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DECLARATION OF ANNEXATION

FOR

FLAMINGO ESTATES AT LAKE OLYMPIA

THE STATE OF TEXAS  
COUNTY OF FORT BEND

THIS DECLARATION OF ANNEXATION is made by LAKE OLYMPIA DEVELOPMENT N. V., a Netherlands Antilles corporation, doing business as LAKE OLYMPIA DEVELOPMENT CORPORATION ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of all or a portion of the properties described on Exhibits "A", "B" and "C" which are attached hereto and incorporated by reference for all purposes (the "Property") upon which Declarant is in the process of developing a residential/mixed use commercial community known as Lake Olympia pursuant to a common or uniform plan or scheme of development:

AND, WHEREAS, by virtue of Declaration of Covenants, Conditions and Restrictions ("Declaration") recorded in Volume 1355 at Page 709 of the Deed Records of Fort Bend County, Texas, Declarant has created, out of that portion of the Property which is more particularly described in the Declaration, a subdivision known as PALMER PLANTATION AT LAKE OLYMPIA SECTION ONE and has imposed upon such subdivision the covenants, conditions and restrictions described in the Declaration above (the Declaration and any and all amendments and supplements thereto being hereinafter called the "Declaration");

AND, WHEREAS, as contemplated by the Declaration, Declarant now desires to create, out of that portion of the Property, more particularly described in Exhibit "D" which is attached hereto and incorporated herein by reference for all purposes, a subdivision to be known as FLAMINGO ESTATES AT LAKE OLYMPIA (the "Subdivision") and to impose upon the property constituting the Subdivision, the covenants,

conditions and restrictions described in the Declaration, except to the extent that the same are modified or amended herein, all as a part of Declarant's uniform plan or scheme for development of the Property.

NOW, THEREFORE, Declarant hereby declares that all of the Subdivision shall be held, sold and conveyed subject to all of the easements, restrictions, covenants, and conditions described in the Declaration, which is incorporated herein by reference for all purposes, except to the extent that the Declaration is specifically amended herein, all of which easements, restrictions, covenants and conditions shall be binding upon any person or entity owning or claiming any right, title or interest in or to any portion of the property constituting the Subdivision, and their heirs, successors and assigns, and all of which shall inure to the benefit of, and be enforceable by, Declarant and each Owner (as defined in the Declaration); provided, however, that the easements, restrictions, covenants and conditions of the Declaration, so far as they affect the Subdivision, are amended as follows and shall in no way impair the rights of any person or entity owning or claiming any right, title or interest in or to any portion of the property in Flamingo Island at Lake Olympia, a subdivision in Fort Bend County, Texas, according to the plat thereof recorded in Slide No. 1117B and 1118A in the Plat records of Fort Bend County, Texas and in Flamingo Island at Lake Olympia Partial Replat, a subdivision in Fort Bend County, Texas, according to the plat thereof recorded in Slide No. 1228B in the Plat records of Fort Bend County, Texas (herein after collectively referred to as Flamingo Island), and their heirs, successors and assigns:

1. The Subdivision shall constitute, and the restrictions, covenants and conditions of this Declaration of Annexation shall only cover and affect the following described property:

Lot One (1) through Lot Five (5) inclusive in Block Two (2), and Lot One (1) in Block One (1) in Flamingo Estates at Lake Olympia, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Slide No. 1275B in the Plat Records of Fort Bend County, Texas.

2. All Lots within this Subdivision are hereby declared to be Waterway Lots and Private Road Lots, as hereinafter defined.
3. There is added to Article I, new sections 21, 22 and 23 as follows:

Section 21. "Private Road" shall mean and include any pavement, road or other access, all or a portion of which is so designated on any plat or replat of the Subdivision and Flamingo Island, and is restricted in use within the Property or the Subdivision and Flamingo Island, up to the curb or shoulder along such Private Road, together with any adjacent areas contained within the boundaries of any right of way applicable to such Private Road and shall include both the pavement contained within such Private Road, the ground or bottom thereunder, and any structures now or hereafter located upon or within such Private Road except residential driveway approaches. The use of which is restricted to Owners of property adjacent to the Private Road, their invitees, agents, etc. and to the Declarant, utility companies governmental agencies, The Homeowners Association, their invitees and agents etc.

