted herein, the Committee shall expressly have the right to approve all proposed removals and relocations of plants within the Landscaped Setback, and Declarant and/or the Association shall have a right of first refusal on the subsequent use of all plants removed.

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ARTICLE VI

PROPERTY OWNERS' ASSOCIATION

6.1 Formation. Declarant may at any time, at Declarant's option, form a Property Owners' Association (the "Association") for Westover Hills - Phase IV. In the event the Property Owners' Association is formed, it shall be for the purpose of performing such duties and functions as Declarant shall assign to the Association. The Association shall be a Texas non-profit corporation or such other entity as Declarant shall deem advisable. Declarant shall prescribe a set of By-Laws which shall be used to govern the Association.

6.2 Membership. Each Person who is an Owner in Westover Hills - Phase IV shall automatically be eligible to become a member of the Association when and if said Association is formed.

6.3 Common Areas and Common Facilities. Declarant may retain legal title to all or portions of the Common Areas and Common Facilities in or adjacent to Westover Hills - Phase IV until such time as the Association has been formed and has been assigned responsibility for the management and operational maintenance of same, or the same have been dedicated for the use of the public. Until the Association has been formed and management responsibility for the Common Areas and Common Facilities has been assigned to the Association, Declarant shall be entitled to exercise all the rights and privileges pertaining to the Common Areas and Common Facilities. After the Association has been formed, Declarant shall convey legal title to any or all of the then existing Common Areas and Common Facilities in (and at Declarant's option certain Common Areas and/or Common Facilities adjacent to) Westover Hills - Phase IV to the Association. Declarant shall have the right, at any time before conveyance of the then existing Common Areas and Common Facilities to the Association, to dedicate and/or convey all or any portion of the Common Areas and/or Common Facilities to the City of San Antonio, Texas, or other appropriate governmental or quasi-governmental authority.

ARTICLE VII

TERM

7.1 Term. The Protective Covenants contained herein are to run with the land and shall be binding upon all Persons owning any portion of Westover Hills - Phase IV, for a period of twenty-five (25) years from and after the date this Declaration is recorded, after which time these Protective Covenants shall be automatically extended for successive periods of ten (10) years each unless and until an instrument signed by the then owners of a majority of the Net Area within Westover Hills - Phase IV

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(including all additions under Section 10.2, below) shall have been recorded within ninety (90) days after the end of any such period agreeing to terminate these Protective Covenants in whole or in part; provided, however, (i) that as long as Declarant owns any land within Westover Hills - Phase IV, any termination of these Protective Covenants must be agreed to by Declarant and (ii) any termination of these Protective Covenants must be agreed to by the Hotel Owner.

## ARTICLE VIII

### PLATTING; REPLATTING

8.1 Platting/Replatting. Declarant may, at any time and from time to time hereafter, execute, acknowledge and file for record in the office of the County Clerk of Bexar County, Texas, or with any other appropriate governmental or quasi-governmental authority, (i) subject to the prior approval of the Committee, any and all plats or replats or drawings of all or any portion of Westover Hills - Phase IV then owned by Declarant, and may thereby dedicate all public areas, streets, alleys, rights-of-way, easements and other matters shown on such plats to public use, and (ii) additional subdivision restrictions and/or amendments thereto with respect to any portion or portions of Westover Hills - Phase IV then owned by Declarant. Declarant may indicate on each plat or drawing the Building Setback Lines applicable to the land covered by the plat. Any consents of any Owners of Westover Hills - Phase IV which are required by law or by any governmental or quasi-governmental authority in connection with any platting or replatting shall be obtained, but no other consents shall be required. Any platting or replatting of any Building Site must first be approved, in writing, by the Committee as set forth by the procedure in Section 2.3, herein.

## ARTICLE IX

### INSPECTION AND ENFORCEMENT OF PROTECTIVE COVENANTS

9.1 Inspection. Either Declarant, the Hotel Owner, the Golf Course Owner and/or the Committee and/or their respective agents and/or representatives may from time to time, both during construction of Improvements and after completion of such construction, at any reasonable hour or hours, enter and inspect any Building Site and/or Improvements to ascertain compliance with this Declaration. Such inspections during construction may include inspections to ascertain conformance with plans and specifications finally approved by the Committee. Such inspections shall not be in lieu of, nor in any way abrogate, the Owner's responsibility to inspect all aspects of development and construction, including, without limitation, the structural components and mechanical and electrical systems of all Improvements. Neither Declarant, the Hotel Owner, the Golf

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Course Owner, nor the Committee shall incur any liability as a result of any inspections performed by or on their behalf, and such inspections shall in no event be construed as a warranty of the structural, engineering or mechanical soundness of any improvement. Such inspections shall not replace any required inspections of governmental or quasi-governmental authorities.

9.2 Enforcement by Declarant or the Association (collectively the "Enforcing Party"). Declarant or the Association (for purposes of this Section, collectively the "Enforcing Party") may, upon any breach of this Declaration of Protective Covenants by any Owner and/or tenant and/or occupant of a Building Site or Improvement, and after giving Owner written notice and a reasonable time to cure, without being liable for trespass or other prosecution or for any claim for damages, other than for gross negligence of the Enforcing Party or its agents, enter upon any Building Site and/or Improvement and do whatever the Owner is obligated to do to effect compliance, of the Owner's obligations under these Protective Covenants, and Owner agrees to reimburse such Enforcing Party on demand for any expenses which such Enforcing Party may incur in effecting compliance. All Owners further agree that such Enforcing Party shall not be liable for any damages resulting to such Owners, tenants and/or occupants arising from such action, whether caused by negligence of such Declarant or otherwise, other than for the gross negligence (if any) of the Enforcing Party or its agents. Violation of these Protective Covenants shall further give to such Enforcing Party the right to enter upon the applicable Building Site and/or Improvement and to summarily abate and remove, at the expense of the Owner, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding against the Owner who has or is attempting to violate any of these Protective Covenants to enjoin or prevent him or them from doing so or to cause such violation to be remedied or to recover damages for such violation. Notwithstanding the above, the Enforcing Party shall give the Owner of the Building Site or Improvement ten (10) days' prior written notice before instigating corrective actions, which written notice shall specify the nature of the violation.

9.3 Enforcement by Owner. Each Owner or Occupant may separately, at its own risk, cost and expense, enforce these Protective Covenants against any other Owner; provided, however, that such Owner or Occupant must first give the Committee written notification of the claimed violation and the Committee shall promptly notify each Declarant and the Association, and they shall each fail to enforce these Protective Covenant against the violator within sixty (60) days after receipt of such notification.

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9.4 Enforcement by Resort Owner. These Protective Covenants are for the direct benefit of the Resort Tract and the Hotel Owner and Golf Course Owner (for purposes of this Section, collectively the "Enforcing Party") who may, either separately or jointly, enforce these Protective Covenants against the Declarant, the Association or the Owner (for purposes of this Section, the "Violating Party"), as to property it then owns; provided, however, that in the case where the Violating Party is an Owner (as opposed to the Declarant or the Association), the Enforcing Party shall first give the Committee (or the Association, when formed) written notification of any asserted violation (the "Claimed Violation") and request that the Committee and/or the Association enforce these Protective Covenants against such Owner, although the Committee and/or the Association shall have no duty to take any corrective or enforcement action on behalf of the Enforcing Party where the Violating Party is an Owner. If the Committee (or the Association, as applicable) commences to enforce these Protective Covenants against such Owner in a manner reasonably satisfactory to the Enforcing Party, within ten (10) days and thereafter diligently pursues enforcement until such Claimed Violations are rectified, the Enforcing Party shall not independently take enforcement action with respect to such claimed violation against an Owner. Alternatively, the Enforcing Party may, after giving the Violating Party (whether Declarant, the Association or Owner) written notice and a reasonable time to cure (so long as such cure is commenced within ten (10) days of receipt of notice, and is thereafter diligently pursued), without being liable for trespass or other prosecution or for any claim for damages, other than gross negligence of the Enforcing Party or its agents, enter upon any Building Site, Improvement or Common Areas or Common Facility and do whatever the Violating Party is obligated to do to effect compliance of the Violating Party's obligations under these Protective Covenants, and the Violating Party agrees to reimburse the Enforcing Party on demand for any expenses which the Enforcing Party may incur in effecting compliance. The Declarant, the Association and all Owners further agree that the Enforcing Party shall not be liable for any damages resulting to such Violating Party, tenants and/or occupants arising from such action, whether caused by negligence of the Enforcing Party or otherwise, other than the gross negligence of the Enforcing Party or its agents. Violation of these Protective Covenants shall further give to the Enforcing Party the right to enter upon the applicable Building Site, Improvement or Common Areas or Common Facility and to summarily abate and remove, at the expense of the Violating Party, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding against the Violating Party who has or is attempting to violate any of these Protective Covenants to enjoin or prevent him or them from doing so or to cause such violation to be remedied or to recover damages for such violation.

