

STATE OF TEXAS *

COUNTY OF BREWSTER *

DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS
FOR
THE DOUBLE DIAMOND RANCH VETERANS ADDITION

THIS DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS is made this _____ day of December, 1984 by THE DOUBLE DIAMOND DEVELOPMENT, INC., a Texas Corporation, (hereinafter referred to as "Declarant"):

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property described within Exhibit "A" to this Declaration, which Exhibit "A" is incorporated herein for all purposes hereof as though it was set forth at length herein, which property represents the development known as THE DOUBLE DIAMOND RANCH VETERANS ADDITION.

WHEREAS, it is the desire of the Declarant to establish a uniform plan for the development, improvement, and sale of the property and to insure the preservation of such uniform plan for the benefit of THE DOUBLE DIAMOND DEVELOPMENT, INC., as well as future owners of the property:

NOW, THEREFORE, know all men by these presents, that the real property described within Exhibit "A" is and shall be held, transferred, sold, conveyed and occupied subject to the restrictions, covenants, and conditions hereinafter set forth:

RESTRICTIONS, COVENANTS AND CONDITIONS

1. Purpose and Extent of Reservations, Restrictions, Covenants, Conditions and Easements. These reservations, restrictions, covenants, conditions and easements as set forth herein are established for the purpose set forth above and are for the benefit of THE DOUBLE DIAMOND DEVELOPMENT, INC., its successors and assigns. Said reservations, restrictions, covenants, conditions and easements shall, as hereafter provided, be construed as covenants running with the land and binding upon THE DOUBLE DIAMOND DEVELOPMENT, INC., its successors and assigns.

and any Grantee, and his (or her or its or their) heirs, successors, executors, administrators, and assigns as provided herein, including without limitation any subsequent owner of the Real Property conveyed hereunder.

2. Definitions. Construing these provisions, the following words shall have the following meanings:

(a) "Grantor" shall mean and refer to THE DOUBLE DIAMOND DEVELOPMENT, INC., its successors and assigns.

(b) "Grantee" shall mean and refer to the Texas Veteran's Land Board, any Grantees hereunder, and the Texas Veteran's Land Board's and Grantees' heirs, successors, executors, administrators, and assigns, including, without limitation, any subsequent owner of the real property conveyed hereunder.

(c) "Common Areas" shall mean: (1) all existing roads on the "Real Property" as hereinafter defined, whether or not formally dedicated to public use; (2) any easements reserved herein; (3) any roads or easements subsequently and expressly created or reserved by Grantor in deeds to any subsequent Grantee; (4) the implied easement of ingress and egress of any subsequent Grantee; and (5) any other real property owned by Grantor which shall be hereafter dedicated for public use or as common areas. Provided, however, that nothing contained herein shall permit the creation of "Common Areas" as defined by subparagraphs (3) through (5) inclusive, on any of the Real Property as hereinafter defined without the express written consent of Grantor or its successors or assigns.

(d) "Real Property" shall mean and refer to any lot, tract, or parcel of land conveyed hereunder.

(e) "Owner" shall mean and refer to the Grantee or person or persons, entity or entities, who either own of record fee simple title to any real property, or have entered as an original party, successor or assign, into a contract of purchase and sale for any real property with Grantor; the term "Owner" shall exclude any person or persons, entity or entities having an interest in any real property merely as security for the performance of an obligation, unless said security interest shall be foreclosed and said person or entity shall become the record owner of the real property thereby.

(f) "Residence" shall mean and refer to permanent structure erected on a lot for use as a single family dwelling.

3. Applicability of Restrictions. The reservations, restrictions, covenants, conditions and easements contained herein shall apply only to the Real Property covered hereby.

4. Dedication of Common Areas. Any streets, roads, and other common areas as defined herein, and described in this deed are dedicated to the use of Grantor and persons purchasing other real property