Section 22. "Private Road Assessment" shall mean an assessment levied only against the Private Road Lots (as defined herein) the proceeds of which shall be used to repair, maintain, rebuild, restore, and style or otherwise service any portion of a Private Road and any roadway or set back between a Private Road and the property which it adjoins.

Section 23. "Private Road Lot" shall mean a Lot, any portion of which is bounded by, or which fronts upon or backs up to a Private Road or any portion of a Private Road and shall include, without limitation, those lots designated as Private Road Lots in any Declaration of Annexation hereafter Executed and recorded by Declarant.

4. There is added to Article III new sections 14 and 15 as follows:

Section 14. Private Road Assessments. In addition to the General Assessment and Special Assessment, Waterway Assessment the Association may levy a Private Road Assessment which shall be assessed against, and shall only be applicable to, Private Road Lots, and shall be subject to the following conditions and limitations:

- (a) The amount of the Private Road Assessment applicable to any Private Road Lot shall not exceed one-hundred percent (100%) of the maximum General Assessment which could be assessed against such Lot under the provisions of Section 5 above, unless a greater assessment is consented to or voted upon by the owners of two-thirds (2/3) of all Private Road Lots in Flamingo Estates and Flamingo Island.
- (b) The Private Road Assessment shall be assessed against each Private Road Lot on an equal bases regardless of frontage along any Private Road.
- (c) The actual amount of any Private Road Assessment shall be set by the Board, upon majority vote, provided that it does not exceed the maximum amounts authorized herein.
- (d) The proceeds of any Private Road Assessment shall be used by the Association to repair, maintain, restore, rebuild, replace, secure, preserve or improve, in any way, any pavement, shoulder or other facility of a Private Road and its adjoining property, including, without limitation, any facilities which support or are ancillary to, any pavement or area between curb and Right-of-Way as reflected on the plat or serving the Subdivision or Flamingo Island.
- (e) The Private Road Assessment shall not take affect or be assessed until January 1, 1997.

Section 15. Private Area Assessment. The Association shall have the right to levy and collect an assessment ("Private Area Assessment") which shall be assessed against and shall only be applicable to the Subdivision and Flamingo Island. The proceeds of the Private Area Assessment shall be used as herein after described. The Private Area Assessment shall be subject to the following conditions and limitations:

- (a) The amount of the Private Area Assessment shall not exceed one-hundred percent (100%) of the maximum General Assessment which could be assessed against such Lot under the provisions of Section 5 above, unless a greater assessment is consented to or voted upon by the owners of two-thirds (2/3) of all lots in the Flamingo Estates and Flamingo Island.
- (b) The Private Area Assessment shall be assessed against each Lot in the Subdivision on an equal basis.
- (c) The actual amount of the Private Area Assessment shall be set by the Board upon a majority vote, provided it does not exceed the maximum amounts authorized herein.
- (d) The proceeds of the Private Area Assessment shall be used by the Association to repair, maintain, restore, rebuild, replace, secure, preserve or improve, in any way the landscaping, entry structures and related appurtenances, including any facilities which support or are ancillary to any Reserve or as entry area reflected on the Plat or serving the Subdivision or Flamingo Island.
- (e) The Private Road Assessment shall not take affect or be assessed until January 1, 1997.