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9.5 Lien on Building Site. If, pursuant to Section 9.2 or 9.4, the Declarant, the Hotel Owner, the Golf Course Owner, Committee, or the Association, as applicable (for purposes of this Section, the "Enforcing Party"), shall, after giving the notice provided in Section 9.2 or 9.4, enter upon any Building Site and/or Improvements and do whatever the Owner of such Building Site and/or Improvement (for purposes of this Section, the "Violating Party") is obligated to do to effect compliance under these Protective Covenants, including abating and removing any structure, thing, or condition, and shall bill the Violating Party for the expenses or costs incurred thereby, then the Violating Party shall reimburse the Enforcing Party within fifteen (15) days after being billed. If the Violating Party shall fail to so reimburse, then such unreimbursed costs shall be and become a debt of such Violating Party (including interest thereon to be calculated from the expiration of said fifteenth (15th) day at the highest legal rate allowed by applicable law), payable to the Enforcing Party, and shall, when the applicable law permits, be secured by a lien against such Building Site and/or property and the Improvements thereon. Such lien shall be subordinate and inferior to all liens securing amounts due or to become due under any mortgage given for Building Site purchase money or improvements held by a bona fide financial institution (e. g., state or federally chartered bank or savings and loan association or life insurance company) affecting the Building Site or property subject to such charge if such mortgage has been filed of record in Bexar County, Texas, prior to the notice of the charge of the Enforcing Party for the abatement or removal or damages shall be given. The rights and remedies granted to an Enforcing Party are cumulative of any other rights and remedies herein or at law or in equity available to an Enforcing Party as a result of a violation, or alleged violation, of these Protective Covenants. Any foreclosure by the holder of such mortgage, whether by power of sale as set out in the deed of trust or other applicable security instruments, or through court proceedings, shall cut off and extinguish the liens in favor of the Enforcing Party as to indebtedness or obligations which may have accrued prior to such foreclosure date; provided, however, that such foreclosure shall not remove or free any Building Site or property from liens securing charges thereafter becoming due and payable under this Subsection 9.5, nor shall the personal obligation to the Enforcing Party of any Violating Party foreclosed upon be extinguished by such foreclosure.

9.6 No Waiver of Right to Enforce. Failure of either Declarant, Hotel Owner, Golf Course Owner, the Association or the Committee to enforce any of these Protective Covenants herein contained shall in no event be deemed to be either a waiver of the right to do so for that or subsequent violations, or a waiver of the right to enforce any other Protective Covenant or condition. Neither Declarant, Hotel Owner, Golf Course Owner,

the Association or the Committee, shall be liable for any such failure to enforce any of these Protective Covenants.

9.7 Assignment of Enforcement Rights. Declarant may at any time, in whole or in part, assign the enforcement powers of this Declaration to its successors or assigns, to the Association or to another group of property Owners which includes the Owners within Westover Hills - Phase IV, by executing and recording in the Real Property Records of Bexar County, Texas, an assignment of such enforcement powers.

9.8 Attorneys' Fees. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the violating party or parties shall pay the attorneys' fees of the enforcing party or parties, if such enforcing party prevails, in such amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

## ARTICLE X

### AMENDMENT OF PROTECTIVE COVENANTS

Amendment of Protective Covenants. Subject to Section 2.3(b), above, this Declaration or any provision hereof, or any covenant, condition, restriction or reservation contained herein, may be modified or amended, as to the whole of Westover Hills-Phase IV or any portion thereof, by the Committee, in the Committee's sole discretion; provided, however, that until such time as Declarant shall have conveyed to third parties one hundred percent (100%) of the Net Area of Westover Hills - Phase IV then owned by Declarant, no such modification or amendment shall be effective without the written approval and joinder of Declarant. Any such modification or amendment shall be effective immediately upon the recording of a proper instrument in writing, executed and acknowledged by the Committee, in the office of the County Clerk of Bexar County, Texas. Notwithstanding anything herein to the contrary, (i) any such amendment, modification or waiver shall not prohibit any then permitted existing use, (ii) any such amendment, modification or waiver shall not materially adversely affect the then value of any property then owned by any Owner in Westover Hills - Phase IV, unless in such case such Owner joins in such Amendment, modification or waiver, and (iii) any such amendment, modification or waiver shall be subject to Section 2.3(b), above.

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ARTICLE XI

MISCELLANEOUS

11.1 Power of Attorney. Declarant may at any time and from time to time, by instrument filed of record in the office of the County Clerk of Bexar County, Texas, appoint any person, firm or corporation as agent and attorney-in-fact to perform any act, function or duty of Declarant, and such power may be revoked by Declarant by filing an instrument of record in the office of the County Clerk of Bexar County, Texas, revoking the power of such agent and attorney-in-fact.

11.2 Severability. The invalidation of any one of the restrictions or covenants herein contained, or the failure to enforce any of such restrictions or covenants at the time of its violation, shall in no event affect any of the other restrictions or covenants herein contained nor be deemed a waiver of the right to enforce the same or any other restriction or covenant thereafter.

11.3 Constructive Notice and Acceptance. Every Person who, now or hereafter, owns or acquires any right, title or interest in or to any portion of Westover Hills - Phase IV, whether as Owner, tenant or occupant, is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction herein contained, whether or not any reference to this Declaration shall be contained in the instrument by which such Person acquires an interest in such portion of Westover Hills - Phase IV.

11.4 Notice. Any notification or submittal to be made to the Committee or Declarant shall be effective as of the date of actual receipt (regardless of the manner of delivery) to:

Charles R. Wiseman  
3023 Iron Stone Court  
San Antonio, Texas 78230

Any address or name may be changed by a filing of such address or name change in the Real Estate Records as an amendment or supplement to this Declaration.

11.5 Titles. The titles, headings and captions used in this instrument are for convenience only and are not to be used in construing this instrument or any part hereof.

11.6 Continuing Effect - Limited Scope. This Declaration shall run with the land comprising Westover Hills - Phase IV and be binding upon and inure to the benefit of all future Owners, tenants and/or occupants of all or any portion of Westover Hills - Phase IV, and their respective heirs, executors, successors and

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assigns. This Declaration is for the benefit of each Declarant, the Hotel Owner, the Golf Course Owner and their respective heirs, executors, successors and assigns, and the owners who purchase land located within the boundaries of Westover Hills-Phase IV.

11.7 Approval. Where approval is required by this Declaration such approval shall not be unreasonably withheld or delayed, and any refusal by the Committee to give any approval called for herein shall be accompanied by a statement of reasons for such disapproval. If all of the cited matters causing such disapproval are corrected in such reasonable period of time as established by the Committee, then approval shall be deemed given.

11.8 Conflict. To the extent the actions required or permitted by this Declaration are prohibited by the requirements (including statutes, regulations, ordinances, directives, decisions and orders) of any court or any state, federal, city or county governmental agency, such requirements shall control. To the extent any court shall construe any restriction or covenant herein contained as overly broad and restrictive or otherwise unenforceable, there is hereby created by the Declarant, the Committee and the Hotel Owner, in lieu of such unenforceable restriction or covenant, a new covenant or restriction as close as possible in scope and intent to the unenforceable covenant or restriction as may be enforced.

