

Exhibit "BA"

212B

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12-16-1994 SSI

THIRD AMENDMENT TO COVENANTS, CONDITIONS AND DEED RESTRICTIONS FOR SIESTA SHORES SUBDIVISION, SECTION ONE

FILM CODE 00005232914

THE STATE OF TEXAS
COUNTY OF TRAVIS

WHEREAS, SIESTA SHORES, SECTION ONE, a subdivision consisting of 90.02 acres of land, more or less, out of the J. B. Milliam Survey, A-643, J. Burleson Survey, A-65 and the Beaty, Seale and Forwood Survey, A-46, Travis County, Texas, was created as shown and more fully described in a plat recorded in Book 11, Page 71, Plat Records of Travis County, Texas;

4:17 PM 2383 2 15.00 INDX
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4:17 PM 3384 2 5.00 SECT
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4:17 PM 2383 2 1.00 SEC
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WHEREAS, SIESTA SHORES, SECTION II, a subdivision consisting of 46.61 acres of land, more or less, out of the J. Burleson Survey, A-65, Travis County, Texas, was created as shown and more fully described in a plat recorded in Book 86, Page 10-D, Plat Records of Travis County, Texas;

WHEREAS, SIESTA SHORES, SECTION II-A, consisting of 7.72 acres, more or less, out of the J. Burleson Survey, A-65, Travis County, Texas, was created as shown and more fully described in Volume 7694, Page 453, and Volume 8059, Page 416, Deed Records, Travis County, Texas;

WHEREAS, Alfred Lehtonen and Marvin E. Bell imposed certain covenants, conditions, and restrictions upon various lots in Siesta Shores, Section One, those covenants, conditions, and restrictions being more fully described in an instrument dated September 10, 1963, recorded in Volume 2648, Page 174, Deed Records of Travis County, Texas, which covenants, conditions, and restrictions were amended by Amendment dated June 28, 1985, recorded in Volume 9231, Page 813, Real Property Records of Travis County, Texas, (herein sometimes referred to as the "Deed Restrictions") which covenants, conditions, and restrictions were amended by a Second Amendment dated September 7, 1992, recorded in Volume 11774, Page 0571, Real Property Records of Travis County, Texas, (herein sometimes referred to as the "Second Amended Deed Restrictions");

WHEREAS, pursuant to the terms of a Settlement Agreement dated September 17, 1992 by and between the Siesta Shores Property Owners Association on behalf of the lot owners in Siesta Shores, Section One ("Section One Owners") and Debco,

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a partnership consisting of Davorin Jutraz Jordon and Edward F. Jordon ("Debco") as the owners of the lots in Siesta Shores, Section II ("Section II Owners"), the Section One Owners voted to amend the Deed Restrictions to permit the Section II Owners access to certain parks located in Siesta Shores, Section One upon certain conditions, payments and restrictions; and

WHEREAS, pursuant to the terms of a Settlement Agreement dated Nov. 2, 1994, ~~1994~~ by and between the Siesta Shores Property Owners Association on behalf of the lot owners in Siesta Shores, Section One ("Section One Owners") and Sheryl Ann Miller and Kathy Lee Miller as sole owners of the lots in Siesta Shores, Section II-A ("Section II-A Owners"), the Section One Owners voted to amend the Deed Restrictions to permit the Section II-A Owners access to certain parks located in Siesta Shores, Section One upon certain conditions, payments and restrictions; and

WHEREAS, the Section One Owners also voted to allow the President of the Siesta Shores Property Owners Association as their attorney-in-fact to execute any and all documents necessary to carry out the terms of the Settlement Agreement dated September 17, 1992 and the Settlement Agreement dated Nov. 2, 1994, ~~1994~~ and approved amendments to the Deed Restrictions and the Second Amended Deed Restrictions on behalf of the Section One Owners;

NOW, THEREFORE, to perform the terms of the above-described Settlement Agreements, we the current lot owners in Siesta Shores, Section One, a subdivision in Travis County, Texas, more fully described in the map or plat of said subdivision filed for record in Book 11, Page 71, Plat Records of Travis County, Texas, by and through the duly elected president of the Siesta Shores Property Owners Association do hereby agree that the Deed Restrictions appearing of record against the lots in Siesta Shores, Section One, dated September 10, 1963, and recorded in Volume 2648, Page 174, Deed Records of Travis County, Texas, as amended in Amendment to Covenants, Conditions and Deed Restrictions dated June 28, 1985, recorded in Volume 9231, Page 813, Real Property Records of Travis County, Texas, as amended in the Second Amendment to Covenants, Conditions and Deed Restrictions dated September 7, 1992, recorded in Volume 11774, Page 0571, Real Property Records of Travis County, Texas, are hereby amended as follows:

1. PARAGRAPH VIII shall be deleted in its entirety and the following paragraph shall be substituted in its place:

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VIII.