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- (a) "Grantor" shall mean and refer to THE DOUBLE DIAMOND DEVELOPMENT, INC., its successors and assigns.
- (b) "Grantee" shall mean and refer to the Texas Veteran's Land Board, any Grantees hereunder, and the Texas Veteran's Land Board's and Grantees' heirs, successors, executors, administrators, and assigns, including, without limitation, any subsequent owner of the real property conveyed hereunder.
- (c) "Common Areas" shall mean: (1) all existing roads on the "Real Property" as hereinafter defined, whether or not formally dedicated to public use; (2) any easements reserved herein; (3) any roads or easements subsequently and expressly created or reserved by Grantor in deeds to any subsequent Grantee; (4) the implied easement of ingress and egress of any subsequent Grantee; and (5) any other real property owned by Grantor which shall be hereafter dedicated for public use or as common areas. Provided, however, that nothing contained herein shall permit the creation of "Common Areas" as defined by subparagraphs (3) through (5) inclusive, on any of the Real Property as hereinafter defined without the express written consent of Grantor or its successors or assigns.
- (d) "Real Property" shall mean and refer to any lot, tract, or parcel of land conveyed hereunder.
- (e) "Owner" shall mean and refer to the Grantee or person or persons, entity or entities, who either own of record fee simple title to any real property, or have entered as an original party, successor or assign, into a contract of purchase and sale for any real property with Grantor; the term "Owner" shall exclude any person or persons, entity or entities having an interest in any real property merely as security for the performance of an obligation, unless said security interest shall be foreclosed and said person or entity shall become the record owner of the real property thereby.
- (f) "Residence" shall mean and refer to permanent structure erected on a lot for use as a single family dwelling.

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4. Dedication of Common Areas. Any streets, roads, and other common areas as defined herein, and described in this deed are dedicated to the use of Grantor and persons purchasing other real property

from Grantor. Any utility easements described in this deed are dedicated subject to the reservations hereinafter set forth. SAVE AND EXCEPT, however, that Grantor does not dedicate to the public any streets, drives, boulevards or other roadways connecting the subdivision with other areas.

5. Reservations. There is hereby reserved by Grantor a utility easement around the entire boundary of the Real Property, said reservation being for the benefit of any public utility operating in Brewster County, Texas, as well as for the benefit of Grantor and subsequent Grantees of Real Property from Grantor, to permit or allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, television cable lines, gas, water, sanitary sewers, storm sewers, and any other utility or service which the Grantor may find necessary or proper to provide to any Grantee. This easement shall be not less than thirty feet (30') in width, and shall extend fifteen feet (15') on either side of the boundary of the Real Property. Nothing contained herein shall be construed as imposing upon Grantor an obligation to provide any such utilities or services. Furthermore, the right to sell, lease or otherwise negotiate as to such lines, utilities, or other facilities for the providing of services by any municipality, governmental agency, or other public service corporation is hereby expressly reserved by Grantor.
6. Duration of Restrictions. The provisions hereof, including the reservations, restrictions, covenants, conditions and easements herein set forth shall run with the land and shall be binding upon the Grantee, his successors and assigns, all persons or parties claiming under him or them for a period of fifty (50) years from the date hereof, at which time all assessed provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of any such period of fifty (50) years or ten (10) years, the Grantor and Grantee (or successors and assigns of each) shall have executed and recorded an instrument changing the provisions hereof, in

whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such period be the aforesaid fifty (50) year period or any successive ten (10) year period thereafter. The restrictions may be amended with the consent of seventy-five percent (75%) of the Grantees if it is for the purpose of the common good of Grantor and Grantee.

7. Enforcement of Restrictions. In the event of any violations, or attempted violation, of any of the provisions hereof, including any of the reservations, restrictions, covenants, conditions and easements herein contained, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to granting of such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. Grantee (its, hers, his or their successors and assigns) hereby consents to the aforementioned remedies provided to Grantor (its successors or assigns). It shall be lawful for the Grantor or any other Grantee from Grantor of other real property who shall have been expressly designated as a third party beneficiary of the terms and conditions hereof, to prosecute any proceedings at law or in equity against the person or persons violating, or attempting to violate, any of such provisions.
8. Partial Invalidity of Restrictions. In the event that any portion of the provisions herein shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provisions hereof which were not

thereby held invalid; and such other provisions, including restrictions, reservations, covenants, conditions and easements shall remain in full force and effect, binding in accordance with their terms.

9. Effect of Violation on Mortgagees. No violation of the provisions herein contained, or any portion thereof, shall affect, or otherwise impair the contract for deed between the Texas Veteran's Land Board and its purchaser or the lien of any mortgage or deed of trust presently or hereafter placed of record with respect to the property or otherwise affect the rights of the Contract for Sale between the Texas Veteran's Land Board and/or the mortgage under any mortgage or deeds of trust; and the contract for deed and any such mortgage, lien or deed of trust, may nevertheless be enforced in accordance with its terms and provisions.
10. Land Use and Building Type. The property shall be used for residential purposes only, except as provided below. Grantee may construct two detached single family dwellings on any one lot, except that said residences shall be separate and detached from each other and said residences shall not exceed a density of more than one dwelling per five (5) acres. Light commercial or manufacturing shall be permitted so long as owner in title or by contract resides on the lot and said commercial activity involves no retail sales. Use for church buildings is specifically prohibited, except as provided in Paragraph 26 below.
11. Construction of Buildings and Other Structures. No tent, house trailer, mobile home, or other temporary structure of any character may be placed, constructed or maintained on any of said Real Property except as temporarily ancillary to a construction project on said Real Property. In conjunction with the occupancy of a family dwelling, it shall not be considered a violation of these restrictions to park an unoccupied recreational vehicle on the property. Nothing contained herein shall be construed as preventing the use and occupancy of a mobile home as a temporary residence of the Grantee while construction of a permanent