11.9 Additional Covenants as to Residential Use. In the event Declarant, in Declarant's sole discretion, deems it necessary, appropriate and/or desirable to add additional restrictions to the Real Property which address the use of the Real Property for Residential Purposes, then Declarant shall have and hereby does have the right and power to do so.

11.10 Existing Covenants. These Protective Covenants are supplementary to the Existing Covenants, and to the extent, if any, of any conflict between these Protective Covenants and any of the Existing Covenants, the more restrictive provision shall apply.

11.11 Design Guidelines. The Design Guidelines (as amended from time to time in accordance with the provisions hereof) are hereby incorporated into and made a part of these Protective Covenants as if set forth herein verbatim. In the event of any conflict between the terms and provisions of the Design Guidelines and these Protective Covenants, the more restrictive terms and provisions shall control.

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DECLARANT:

*Ed M. Wiseman*

ED M. WISEMAN, Trustee for the  
Ed M. Wiseman Marital Trust and as  
Co-Independent Executor of the  
Estate of Blanche Wiseman, Deceased

*Mary Ann Simpson*

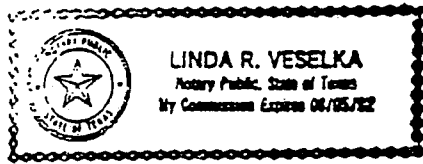
MARY ANN SIMPSON, Trustee for the  
Ed M. Wiseman Marital Trust and as  
Co-Independent Executor of the  
Estate of Blanche Wiseman, Deceased

*Charles R. Wiseman*

CHARLES R. WISEMAN, Trustee for the  
Ed M. Wiseman Marital Trust and as  
Co-Independent Executor of the  
Estate of Blanche Wiseman, Deceased

STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

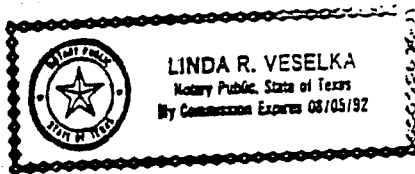
This instrument was acknowledged before me on the 3rd day of September, 1990, by ED M. WISEMAN, as Trustee of the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased.



Linda R. Veselka  
Notary Public, State of Texas  
Notary's Printed Name:  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

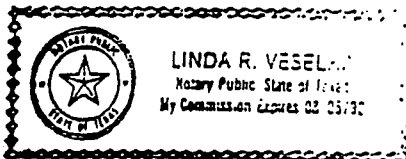
This instrument was acknowledged before me on the 3rd day of September, 1990, by MARY ANN SIMPSON, as Trustee of the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased.



Linda R. Veselka  
Notary Public, State of Texas  
Notary's Printed Name:  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 3rd day of September, 1990, by CHARLES R. WISEMAN, as Trustee of the Ed M. Wiseman Marital Trust and as Co-Independent Executor of the Estate of Blanche Wiseman, Deceased.



Linda R. Veselka  
Notary Public, State of Texas  
Notary's Printed Name:  
My Commission Expires: \_\_\_\_\_

After Recording Return To:  
Mr. James M. Summers  
Fulbright & Jaworski  
300 Convent, Suite 2200  
San Antonio, Texas 78205

After Recording Return To:  
TICOR TITLE INSURANCE OF CALIFORNIA  
10010 SAN PEDRO E-150  
SAN ANTONIO, TEXAS 78216

Attn. Margaret

EXHIBIT "A"

REAL PROPERTY DESCRIPTION OF WESTOVER HILLS PHASE IV

FIELD NOTES  
FOR

51.25 acre tract of land being out of the B.B.B. and C.R.R. Company Survey No. 403, Abstract No. 100, County Block 4419, the J.V. Dignowity Survey No. 404, Abstract 1039, County Block 4397, and the B.B.B. and C.R.R. Company Survey No. 402, Abstract 101, County Block 4398, and also being out of a 774.16 acre tract of land as recorded in Volume 2955, Pages 1174 through 1186 of the Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING: At a point for the northeast corner of the herein described tract of land, said point also being in the west right-of-way line of Hunt Lane, Westover Hills Subdivision Unit-14, as approved by the City of San Antonio Planning Commission on January 5, 1990, for the P.C. of a curve to the right which bears S 36°25'46" E, a distance of 174.86 feet to the P.C. of a curve to the right with a central angle of 00°57'32", a radius of 3,088.53 feet, a chord bearing of S 54°31'46" E, a chord distance of 51.69 feet, and an arc length of 51.69 feet from the Point of Intersection of the west right-of-way line of Hunt Lane with the south right-of-way line of Westover Hills Boulevard as recorded in Westover Hills Subdivision Unit-1A, Volume 9511, Pages 40 through 45 of the Deed and Plat Records of Bexar County, Texas;

THENCE: Along the west right-of-way line of Hunt Lane with said curve to the right whose elements are a central angle of 26°55'07", a radius of 3,088.53 feet, a chord bearing of S 22°00'40" E, a chord distance of 1,437.75 feet, and an arc distance of 1,451.06 feet to a point for the P.R.C. of a curve to the left;

THENCE: Continuing along the west right-of-way line of Hunt Lane with said curve to the left whose elements are a central angle of 07°14'25", a radius of 2,980.36 feet, a chord bearing of S 12°10'19" E, a chord distance of 376.36 feet, and an arc length of 376.61 feet to a point for the P.T. of this curve;

THENCE: N 86°27'59" W, departing the west right-of-way line of Hunt Lane a distance of 804.83 feet to an angle point;

THENCE: S 77°07'18" W, a distance of 732.09 feet to an angle point;

THENCE: N 23°48'23" W, a distance of 430.42 feet to an angle point;

THENCE: N 02°31'09" W, a distance of 676.09 feet to an angle point;

THENCE: N 24°02'27" W, a distance of 223.67 feet to an angle point;

THENCE: N 65°38'20" E, a distance of 387.90 feet to an angle point;

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Field Notes for  
51.25 Acre Tract  
Page 2 of 2

THENCE: N 65°36'24" E, a distance of 922.30 feet to the POINT OF BEGINNING  
and containing 51.25 acres (2,232,525 square feet) of land, more or  
less, in Bexar County, Texas.

VOL. 903 PAGE 1766

PREPARED BY: PAPE-DAWSON CONSULTING ENGINEERS, INC.  
JOB NO.: 2780-21-05  
DATE: August 31, 1990  
DOC ID: 831/6

**FIELD NOTES  
FOR**

A 45.82 acre tract being out of the J.V. Dignowity Survey No. 404, Abstract No. 1039, County Block 4397, the B.B.B. and C.R.R. Company Survey No. 402, Abstract No. 101, County Block 4398, and also being out of a 774.16 acre tract as recorded in Volume 2955, Pages 1174 through 1186 of the Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