5. Article V, Section Four, "Approval of Plans" is hereby amended to the following extent, and to the following extent only:

- (a) Plans for landscaping except where they might affect existing trees and lighting of a particular Lot need not be submitted to the Architectural Control Committee for approval until such time as the Builder or Owner of such Lot is ready, or is obligated, to proceed with installation of landscaping and lighting;
- (b) The final working plans and specifications need not include details of interior mechanical, electrical and plumbing fixtures, systems or installations, but shall include details of any exterior mechanical, electrical and plumbing structures;
- (c) In the case of a Builder, the Architectural Control Committee may approve a partial preliminary site plan which reflects the exterior elevation, size and configuration of the proposed Living Unit and ancillary buildings, and reasonably identifies and describes all exterior colors and materials, provided that the actual preliminary plan, and final plan, for such Lot, comply with, and follow, such partial preliminary site plan.
- (d) All plans submitted to the Architectural Control Committee, including partial, preliminary and final plans shall show but not be limited to the location of the proposed foundation or slab upon each Lot. The Architectural Control Committee shall have the right to require (1) that the slab or foundation be of pier and beam or pier and slab construction, (2) that a tree preservation plan be provided and (3) that adjustments be made in the location, height and extent of improvements to the extent that the Architectural Control Committee believes that the use of such foundation construction may help to preserve the maximum number of trees upon the lot or within the Subdivision.

6. The following Sections of Article VII are amended as follows:

Section 2. Improvement on Lots. No building or other structure of any kind or type shall be constructed, maintained or allowed on any Lot other than: (i) one detached single-family dwelling, which shall not exceed three (3) stories in height; (ii) no more than two (2) private garages for no less than two (2) nor more than six (6) passenger cars and servants quarters for household domestic employees actually employed by the Owner or resident of the Lot, which garages shall not face any Waterway unless specifically approved in writing by the Architectural Control Committee; and (iii) a greenhouse to grow plants solely for family or household purposes of the Owner or resident of the Lot, which greenhouse must not be visible from the street or adjacent property unless agreed to by Declarant, and plans for construction or location of which must be approved by the Architectural Control Committee prior to construction of such greenhouse.

No carports (which shall not include portecocheres) shall be allowed on any Lot unless specifically approved in writing by the Architectural Control Committee.

Some part of the property conveyed herein may be wetlands, part of the waters of the United States, as defined by the Federal Water Pollution Prevention and Control Act (Clean Water Act) and regulations promulgated thereunder. As such, the part of the property identified as wetlands may be subject to the jurisdiction of the United States Army Corps of Engineers pursuant to the Clean Water Act. Discharge of dredged or fill material into these waters requires a permit issued by the Corps of Engineers under 33 U.S.C. 1344 (1986 & Supp. 1988). As currently defined by the Corps of Engineers, fill material means "any material used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of any waterbody." 33 C.F.R. 323.2 (e) (1989). Certain minor construction projects and other discharges may be conducted without an individual permit, as provided for by Corps of Engineers' issuance of a general permit authorizing such specific activities. Any projects involving the discharge of dredged or fill material into wetlands or other waters must be undertaken in accordance with current existing regulations.

Lake Olympia Development is currently covered by a Corps of Engineers Permit No. 16350 (01). All designated wetlands are to be preserved. To aid this, a buffer zone has been designated, in certain areas approximately 50 feet on either side of the existing shoreline, and lake access is to be by boardwalk. No fill or structures, excluding boardwalks or fences where permitted, including temporary structures, shall be placed in the buffer zone designated on the plat.

Section 6. Frontage. All improvements shall be constructed on Lots so as to front the street upon which the Lot faces. A corner Lot shall be deemed to face toward the street which is furthest from the building setback line for such Lot. The front exterior wall of a dwelling shall be constructed so as to lie either parallel to the street upon which the Lot faces, or at an angle thereto which does not exceed 45 degrees, unless otherwise permitted by the Architectural Control Committee

Section 7. Size. Each Living Unit constructed upon a lot within the Subdivision shall contain not less than 3,500 square feet of living area if a one-story Living Unit and not less than 4,500 square feet of living area if a two-story Living Unit. All computations of living area shall be exclusive of opened or screened porches, terraces, patios, driveways, garages, servant's quarters and/or greenhouses. Measurements shall be made to the face of the outside walls of the living area.

Section 8. Roofing Material. The roof of any Living Unit (including any garage or servant's quarters) shall be constructed or covered with (i) wood shingles which have been treated with fire retardant as prescribed by the ordinances of the City of Missouri City as then in existence or (ii)

asphalt or composition type shingles of a minimum of 300 pound dimensional type. Any other type of roofing materials shall be permitted only at the sole discretion of the Architectural Control Committee and shall not be deemed approved until approved in writing.

