

COUNCIL CHAMBER

April 10, 2002

WHEREAS, the deed restriction in the attached Exhibit 1 has been terminated, and the deed restriction in the attached Exhibit 2 has been volunteered in connection with property located on the south corner of Marsh Lane and President George Bush Turnpike, which is the subject of Zoning Case No. Z989-116/10733-NC(SS); and

WHEREAS, the City Council desires to terminate the deed restriction in the attached Exhibit 1, and accept the deed restriction in the attached Exhibit 2; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the deed restriction in the attached Exhibit 1 be and is hereby terminated, and the deed restriction in the attached Exhibit 2 be and is hereby accepted by the City Council of the City of Dallas, Texas, in conjunction with the development of property that is the subject of Zoning Case No. Z989-116/10733-NC(SS).

Section 2. That the terminated deed restriction in the attached Exhibit 1, and the deed restriction in the attached Exhibit 2 be filed in the Deed Records of Denton County, Texas.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, Texas, and it is accordingly so resolved.

APPROVED AS TO FORM:

MADELEINE B. JOHNSON, City Attorney

By Christine Lannoy  
Assistant City Attorney

APPROVED BY  
CITY COUNCIL

APR 10 2002

Shirley Gray  
City Secretary

APPROVED \_\_\_\_\_  
HEAD OF DEPARTMENT

APPROVED \_\_\_\_\_  
DIRECTOR OF FINANCE

APPROVED \_\_\_\_\_  
CITY MANAGER

**EXHIBIT 1****TERMINATION OF DEED RESTRICTIONS**

THE STATE OF TEXAS     §  
                                   §     KNOW ALL PERSONS BY THESE PRESENTS:  
 COUNTY OF DENTON     §

## I.

The undersigned, Timberglen Company, a Texas general partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the John Smith Survey, Abstract No. 1225, part of City Block 8749, City of Dallas ("City"), Denton County, Texas, and being that same tract of land conveyed to Owner by William O. Nelson by deed dated September 25, 1992, and recorded in Volume 3334, Page 0934, in the Deed Records of Denton County, Texas, and being more particularly described in the attached Exhibit "A" incorporated herein by reference.

## II.

The Property was impressed with certain deed restrictions ("Restrictions") as shown in an instrument dated March 31, 1981, signed by Virgil B. Pettigrew, Trustee for the E-Systems, Inc. Pool Trust and recorded in Volume 1122, Pages 234-237, of the Deed Records of Denton County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "B" and made a part of this instrument.

## III.

The Owner does hereby terminate and release the following Restrictions as they apply to the Property, to wit:

The undersigned, its agents and/or assigns do hereby agree to limit said tract to an overall density of no more than eighteen and six-tenths (18.6) dwelling units per acre.

## IV.

The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City of Dallas. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The Owner must file this instrument in the Deed Records of the County or counties where the Property is located at his or her sole cost and expense before the termination becomes effective.

V.

The termination of these restrictions is not intended to restrict the right of the City Council of the City of Dallas to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with this instrument.

VII.

Unless stated otherwise in this instrument, the definitions and provisions of CHAPTER 51A, DALLAS DEVELOPMENT CODE," of the Dallas City Code as amended, apply and are incorporated into this instrument, as if recited in this instrument.

VIII.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the property if there are no signatures of mortgagees or lienholders subscribed below.

IX.

The invalidation of any provision in this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and shall to this end the provisions are declared to be severable.

EXECUTED at the City of Dallas, Dallas County, Texas, this the 20 day of Nov, 2001.

**Owner:**

TIMBERGLEN COMPANY,  
a Texas general partnership

By: Karen MacArthur  
Karen MacArthur, Partner

By: Timberglen Company II, L.P.  
a Texas limited partnership

By: Karen MacArthur  
Karen MacArthur, General Partner

By: Reading Trust  
a Texas trust

By: Karen MacArthur  
Karen MacArthur, Trustee

CONSENT AND CONCURRENCE OF  
LIENHOLDER:

Graham Mortgage Corporation  
Property Lienholder or Mortgagee

By: Jerry Donahue

Print Name: Jerry Donahue, Vice Pres.