- BEGINNING:** At a point in the north right-of-way line of Military Drive West, Westover Hills Subdivision Unit-14, as approved by the City of San Antonio Planning Commission on January 5, 1990, for the P.C. of a curve to the left which bears S 48°21'35" W, a distance of 34.70 feet from the point of intersection of the aforementioned north right-of-way line of Military Drive West with the west right-of-way line of Hunt Lane, Westover Hills Subdivision Unit-14, as approved by the City of San Antonio Planning Commission on January 5, 1990;
- THENCE:** Along the north right-of-way line of Military Drive West with said curve to the left whose elements are a central angle of 12°53'23", a radius of 2,321.73 feet, a chord bearing of S 41°54'53" W, a chord distance of 521.21 feet, and an arc length of 522.31 feet to the P.T. of this curve;
- THENCE:** S 35°28'12" W, continuing along the north right-of-way line of Military Drive West, a distance of 995.80 feet to an angle point;
- THENCE:** N 25°52'34" W, departing the north right-of-way line of Military Drive West, a distance of 786.93 feet to an angle point;
- THENCE:** N 40°29'12" W, a distance of 713.37 feet to an angle point;
- THENCE:** N 15°22'21" W, a distance of 478.86 feet to an angle point;
- THENCE:** N 73°20'50" E, a distance of 627.39 feet to an angle point;
- THENCE:** S 25°43'41" E, a distance of 121.80 feet to an angle point;
- THENCE:** S 85°47'49" E, a distance of 222.00 feet to an angle point;
- THENCE:** N 52°33'38" E, a distance of 609.49 feet to a point being in the aforementioned west right-of-way line of Hunt Lane for the P.C. of a curve to the left;
- THENCE:** Along the west right-of-way line of Hunt Lane with said curve to the left whose elements are a central angle of 12°08'11", a radius of 2,980.36 feet, a chord bearing of S 27°27'43" E, a chord distance of 630.13 feet, and an arc length of 631.31 feet to the P.T. of this curve;

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Field Notes for  
45.82 Acre Tract  
Page 2 of 2

THENCE: S 33°31'48" E, continuing along the west right-of-way line of Hunt Lane, a distance of 391.88 feet to a point for the P.C. of a curve to the right;

THENCE: Along said curve to the right whose elements are a central angle of 81°53'23", a radius of 40.00 feet, a chord bearing of S 07°24'53" W, a chord distance of 52.43 feet, and an arc length of 57.17 feet to the POINT OF BEGINNING and containing 45.82 acres (1,995,828 square feet) of land, more or less, in Bexar County, Texas.

PREPARED BY: PAPE-DAWSON CONSULTING ENGINEERS, INC.  
JOB NO.: 2780-21-05  
DATE: August 31, 1990  
DOC ID: 831/6

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FIELD NOTES  
FOR

A 21.82 acre tract of land being out of the B.B.B. and C.R.R. Company Survey No. 256, Abstract No. 102, County Block 4394, the B.B.B. and C.R.R. Company Survey No. 402, Abstract 101, County Block 4398, and also being out of a 774.16 acre tract of land as recorded in Volume 2955, Pages 1174 through 1186 of the Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

- BEGINNING:** At a point in the north right-of-way line of Military Drive West, Westover Hills Subdivision Unit-14, as approved by the City of San Antonio Planning Commission on January 5, 1990, for the southwest corner of the herein described tract of land which bears N 46°52'26" E, a distance of 38.74 feet to a point for the P.C. of a curve to the right with a central angle of 16°21'14", a radius of 1,532.18 feet, a chord bearing of N 55°03'03" E, a chord distance of 435.85 feet, and an arc length of 437.33 feet from the point of intersection of the aforementioned north right-of-way line of Military Drive West with the east right-of-way line of Rogers Road, Westover Hills Subdivision Unit-15, as approved by the City of San Antonio Planning Commission on January 5, 1990;
- THENCE:** N 46°11'01" W, departing the north right-of-way line of Military Drive West, a distance of 750.54 feet to an angle point;
- THENCE:** N 61°29'18" E, a distance of 818.56 feet to an angle point;
- THENCE:** S 73°27'08" E, a distance of 419.14 feet to an angle point;
- THENCE:** N 79°54'07" E, a distance of 530.79 feet to an angle point;
- THENCE:** S 63°37'28" E, a distance of 329.85 feet to a point being in the north right-of-way line of Military Drive West for the P.C. of a curve to the right;
- THENCE:** Along the north right-of-way line of Military Drive West with said curve to the right whose elements are a central angle of 21°25'47", a radius of 2,047.00 feet, a chord bearing of S 56°45'18" W, a chord distance of 761.17 feet, and an arc length of 765.62 feet to a point for the P.T. of this curve;
- THENCE:** S 67°28'12" W, continuing along the north right-of-way line of Military Drive West, a distance of 712.28 feet to a point for the P.C. of a curve to the left;

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Field Notes for  
21.82 Acre Tract  
Page 2 of 2

THENCE: Continuing along the north right-of-way line of Military Drive West with said curve to the left whose elements are a central angle of  $04^{\circ}14'32''$ , a radius of 1,532.18 feet, a chord bearing of  $S 65^{\circ}20'56'' W$ , a chord distance of 113.42 feet, and an arc length of 113.44 feet to the POINT OF BEGINNING and containing 21.82 acres (950,679 square feet) of land, more or less, in Bexar County, Texas.

PREPARED BY: PAPE-DAWSON CONSULTING ENGINEERS, INC.  
JOB NO.: 2780-21-05  
DATE: August 31, 1990  
DOC ID: 831/1

U / 1882 C 0 6 4704

Being a 5.696 acre tract of land out of B.B.B. & C.R.R. Co. Survey No. 402, Abstract 101, County Block 4398, Bexar County, Texas, the said 5.696 acre tract of land being a portion of a 774.16 acre tract of land described on Exhibit "A", as recorded in Volume 9555, Pages 1174 through 1186 of the Official Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING: At a point in the northwest corner of the said 774.16 acre tract of land, and proceeding along the following course:

S 27°20'38" E, a distance of 2,007.56 feet to the northeast corner and POINT OF BEGINNING of the herein described tract of land;

THENCE: S 52°22'02" E, a distance of 430.42 feet to an angle point;

THENCE: S 38°42'27" E, a distance of 368.18 feet to an angle point;

THENCE: S 38°34'24" W, a distance of 452.58 feet to an angle point;

THENCE: N 24°15'35" W, a distance of 939.40 feet to an angle point;

THENCE: N 63°55'19" E, a distance of 108.07 feet to the POINT OF BEGINNING, and continuing 5.696 acres (248,102 square feet) of land, more or less, in Bexar County, Texas.

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Being a 4.868 acre tract of land out of B.B.B. & C.R.R. Co. Survey No. 402, Abstract 101, County Block 4398, Bexar County, Texas, the said 4.868 acre tract of land being a portion of a 774.16 acre tract of land described on Exhibit "A", as recorded in Volume 9555, Pages 1174 through 1186 of the Official Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING: At a point in the northwest corner of the said 774.16 acre tract of land, and proceeding along the following course:

S 24°15'35" E, a distance of 261.54 feet to the northwest corner and POINT OF BEGINNING of the herein described tract of land;

THENCE: S 13°32'56" E, a distance of 491.14 feet to an angle point;

THENCE: S 01°45'24" E, a distance of 310.06 feet to an angle point;

THENCE: S 75°33'51" W, a distance of 130.42 feet to angle point;

THENCE: N 24°15'35" W, a distance of 855.35 feet to an angle point;

THENCE: N 83°31'30" E, a distance of 355.44 feet to the POINT OF BEGINNING, and containing 4.868 acres (212,057 square feet of land, more or less, in Bexar County, Texas.