Section 9. Garages. Unless the Architectural Control Committee specifically agrees otherwise in writing, each Living Unit shall have an attached or detached enclosed private garage(s), but in no event more than two (2) garages, for not less than two (2) nor more than six (6) passenger cars. Each owner or resident of a Lot shall keep all doors to the private garage shut at all times when it is not necessary to keep such doors open. Garages shall be used only for passenger cars and other vehicles, including boats on trailers, of a type and size as will allow the door or doors of the garage to be shut completely with such vehicle or trailer inside. All garage doors shall not face any Waterway, unless specifically approved in writing by the Architectural Control Committee.

Section 10. Fences. No Owner shall be required to build any fence on the back portion of any Lot, and no Owner shall build any fence or other similar structure on the back portion of any Lot without the express, prior written approval of the Architectural Control Committee. Unless otherwise specifically agreed to in writing by the Architectural Control Committee, no building, fence or other structure shall be placed or built on any Lot nearer to the front lot line than the building setback lines shown on the subdivision plat. No building or other structure (except for a fence) shall encroach on any easement reflected on the Subdivision plat. Fences, walls, or barriers (1) fronting on a street shall be masonry, (2) fronting on any Waterway shall be wrought iron; unless otherwise permitted by the Architectural Control Committee. Wood fences shall not be allowed unless specifically approved in writing by the Architectural Control Committee. Any driveway gate shall be wrought iron and shall be placed no closer to the street it accesses than the building line as reflected on the Subdivision plat.

All dedicated drainage easements reflected on the Subdivision plat, shall be kept free of all fences, buildings, plantings, and other obstructions that interfere with drainage. Only wrought iron fences with spacings not less than four inches and not more than six inches shall be allowed within the drainage easement. All improvements within the drainage easement shall be subject to the approval of the party ultimately responsible for its maintenance as a drainage easement.

7. There is added to Article VII new Sections 33, 34, 35 and 36 as follows:

Section 33. Window Coverings. Each Owner and occupant of a Living Unit shall provide drapes, blinds or window coverings, the exterior of which, when such window coverings are closed, shall be on white or neutral color.

Section 34. Height Restrictions on Waterway Lot. Unless the Architectural Control Committee specifically agrees in writing to the contrary, no portion of any deck, porch, patio, or other similar structure shall be erected or allowed to extend on any portion of any WATERWAY LOT to a height of more than three (3') feet above the natural elevation of the Lot at any point on the Lot. No structure, fences or landscaping of any kind shall be so placed on the portion of any WATERWAY LOT behind the house erected thereon so as to prevent or impair the view of any lake or Waterway from any adjoining WATERWAY LOT.

Section 35. Tree Preservation. The following shall apply to all lots containing existing trees:

- (a) For the purposes of tree preservation the term "tree" shall mean those that are more than six (6) inches in diameter at a height of five (5) feet from the existing ground.
- (b) Every effort must be made to locate all improvements, drives, trenches and other structures to be placed upon the Lot in such a way as to minimize the number of trees which must be cut or removed.
- (c) A site plan reflecting the location of all existing trees and their species, and the proposed location of all improvements including houses, garages, driveways, walkways, patios, decks, fill and any other improvements structure or facility to be placed upon the Lot shall be submitted and shall require the approval of the Architectural Control Committee prior to the commencement of construction.
- (d) A tree preservation plan reflecting the steps to be taken to protect and preserve existing trees during construction and as a result of proposed improvements shall be submitted and shall require approval by the Architectural Control Committee prior to the commencement of construction.
- (e) The Architectural Control Committee shall have the right to require the installation of a tree or trees of the species and size not exceeding eight (8) inches in diameter at a height of five (5) feet from existing ground, to compensate for losses and/or damages due to construction or improvements to be placed on the Lot.