APPROVED AS TO FORM:

MADELEINE B. JOHNSON

By: Christine Lammers  
Assistant City Attorney

THE STATE OF TEXAS §  
  §  
COUNTY OF DENTON §

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Karen MacArthur, partner of the Timberglen Company, general partner of the Timberglen Company II, L.P., and trustee of the Reading Trust, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office on the 20<sup>th</sup> day of NOVEMBER, 2001

Keith MacNeill  
Notary Public in and for the State of Texas

My Commission Expires:

10-31-2001





**EXHIBIT A**

BEING a tract of land out of the John Smith Survey, Abstract Number 1225, located in City Block 8749. City of Dallas, Denton County, Texas, and being part of a called 71.990 acre tract of land, interest in said 71.990 acre tract being acquired or held by Sullivan Development Co., Inc., John R. Sullivan, Sullivan Brothers #2 partnership, Property Asset Equity Corp., NCNB Texas National Bank, as assignee from Federal Deposit Insurance Corporation, as receiver of First Republic Bank, Dallas, N.A. and Federal Deposit Insurance Corporation, as evidenced by deeds recorded in Volume 1220, Page 407, Volume 1220, Page 415, Volume 2152, Page 147, Volume 2540, Page 458, Volume 2540, Page 462, Volume 2645, Page 298, and Volume 3112, Page 621, all being recorded in the Deed Records of Denton County Texas, said tract being more particularly described by metes and bounds as follows:

COMMENCING at a point in the original centerline of Marsh Lane and the centerline tangent line of new Marsh Lane (a 100' R.O.W. at this point), said point being the Southeast corner of said 71.990 acre tract:

THENCE, North 89°23'15" West, with the South line of said 71.990 acre tract, some being the North line of a called 280.36 acre tract of land conveyed to Charles C. McKamy by deed dated November 17, 1917 and recorded in Volume 157, Page 104 of the Deed Records of Denton County, Texas, a distance of 62.65 feet to a ½" iron pin with cap set for the POINT of BEGINNING (from which a 3/8" iron pin found bears N 02°28'07" W. 0.23"), said point in the Southwesterly right-of-way line of Marsh Lane in a barb wire fence line, and also being in a circular curve.

THENCE, North 89°23'15" West, departing said Southwesterly line of Marsh Lane, continuing with said South line of 71.990 acre tract and North line of McKamy tract and along said barb wire fence line, a distance of 266.11 feet to a ½" iron pin found for a corner in the Southeasterly right-of-way line of State Highway 190 as shown on Right-of-Way maps dated July 9, 1992;

THENCE, departing said barb wire fence line and common line of 71.990 acre tract; and McKamy tract, with said Southeasterly and Southerly right-of-way line of State Highway 190; North 29°17'01" East, a distance of 142.02 feet to a ½" iron pin found for a corner, and South 88°04'25" East, a distance of 154.67 feet to a ½" iron pin with cap set for a corner in the afore-mentioned Southwesterly line of Marsh Lane (from which a ½" iron pin with red cap marked ABA bears N 70°03'51" E. 1.56);

THENCE, South 22°29'08" East, with said Southwesterly line of Marsh Lane, a distance of 11.11 feet to a 3/8" iron pin found for the beginning of a circular curve to the right having a radius of 905.00 feet, a tangent length of 58.87 feet, and chord which bears South 18°45'49" East, a distance of 117.50 feet;

THENCE, in a Southerly direction with said Southwesterly line of Marsh Lane and circular curve to the right, through a central angle of 07°26'38", a distance of 117.58 feet to the POINT of BEGINNING and CONTAINING 26,045 Square Feet, or 0.5979 Acres of land, more or less.

3545522.1  
1202: 12864-9

**Exhibit A - Solo Page**

EXHIBIT B

31 1-02

DEED RESTRICTIONS

DEED RECORDS

1122 1224

THE STATE OF TEXAS  
COUNTY OF DENTON

KNOW ALL MEN BY THESE PRESENTS

1375

That the undersigned, E-Systems Inc. Pool Trust, is the owner of the following described property situated in Denton County, Texas, being in particular a tract of land out of the William Miller Survey, Abstract No. 683, and the John Smith Survey, Abstract No. 1225, City of Dallas, Denton County, Texas, and being more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes.