A 0.608 acre tract of land out of B.B.B. & C.R.R. Co. Survey No. 402, Abstract 101, County Block 4398, Bexar County Texas, the said 0.608 acre tract of land being a portion of a 774.16 acre tract of land described on Exhibit "A", as recorded in Volume 9555, Pages 1174 through 1186 of the Official Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING: At a point in the northwest corner of the said 774.16 acre tract, and proceeding along the following course:

N 65°38'20" E, a distance of 902.21 feet to the northwest corner and POINT OF BEGINNING of the herein described tract of land;

THENCE: N 65°38'20" E, a distance of 958.73 feet to an angle point;

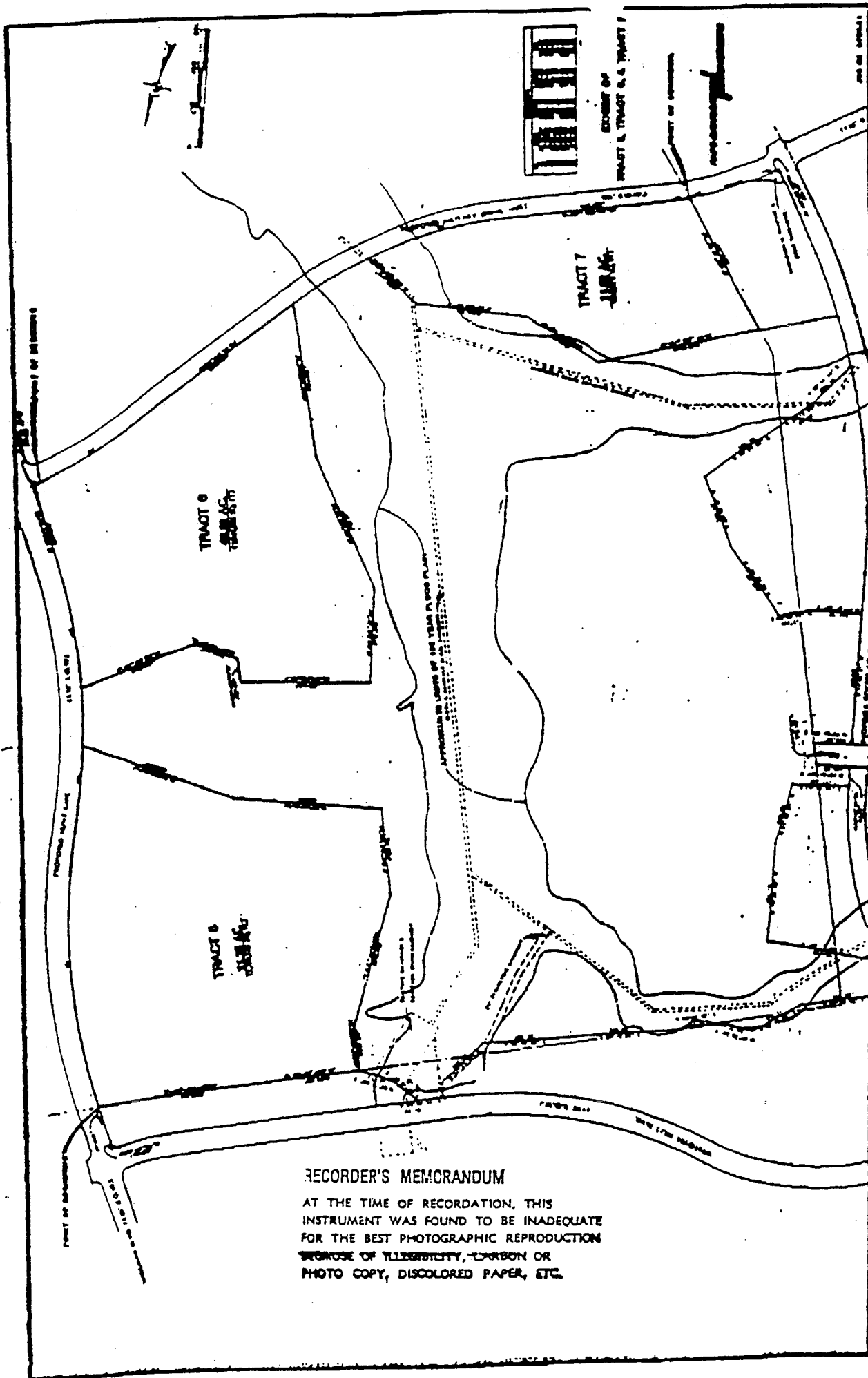
THENCE: S 278°33'07" W, a distance of 86.62 feet to an angle point;

THENCE: S 68°48'03" W, a distance of 408.30 feet to an angle point;

THENCE: S 69°18'05" W, a distance of 483.86 feet to the POINT OF BEGINNING, and containing 0.608 acre (26,476 square feet) of land, more or less, in Bexar County, Texas.

Being a 0.167 acre tract of land out of B.B.B. & C.R.R. Co. Survey No. 402, Abstract 101, County Block 4398, Bexar County, Texas, the said 0.167 acre tract of land being a portion of a 774.16 acre tract of land described on Exhibit "A", as recorded in Volume 9555, Pages 1174 through 1186 of the Official Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

- BEGINNING:** At a point in the northwest corner of the said 774.16 acre tract of land, said point also being the northwest corner of the herein described tract of land;
- THENCE:** N 65°38'20" E, a distance of 285.30 feet to an angle point;
- THENCE:** S 45°49'02" W, a distance of 84.93 feet to an angle point;
- THENCE:** S 65°04'55" W, a distance of 205.46 feet to an angle point;
- THENCE:** N 24°15'35" W, a distance of 30.80 feet to the POINT OF BEGINNING, and containing 0.167 acre (7,271.668 square feet) of land, more or less, in Bexar County, Texas.

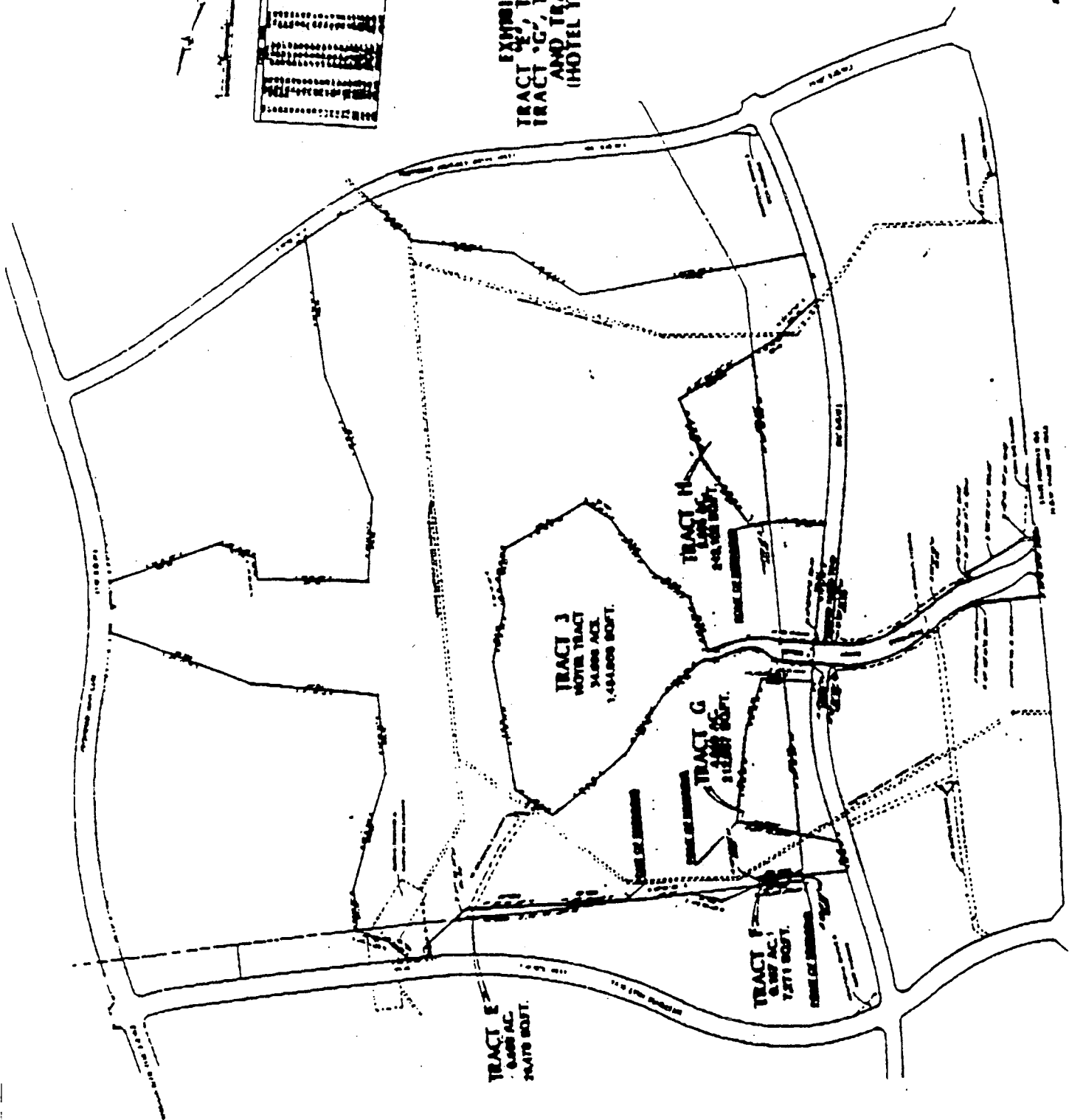
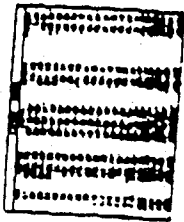