"Those certain areas designated as "North Park" and "South Park" on the plat of Siesta Shores, Section One, recorded in Book 11, Page 71 of the Plat Records of Travis County, Texas, are hereby dedicated to the use, benefit and enjoyment of the lot owners in Siesta Shores, Section One ("Section One Owners") said parks to be used for boat launching, swimming, picnicing and other similar recreational activities, provided, however, that no structures of any type shall be erected on said Parks or the shoreline thereof and further provided that the legal owners of the 41 lots currently platted as Siesta Shores, Section II, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Book 86, Page 10-D, Plat Records of Travis County, Texas ("Section II Owners") and further provided that the legal owners of the lots (currently 3 lots, but to be subdivided into a total of 4 lots, maximum) in Siesta Shores, Section II-A, ("Section II-A Owners") more fully described in Volume 7694, Book 453, Deed Records, Travis County, Texas and Volume 8059, Book 416, Real Property Records, Travis County, Texas shall be allowed a right of way upon and across the North Park and South Park (collectively referred to herein sometimes as the "Parks") to use and enjoy the Parks (including the right to use any boat launching facilities located on or appurtenant to the Parks and any boat docks that may be constructed on the Parks in the event these Deed Restrictions are ever amended to allow any such structure) in the same manner as the Section One Owners upon the following terms and conditions:

(a) **KEYS TO THE PARKS.** Section II Owners and Section II-A Owners will be allowed access to the Parks only after furnishing appropriate evidence of their ownership of a lot in Siesta Shores, Section II or their ownership of a lot in Siesta Shores, Section II-A and making a Fifty Dollar (\$50.00) key deposit with the Siesta Shores Property Owners Association ("Association") or such other amount as determined by the Association which will entitle each Section II Owner and each Section II-A Owner to one key to the locks securing entrance to the Parks, which key may not be duplicated and which key must be returned to the Association upon sale or transfer of their ownership interest in the lot or lots in Siesta Shores, Section II or Siesta Shores, Section II-A.

(b) **RULES OF CONDUCT.** All Section II Owners and all Section II-A Owners, now and in the future, will abide by the rules of conduct in the Parks as may be set forth from time to time by the Association providing such rules do not unreasonably restrict or limit the access of the Section II Owners or the Section II-A Owners to the Parks or discriminate in the usage permitted Section One Owners and Section II Owners and

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Section II-A Owners except that Section One Owners only shall be allowed to burn brush and debris in the Parks.

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(c) MAINTENANCE FEES AND ASSESSMENTS. Section II Owners and Section II-A Owners shall pay to the Association an annual fee of \$35.00 per lot per year for access to the Parks; however, the assessments may be increased as provided in the amendment to Protective Restrictions and Covenants for Siesta Shores, Section II dated effective June 26, 1992 and recorded in Volume 11774, Page 555, Real Property Records, Travis County, Texas, and the assessments may be increased as provided in the amendment to Protective Restrictions and Covenants for Siesta Shores, Section II-A dated effective Jan 2, 1994 and recorded in Volume 12335, Page 699, Real Property Records, Travis County, Texas; and any Section II Owner or any Section II-A Owner who fails to make timely payment of such fees shall be denied access to the Parks and shall promptly deliver to the Association or the Association's representative any and all keys permitting such Section II Owner or Section II-A Owner access to the Parks; in addition, Debco shall be required to pay only one such fee per year even though it may own more than one lot, but should be issued only two (2) keys to the Parks which keys may not be duplicated; in addition, Sheryl Ann Miller and Kathy Lee Miller shall be required to pay only two such fees per year even though they may own more than one lot, but should be issued one key aplece (two keys total) to the Parks which keys may not be duplicated;

fees

(d) BUILDING AND PROPERTY RESTRICTIONS. Section II Owners, their respective successors, heirs and assigns must enforce and maintain building restrictions and property restrictions for Siesta Shores, Section II according to the plat of said subdivision and Section II-A Owners, their respective successors, heirs and assigns must enforce and maintain building restrictions and property restrictions for Siesta Shores, Section II-A according to the amended Protective Restrictions and Covenants for Siesta Shores, Section II-A filed of record in Volume 12335, Page 699, Real Property Records, Travis County, Texas; which both restrictions for Siesta Shores, Section II and Siesta Shores, Section II-A are as stringent or more stringent than the current building and property restrictions affecting lots in Siesta Shores, Section One, which restrictions are more specifically described in an instrument dated September 10, 1963 and recorded in Volume 2648, Page 174, Deed Records of Travis County, Texas, as amended in Amendment to Covenants, Conditions and Deed Restrictions dated June 28, 1985, recorded in Volume 9231, Page 813, Real Property Records, Travis County, Texas, as amended in a Second Amendment to Covenants, Conditions and Deed Restrictions dated September