That the undersigned, E-Systems Inc. Pool Trust, does hereby impress all of the following described property with the following deed restrictions, to-wit:

The undersigned, its agents and/or assigns do hereby agree to limit said tract to an overall density of no more than eighteen and six-tenths (18.6) dwelling units per acre.

These restrictions shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein.

These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

The restrictions contained herein are not in any manner intended to restrict the right of the City Council of Dallas to exercise its legislative duties and powers insofar as zoning of the property is concerned.

These restrictions inure to the benefit of the City of Dallas, and the undersigned owner hereof does hereby grant to the City of Dallas the right to prosecute, at law and in equity, against the person violating or attempting to violate such restrictions, either to prevent him from so doing and to correct such violation and for further remedy, the City of Dallas may withhold the Certificate of Occupancy necessary for the lawful use of the property until such restrictions described herein are fully complied with.

TRACT II

31 1961

These restrictions are hereby declared covenants running with the land and shall be fully binding upon all persons acquiring property within the above-described tract, and any person by acceptance of title to any of the above-described property shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants.

EXECUTED this the 31st day of March, 1961.

E-SYSTEMS INC. POOL TRUST

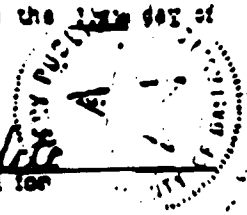
By: *Virgil B. Pettigrew*  
Virgil B. Pettigrew, Trustee

THE STATE OF TEXAS     :  
                                  :  
COUNTY OF DALLAS     :

BEFORE ME, the undersigned authority, on this day personally appeared Virgil B. Pettigrew, Trustee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 31st day of March, 1961.

*Clell L. White*  
Notary Public in and for  
The State of Texas



Approved by *Lee E. Nault*  
LEE E. NAULT, City Attorney  
By *Benny R. Knight*  
Assistant City Attorney

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## EXHIBIT "A"

## FIELD NOTES

Multi-Family Zoning Tract

BEING a tract of land situated in the William Miller Survey, Abstract No. 983, and the John Smith Survey, Abstract 1225, Denton County, Texas, and being part of Tract 11 as conveyed to McKay Land, Inc. by deed recorded in Volume 607, Page 418, Deed Records, Denton County, Texas, and being part of a 5.471-acre tract of land as conveyed to Charles S. McKay by deed of record in Volume 557, Page 546, Deed Records, Denton County, Texas, and being more particularly described as follows:

COMMENCING at the southwest corner of said Tract 11, and being in the west line of said William Miller Survey, and being in the centerline of an abandoned road, a steel post for corner;

THENCE S 88° 52' 05" E, a distance of 770.88 feet to the POINT OF BEGINNING of the herein-described tract;

THENCE N 91° 37' 53" E, a distance of 190.37 feet to an angle point;

THENCE N 21° 16' 38" E, a distance of 1,683.19 feet to a point for corner;

THENCE S 88° 30' 53" E, a distance of 360.00 feet to a point for corner;

THENCE S 00° 38' 30" E, a distance of 1,123.13 feet to a point for corner;

THENCE S 59° 52' 05" E, a distance of 685.85 feet to a point for corner;

THENCE S 30° 07' 53" W, a distance of 360.36 feet to a point for corner;

THENCE N 88° 52' 05" W, a distance of 1,999.51 feet to the POINT OF BEGINNING and CONTAINING 99.8371 acres of land.

9/23/52  
17/5/52

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FILED

JUN 20 AM 10

JUN 20 1962  
CITY OF WASHINGTON  
D.C.

FILED

1152-237

Return To:  
City Secretary  
City Hall  
Dulles, Va. 22021

RECEIVED  
CITY OF WASHINGTON  
JUN 20 1962



1152-237

POST OFFICE BOX 1152  
DULLES, VA.