**RECORDER'S MEMCRANDUM**

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

EXHIBIT "B"  
GOLF COURSE TRACT

EXHIBIT OF  
 TRACT 'E', TRACT 'F',  
 TRACT 'G', TRACT 'H'  
 AND TRACT I  
 (HOTEL TRACT)



RECORDER'S MEMORANDUM

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9310 BROADWAY, SAN ANTONIO, TEXAS 78217  
 512/824-9494 FACSIMILE 512/824-3491

FIELD NOTES

FOR

A 173.035 acre tract of land out of the B.B.B. & C.R.R. Co. Survey No. 256, Abstract 102, County Block 4394, the B.B.B. & C.R.R. Co. Survey No. 402, Abstract 101, County Block 4398, the B.B.B. & C.R.R. Co. Survey No. 403, Abstract 100, County Block 4419, and out of the J.V. Dignowity Survey No. 404, Abstract 1039, County Block 4397, all situated within Bexar County, Texas, the said 173.035 acre tract of land being a portion of a 774.16 acre tract of land as recorded in Volume 2955, Pages 1174 through 1186 of the Official Real Property Records of Bexar County, Texas, a portion of a 522.26 acre tract and a portion of a 515.35 acre tract, as recorded in Volume 2955, Pages 1198 through 1206, and Volume 2955, Pages 1207 through 1212, respectively, in the Real Property Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING: At the point of intersection of the south right-of-way line of Westover Hills Boulevard (110-foot right-of-way) with the west right-of-way line of Wiseman Boulevard (110-foot right-of-way), according to the subdivision plat thereof, Westover Hills, Unit-1A, as recorded in Volume 9511, Pages 40 through 45 of the Deed and Plat Records of Bexar County, Texas, and proceeding along the following course:

S 55°33'51" W, a distance of 38.63 feet to a point of curvature to the right on the said south right-of-way line of Westover Hills Boulevard;

THENCE: 251.89 feet along a curve to the right on the said south right-of-way line of Westover Hills Boulevard, said curve having a radius of 1,455.00 feet, a central angle of 09°55'08", a chord bearing of S 60°31'24" W, and a chord distance of 251.57 feet to a point of tangency;

THENCE: S 65°28'59" W, a distance of 1,244.74 feet, continuing along the said south right-of-way line of Westover Hills Boulevard to the POINT OF BEGINNING of the herein described tract of land;

THENCE: S 68°19'07" E, a distance of 163.10 feet, departing from the said south right-of-way line of Westover Hills Boulevard to an angle point;

THENCE: N 89°11'05" E, a distance of 171.14 feet to an angle point;

THENCE: S 24°02'27" E, a distance of 227.47 feet to an angle point;

THENCE: S 02°31'09" E, a distance of 676.09 feet to an angle point;

THENCE: S 23°48'23" E, a distance of 430.42 feet to an angle point;

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- THENCE: N 77°07'18" E, a distance of 732.09 feet to an angle point;
- THENCE: S 86°27'59" E, a distance of 804.82 feet to a point of curvature of a non-tangent curve to the left;
- THENCE: 291.38 feet along a curve to the left, said curve having a radius of 2,980.36 feet, a central angle of 05°36'06", a chord bearing of S 18°35'34" E, and a chord distance of 291.26 feet to an angle point;
- THENCE: S 52°33'38" W, a distance of 609.49 feet to an angle point;
- THENCE: N 85°47'49" W, a distance of 222.00 feet to an angle point;
- THENCE: N 25°43'41" W, a distance of 121.80 feet to an angle point;
- THENCE: S 73°20'50" W, a distance of 627.39 feet to an angle point;
- THENCE: S 15°22'21" E, a distance of 478.86 feet to an angle point;
- THENCE: S 40°29'12" E, a distance of 713.37 feet to an angle point;
- THENCE: S 25°52'34" E, a distance of 786.93 feet to an angle point;
- THENCE: S 35°28'12" W, a distance of 43.34 feet to a point of curvature to the right;
- THENCE: 377.64 feet along a curve to the right, said curve having a radius of 2,047.00 feet, a central angle of 10°34'13", a chord bearing of S 40°45'18" W, and a chord distance of 377.10 feet to an angle point;
- THENCE: N 63°37'28" W, a distance of 329.85 feet to an angle point;
- THENCE: S 79°54'07" W, a distance of 530.79 feet to an angle point;
- THENCE: N 73°27'08" W, a distance of 419.14 feet to an angle point;
- THENCE: S 61°29'18" W, a distance of 1,213.52 feet to a point of curvature of a non-tangent curve to the right;
- THENCE: 265.95 feet along a curve to the right, said curve having a radius of 3,842.60 feet, a central angle of 03°57'56", a chord bearing of N 31°46'58" W, and a chord distance of 265.90 feet to an angle point;
- THENCE: N 26°34'53" E, a distance of 288.30 feet to an angle point;
- THENCE: N 38°12'08" E, a distance of 89.29 feet to an angle point;