Section 36. Maintenance of Decks, Porches and Patios. Decks, porches and patios shall be kept neat in appearance. Except for normal and customary patio furniture, storage of household goods, furniture, appliances or any other similar item shall not be allowed.

8. There is added to Article X a new Section 12 as follows:

Section 12. FHA/VA Approval. As long as there is Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Area and amendment of the Declaration.



- 9. The Declaration is further amended by substitution of the Exhibit "E" and "F" which are attached hereto and incorporated herein by reference for all purposes, for the Exhibit "E" and "F" which are attached to the Declaration.
- 10. Except to the extent that the Declaration is specifically amended herein, all of the covenants, conditions, restrictions and reservations contained in the Declaration shall be and remain in full force and effect.
- 11. All words, phrases or terms used herein shall have the same meaning as contained in the Declaration, unless a contrary definition is given herein.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has hereunto set its hand and seal this 21st day of September, 1995.

LAKE OLYMPIA DEVELOPMENT, N.V.,  
 a Netherlands Antilles Corporation  
 D/B/A LAKE OLYMPIA DEVELOPMENT  
 CORPORATION

BY: [Signature]  
 ANDREW CHOY, President

APPROVED BY:  
 U.S. DEPARTMENT OF HOUSING AND URBAN  
 DEVELOPMENT

BY: \_\_\_\_\_  
 JAMES M. WILSON, Manager

THE STATE OF TEXAS  
 COUNTY OF FORT BEND

This instrument was acknowledged before me on the 21st day of September, 1995 by ANDREW CHOY, President of LAKE OLYMPIA DEVELOPMENT, N. V., a Netherlands Antilles Corporation, d/b/a LAKE OLYMPIA DEVELOPMENT CORPORATION, on behalf of said corporation.



[Signature]  
 NOTARY PUBLIC IN AND FOR  
 THE STATE OF TEXAS  
 NAME: Donna E. Ramirez  
 MY COMMISSION EXPIRES: 11/10/96

THE STATE OF TEXAS

COUNTY OF FORT BEND

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ by JAMES M. WILSON, Manager of the U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, on behalf of said \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS  
NAME: \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

RETURN TO: LAKE OLYMPIA DEVELOPMENT  
2700 LAKE OLYMPIA PARKWAY  
MISSOURI CITY, TEXAS 77459

TREE PLANTING

ALL LOTS WILL RECEIVE A MINIMUM OF SIX (6) TREES. THE LOCATION OF SAID TREES SHALL BE SUBJECT TO THE APPROVAL OF THE ARCHITECTURAL CONTROL COMMITTEE.

TREE PLANTING SPECIFICATIONS

1. QUALITY ASSURANCE

- A. REFERENCE STANDARDS: AMERICAN ASSOCIATION OF NURSERYMEN, INC. (AAN): HORTICULTURAL STANDARDS
- B. THE BUILDER OR SELLER SHALL WARRANT THAT THE REQUIRED TREES ARE IN PLACE AND IN VIABLE CONDITION
- C. THE BUILDER OR SELLER SHALL PROVIDE THE PURCHASER WITH THE APPROPRIATE INFORMATION TO MAINTAIN THE TREES IN A VIABLE CONDITION.
- D. THE BUILDER OR SELLER SHALL ADVISE THE PURCHASER OF THE RESTRICTIONS GOVERNING THE REQUIRED TREES

2. PRODUCT AND PLANTING SPECIFICATIONS

- A. ALL TREES SHALL BE A MINIMUM 4 INCH CALIPER WITH HEIGHT AND WIDTH CONFORMING TO ANN STANDARDS
- B. ALL TREES SHALL BE PLANTED BY A QUALIFIED CONTRACTOR IN SUCH A MANNER TO INSURE THE VIABILITY OF THE TREE
- C. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UNDERGROUND UTILITIES, SIDEWALKS, ROADWAYS OR ADJACENT PROPERTY.

EXHIBIT "F"

FILED AND RECORDED

9-25-95 2:52 P GS \$75.00 9557088

*Dianne Wilson*

Dianne Wilson - Co. Clerk  
Fort Bend Co., TX