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7, 1992, recorded in Volume 11774, Page 0571, Real Property Records, Travis County, Texas;

(e) VOTING RIGHTS AND RIGHTS TO ACCESS. Section II Owners and Section II-A Owners shall not be allowed to be voting members of the Association or have any voting rights or other rights regarding matters affecting lots or lot owners in Siesta Shores, Section One nor shall the Section II Owners nor shall the Section II-A Owners acquire any property rights in the Parks other than the permanent right of access to the Parks upon the terms and conditions set forth herein and further provided that the right-of-way to the Parks granted herein to the Section II Owners shall be limited to the legal owners of the 41 approximately one-acre lots currently platted by Debco as Siesta Shores, Section II in Book 86, Page 10-D, Plat Records of Travis County, Texas, and access to the Parks by Section II Owners may not be increased even if the lots in Siesta Shores, Section II are further subdivided, decreased in size or increased in number; and further provided that the right-of-way to the Parks granted herein to the Section II-A Owners shall be limited to the legal owners of the lots in the 7.72 acre tract referred to as Siesta Shores, Section II-A as recorded in Volume 7694, Page 453, Real Property Records, Travis County, Texas and as recorded in Volume 8059, Page 416, Real Property Records, Travis County, Texas, of which currently there are 3 approximately one-plus acre lots, of which the largest 5.315 acre lot might be further subdivided into two lots maximum; therefore, the right-of-way to the Parks granted herein to the Section II-A Owners shall be limited to the legal owners of the possible 4 lots total, (i.e. No more than a total of 4 keys could be issued to Section II-A Owners, one per lot), and access to Parks by Section II-A Owners may not be increased (with exception to the possible subdivision of the 5.315 acre lot referred above, only) even if the lots in Siesta Shores, Section II-A are further subdivided (with the exception of the 5.315 acre lot), decreased in size or increased in number; and

(f) NAME REFERENCES. References to the Association or Siesta Shores Owners Association herein shall be construed to mean the governing authority or entity created or organized by the lot owners in Siesta Shores, Section One, regardless of whether the authority or entity is actually called the Siesta Shores Property Association and if no such authority or entity exists, all references to the Association herein shall mean the Section One Owners. The Association shall pay taxes and other assessments made against the Parks or other common areas and shall exercise control over the Parks for the common enjoyment and benefit of Section One Owners in accordance with the Deed Restrictions as amended herein or as they may be amended from time to time. The Association shall

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have the power to enforce restrictions and covenants applicable to property located in Siesta Shores, Section One on behalf of the Section One Owners and shall have the power to enforce the Deed Restrictions (as amended herein and as amended from time to time) against the Section One Owners and Section II Owners and shall have the authority to execute any and all documents, contracts or instruments approved by the Section One Owners.

Except as amended herein above, the covenants, conditions and restrictions appearing in the instrument dated September 10, 1963, recorded in Volume 2648, Page 174, Deed Records, Travis County, Texas, as amended in Amendment to Covenants, Conditions and Deed Restrictions dated June 28, 1985, recorded in Volume 9361, Page 813, Real Property Records of Travis County, Texas, as amended in the Second Amendment to Covenants, Conditions and Deed Restrictions dated September 7, 1992, recorded in Volume 11774, Page 0571, Deed Records, Travis County, Texas, shall remain in full force and effect and they are hereby ratified and confirmed.

EXECUTED this 2nd day of November, 1994.

SIESTA SHORES, SECTION ONE LOT OWNERS,
an unincorporated association

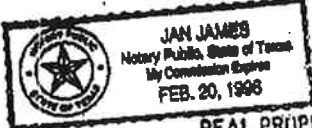
By: Juanita C Taylor
Juanita C. Taylor, President of Siesta Shores
Property Owners Association,
attorney-in-fact

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME

This instrument was acknowledged before me on the 2nd day of November, 1994, by Juanita C Taylor, President of Siesta Shores Property Owners Association, as attorney-in-fact on behalf of Siesta Shores, Section One Lot Owners, an unincorporated association of individuals.

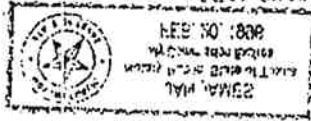
J. James
Notary Public, State of Texas
My commission expires: _____
Print name: JAN JAMES



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DANA DE BEAUVOR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Return:

Sheryl A. Miller

P. O. Box 1214

LEAKEY TX 78873

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and
was duly RECORDED, in the Volume and Page of the
Record RECORDED of Travis County, Texas, on

DEC 16 1994



Dana DeBeavor
COUNTY CLERK
TRAVIS COUNTY, TEXAS

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