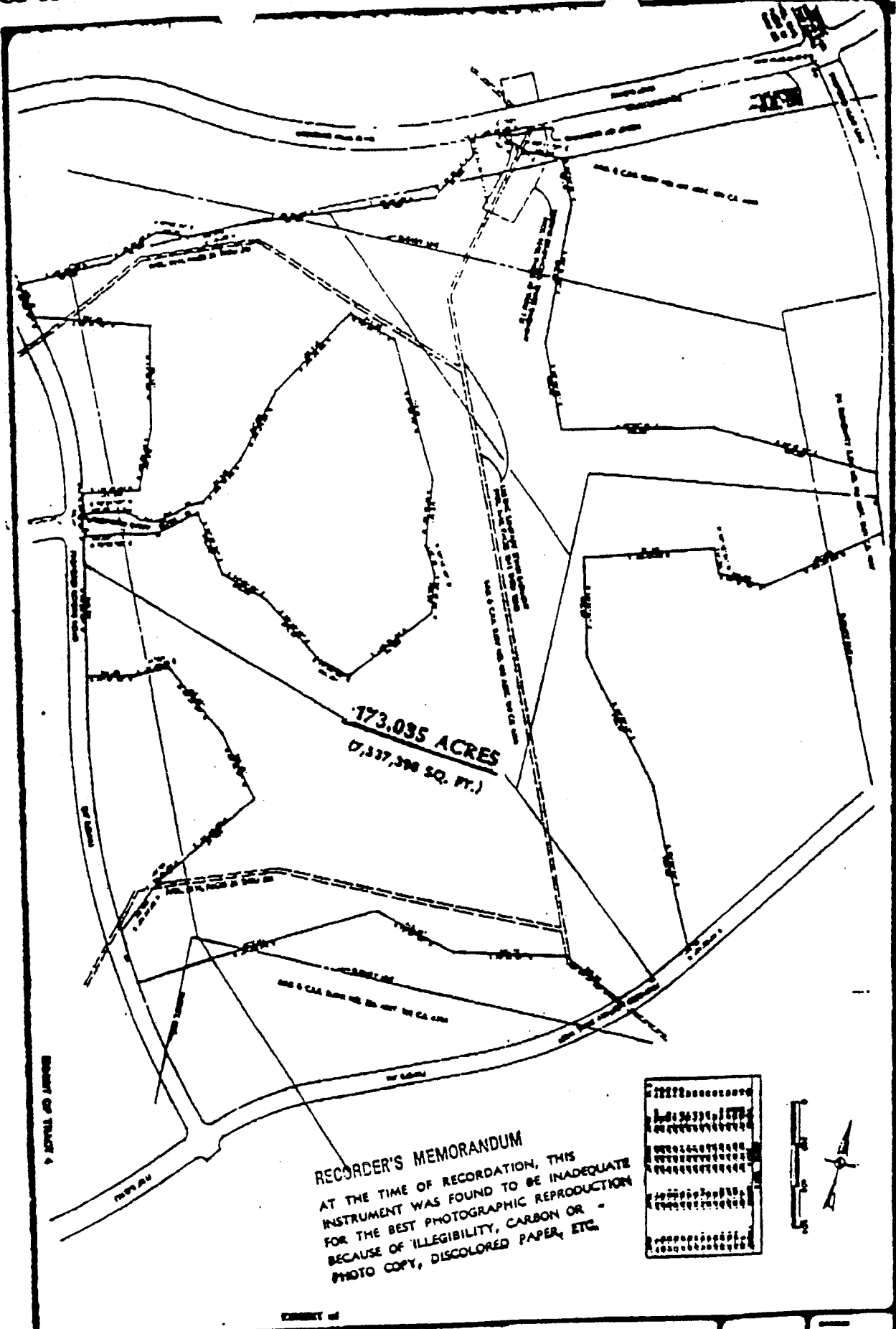
- THENCE: N 38°34'24" E, a distance of 536.48 feet to an angle point;
- THENCE: N 38°42'27" W, a distance of 368.18 feet to an angle point;
- THENCE: S 52°22'02" W, a distance of 430.42 feet to an angle point;
- THENCE: S 63°55'19" W, a distance of 171.11 feet to an angle point;
- THENCE: S 77°47'50" W, a distance of 241.58 feet to a point of curvature to the right;
- THENCE: N 14°08'51" W, a distance of 645.70 feet to a point of curvature to the right;
- THENCE: 39.27 feet along a curve to the right, said curve having a radius of 25.00 feet, a central angle of 90°00'00", a chord bearing of N 30°51'13" E, and a chord distance of 35.36 feet to an angle point;
- THENCE: N 75°51'09" E, a distance of 125.00 feet to a point of curvature to the right;
- THENCE: 80.99 feet along a curve to the right, said curve having a radius of 607.87 feet, a central angle of 07°38'03", a chord bearing of N 79°40'08" E and a chord distance of 80.93 feet to a point of reverse curvature to the left;
- THENCE: 271.74 feet along a curve to the left, said curve having a radius of 425.00 feet, a central angle of 36°38'03", a chord bearing of N 65°10'10" E and a chord distance of 267.13 feet to a point of another reverse curve to the right;
- THENCE: 88.91 feet along a curve to the right, said curve having a radius of 375.00 feet, a central angle of 13°35'05", a chord bearing of N 53°38'41" E and a chord distance of 88.70 feet to an angle point;
- THENCE: S 35°46'22" E, a distance of 315.79 feet to an angle point;
- THENCE: S 71°42'49" E, a distance of 248.03 feet to an angle point;
- THENCE: S 53°53'42" E, a distance of 374.41 feet to an angle point;
- THENCE: S 72°06'36" E, a distance of 169.49 feet to an angle point;
- THENCE: N 39°39'07" E, a distance of 489.28 feet to an angle point;
- THENCE: N 08°49'28" W, a distance of 190.64 feet to an angle point;

- THENCE: N 30°12'49" W, a distance of 139.30 feet to an angle point;
- THENCE: N 07°31'25" W, a distance of 318.97 feet to an angle point;
- THENCE: N 27°54'14" W, a distance of 710.01 feet to an angle point;
- THENCE: N 70°59'11" W, a distance of 245.56 feet to an angle point;
- THENCE: S 30°22'08" W, a distance of 514.63 feet to an angle point;
- THENCE: S 13°54'30" W, a distance of 367.76 feet to an angle point;
- THENCE: S 28°41'09" W, a distance of 273.68 feet to a point of curvature of a non-tangent curve to the left;
- THENCE: 140.38 feet along a curve to the left, said curve having a radius of 425.00 feet, a central angle of 18°55'33", a chord bearing of S 56°18'55" W, and a chord distance of 139.75 feet to a point of reverse curvature to the right;
- THENCE: 94.31 feet along a curve to the right, said curve having a radius of 375.00 feet, a central angle of 14°24'35", a chord bearing of S 54°03'26" W, and a chord distance of 94.06 feet to a point of compound curvature to the right;
- THENCE: 122.42 feet along a curve to the right, said curve having a radius of 141.69 feet, a central angle of 49°30'13", a chord bearing of S 86°00'50" W, and a chord distance of 118.65 feet to a point of reverse curvature to the left;
- THENCE: 122.32 feet along a curve to the left, said curve having a radius of 200.74 feet, a central angle of 34°54'48", a chord bearing of N 86°41'27" E and a chord distance of 120.44 feet to a point of tangency;
- THENCE: S 75°51'09" W, a distance of 125.00 feet to a point of curvature to the right;
- THENCE: 39.27 feet along a curve to the right, said curve having a radius of 25.00 feet, a central angle of 90°00'00", a chord bearing of N 59°08'52" W, and a chord distance of 35.36 feet to a point of tangency;
- THENCE: N 14°08'51" W, a distance of 63.47 feet to a point of curvature to the left;
- THENCE: 12.26 feet along a curve to the left, said curve having a radius of 1,838.00 feet, a central angle of 00°22'56", a chord bearing of N 14°20'19" W, and a chord distance of 12.26 feet to an angle point;

Field Notes For  
173.035 Acre Tract  
Page 5 of 5

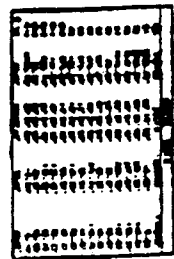
- THENCE: N 75°33'51" E, a distance of 277.11 feet to an angle point;
- THENCE: N 01°45'24" W, a distance of 310.06 feet to an angle point;
- THENCE: N 13°32'56" W, a distance of 491.14 feet to an angle point;
- THENCE: S 83°31'30" W, a distance of 561.88 feet to an angle point;
- THENCE: N 35°09'51" W, a distance of 168.10 feet to an angle point;
- THENCE: N 65°04'55" E, a distance of 433.85 feet to an angle point;
- THENCE: N 45°49'02" E, a distance of 270.21 feet to an angle point;
- THENCE: N 87°58'34" E, a distance of 164.32 feet to an angle point;
- THENCE: N 65°01'32" E, a distance of 243.94 feet to an angle point;
- THENCE: N 69°18'05" E, a distance of 530.65 feet to an angle point;
- THENCE: N 68°48'03" E, a distance of 408.30 feet to an angle point;
- THENCE: N 27°33'07" E, a distance of 268.05 feet to an angle point;
- THENCE: N 24°31'01" W, a distance of 77.31 feet to an angle point of the curvature to the left on the aforementioned south right-of-way line of Westover Hills Boulevard;
- THENCE: 10.00 feet along a curve to the left, said curve having a radius of 2,286.75 feet, a central angle of 00°15'02", a chord bearing of N 65°36'30" E, and a chord distance of 10.00 feet to the point of tangency;
- THENCE: N 65°28'59" E, a distance of 124.19 feet along the said south right-of-way line of Westover Hills Boulevard to the POINT OF BEGINNING, and containing 173.035 acres (7,537,398 square feet) of land, more or less, in Bexar County, Texas.

PREPARED BY: PAPE-DAWSON CONSULTING ENGINEERS, INC.  
JOB NO: 2780-21-05  
DATE: August 31, 1990  
DOC ID: PD40.14



**173.035 ACRES**  
 (7,337,390 SQ. FT.)

**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.



<p>RECORDING OFFICE</p>	<p>INDEXED</p>	<p>FILED</p>	<p>DATE</p>	<p>TIME</p>
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COUNTY OF ...

EXHIBIT "C"

HOTEL TRACT

FIELD NOTES  
 FOR

A 34.088 acre tract of land being out of the Thomas York Survey No. 201 1/2, Abstract 825, County Block 4400, and the B.B.B. & C.R.R. Co. Survey No. 402, Abstract 101, County Block 4398, New City Block 17642 in the City of San Antonio, Bexar County, Texas, and also being out of a 515.35 acre tract of land as recorded in Volume 2955, Pages 1207 through 1212 and a 774.16 acre tract of land as recorded in Volume 2955, Pages 1174 through 1186 of the Real Property Records of Bexar County, Texas, and being more particularly described by notes and bounds, as follows:

COMMENCING: At a point of the northwest corner of the said 774.16 acre tract of land and proceeding along the following course:

N 87°34'21" E, a distance of 1,399.19 feet to the most northerly corner and POINT OF BEGINNING of the herein described tract of land;

- THENCE: S 70°58'11" E, a distance of 245.56 feet to an angle point;
- THENCE: S 27°54'14" E, a distance of 710.01 feet to an angle point;
- THENCE: S 07°31'25" E, a distance of 318.97 feet to an angle point;
- THENCE: S 30°12'49" E, a distance of 139.30 feet to an angle point;
- THENCE: S 08°49'28" E, a distance of 190.64 feet to an angle point;
- THENCE: S 39°39'07" W, a distance of 489.28 feet to an angle point;
- THENCE: N 72°06'36" W, a distance of 169.49 feet to an angle point;
- THENCE: N 53°53'42" W, a distance of 374.41 feet to an angle point;
- THENCE: N 71°42'49" W, a distance of 248.03 feet to an angle point;
- THENCE: N 35°46'22" W, a distance of 315.79 feet to a point of curvature of a non-tangent curve to the left;
- THENCE: 88.91 feet along a curve to the left, said curve having a radius of 375.00 feet, a central angle of 13°35'05", a chord bearing of S 53°38'41" W, and a chord distance of 88.70 feet to a point of reverse curvature to the right;
- THENCE: 271.74 feet along a curve to the right, said curve having a radius of 425.00 feet, a central angle of 36°38'03", a chord bearing of S 65°10'10" W, and a chord distance of 267.13 feet to a point of reverse curvature to the left;
- THENCE: 80.99 feet along a curve to the left, said curve having a radius of 607.87 feet, a central angle of 07°38'03", a chord bearing of S 79°40'08" W, and a chord distance of 80.93 feet to a point of tangency;

- THENCE: S 75°51'09" W, a distance of 125.00 feet to a point of curvature to the left;
- THENCE: 39.27 feet along a curve to the left, said curve having a radius of 25.00 feet, a central angle of 90°00'00", a chord bearing of S 30°51'09" W, and a chord distance of 35.36 feet to an angle point;
- THENCE: N 14°08'51" W, a distance of 25.00 feet to a point of curvature of a curve to the left;
- THENCE: S 75°51'09" W, a distance of 153.62 feet to an iron rod set at a point of curvature to the left;
- THENCE: 190.10 feet along a curve to the left, said curve having a radius of 400.00 feet, a central angle of 27°13'47", a chord bearing of S 62°14'15" W, and a chord distance of 188.32 feet to an iron rod set a point of compound curvature;
- THENCE: 246.14 feet, continuing along a curve to the left, said curve having a radius of 884.38 feet, a central angle of 15°56'47", a chord bearing of S 40°38'58" W, a chord distance of 245.34 feet to an iron rod set at a point of tangency;
- THENCE: S 32°40'35" W, a distance of 212.02 feet to an iron rod, set at a point of curvature to the right;
- THENCE: 113.18 feet along a curve to the right, said curve having a radius of 394.55 feet, a central angle of 16°26'11", a chord bearing of S 40°53'40" W, and a chord distance of 112.80 feet to an iron rod set at an angle point;
- THENCE: S 49°06'46" W, a distance of 20.72 feet to an iron rod set at an angle point;
- THENCE: S 40°53'14" E, a distance of 45.00 feet to an iron rod set at an angle point;
- THENCE: S 38°53'16" W, a distance of 326.40 feet to an iron rod set at an angle point;
- THENCE: S 65°44'40" W, a distance of 75.00 feet to an iron rod set on the aforementioned east right-of-way line of State Highway 151, said point being the southwest corner of the herein described tract of land;
- THENCE: N 24°15'20" W, a distance of 328.75 feet along the said east right-of-way line of State Highway 151 to an angle point;

- THENCE: N 65°44'36" E, a distance of 312.04 feet, departing from the aforementioned east right-of-way line of State Highway 151 to an iron rod set at an angle point;
- THENCE: S 40°53'14" E, a distance of 25.00 feet to an iron rod set at an angle point;
- THENCE: N 50°20'50" E, a distance of 52.70 feet to an iron rod set at a point of curvature to the left;
- THENCE: 167.08 feet along a curve to the left, said curve having a radius of 364.00 feet, a central angle of 26°17'56", a chord bearing of N 37°11'52" E, and a chord distance of 165.61 feet to an iron rod set at a point of reverse curvature to the right;
- THENCE: 490.89 feet along a curve to the right, said curve having a radius of 765.74 feet, a central angle of 36°43'50", a chord bearing of N 42°24'49" E, and a chord distance of 482.53 feet to an iron rod set at a point of compound curvature;
- THENCE: 124.58 feet, continuing along a curve to the right, said curve having a radius of 473.54 feet, a central angle of 15°04'25", a chord bearing of N 68°18'56" E, and a chord distance of 124.22 feet to an iron rod set at a point of tangency;
- THENCE: N 75°51'09" E, a distance of 153.62 feet to an iron rod set at an angle point;
- THENCE: N 14°08'51" W, a distance of 25.00 feet to an iron rod set at a point of curvature of a curve to the left;
- THENCE: 39.27 feet along a curve to the left, said curve having a radius of 25.00 feet, a central angle of 90°00'00", a chord bearing of S 59°08'51" E, and a chord distance of 35.36 feet to an iron rod set at a point of tangency;
- THENCE: N 75°51'09" E, a distance of 125.00 feet to an iron rod set at a point of curvature to the right;
- THENCE: 122.32 feet along a curve to the right, said curve having a radius of 200.74 feet, a central angle of 34°54'48", a chord bearing of S 86°41'27" E, and a chord distance of 120.44 feet to a point of reverse curvature to the left;
- THENCE: 122.42 feet along a curve to the left, said curve having a radius of 141.69 feet, a central angle of 49°30'13", a chord bearing of N 86°00'50" E, and a chord distance of 118.65 feet to a point of compound curvature to the left;
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- THENCE: 94.31 feet along a curve to the right, said curve having a radius of 375.00 feet, a central angle of  $14^{\circ}24'35''$ , a chord bearing of  $N 54^{\circ}03'26'' E$ , and a chord distance of 94.06 feet to a point of reverse curvature to the right;
- THENCE: 140.38 feet along a curve to the right, said curve having a radius of 425.00 feet, a central angle of  $18^{\circ}55'33''$ , a chord bearing of  $N 56^{\circ}18'55'' E$  and a chord distance of 139.75 to an angle point;
- THENCE:  $N 28^{\circ}41'09'' E$ , a distance of 273.68 feet to an angle point;
- THENCE:  $N 13^{\circ}54'30'' E$ , a distance of 367.76 feet to an angle point;
- THENCE:  $N 30^{\circ}22'08'' E$ , a distance of 514.63 feet to the POINT OF BEGINNING, and containing 34.088 acres (1,484,856 square feet) of land, more or less, in Bexar County, Texas.

PREPARED BY: PAPE-DAWSON CONSULTING ENGINEERS, INC.  
JOB NO: 2780-21-05  
DATE: September 4, 1990  
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