residence is in progress, provided such use does not continue for a period longer than eight (8) months. It is further provided that any construction material having a life of less than twenty-five (25) years shall not be utilized in the construction of any improvement on the Real Property.

12. Building and Structures. In no event shall any residence be erected on any part of said Real Property having a living area less than 1,000 square feet, exclusive of porches, garages or other appendages.
13. Setback Requirements and Fencing. No building or other structure shall be erected within fifty feet (50') from the boundary or property lines of the Real Property. Fifteen feet (15') of said fifty feet (50') shall be designated as an easement for utility purposes. This building line restriction may be waived in the event mountainous terrain is encountered and it is impractical to comply therewith. There shall be no restrictions on the Grantee's right to fence all or any part of his Real Property, SAVE AND EXCEPT, that in the event any Grantee shall fence any portion of any easement, Grantor, its successors and assigns shall have the absolute right to enter into such easement for the purpose of egress and ingress for the maintenance of any utility lines placed thereon. The Grantor, its successors and assigns shall have no liability for any damage to said fence. Provided, however, that any such fencing shall be at least a standard barb wire fence type. If cedar four inch (4") posts, no more than twenty feet (20') apart five (5) strand wire with two (2) stays between posts constructed so as not to sag or hang limp and no higher than six feet (6') (or better quality) normally utilized by farmers and ranchers in the area.
14. Right to Maintain Certain Farm or Ranch Animals. It is expressly understood and agreed that the Real Property may be utilized in a manner suitable to a farm or ranch property, and in that regard, it is expressly contemplated that the Grantee may maintain cows, horses, or other animals normally connected with a farm or ranching operations, except swine which shall be prohibited. Any

such horse or cow maintained tract shall be subject to a duty of confinement by fencing by the owner, such as to prevent any trespass upon the property of an adjacent owner. The Grantee agrees to be responsible for any damage done by any cow, horse, or other domestic animal maintained by him. Furthermore, the ownership of any such animals shall be subject to the owner maintaining sanitary conditions with respect to the property. No restrictions herein shall be construed to prevent the maintaining of cats, dogs, or other domesticated animals in reasonable numbers normally connected with a family residence if said animals are confined to the property of the owner.

15. Firearms Restrictions. Any discharge of firearms and/or hunting shall be limited to the property of the owners and shall be at times and under such circumstances as to not constitute a threat to the safety of any person or animal or constitute a nuisance to any adjacent land owner. Under no circumstances shall the discharge of firearms and/or hunting be permitted to extend beyond the owner's property line.
16. Trash and Garbage. No trash, garbage, construction and debris or other refuse may be dumped or disposed of or allowed to remain upon any part of the Real Property, vacant or otherwise. No building materials of any kind or character shall be placed or stored upon the Real Property until the Grantee is ready to commence improvements, and then such materials shall be placed within the property lines of the property. No noxious or undesirable things or use whatsoever shall be permitted on any Real Property. Any and all trash and/or garbage shall be kept in sealed containers and in sanitary conditions.
17. Sanitation and Sewage. No outside toilets will be permitted, and no installation of any kind for disposal of sewage shall be allowed which would result in raw, treated or untreated sewage or septic tank drainage on or into the surface, subsurface, alleys, ditches, or water bodies. Any septic tank or sewage disposal system shall meet all standards of any federal, state, county, or municipal regulatory authority entitled by law to approve,

regulate, or supervise same, and the latter shall be the sole responsibility of Grantee. All federal, state, county, and municipal (if any) health and sanitation statutes, rules, ordinances or regulations must be complied with at all times. An open or closed cesspool shall not be permitted.

18. Water Wells. Grantee shall have the right to drill and establish water wells for personal and domestic consumption in connection with ownership of the Real Property. Any water well shall meet the approval of any federal, state, county, or municipal regulatory authority entitled by law to approve, regulate, or supervise same, and the latter shall be the sole responsibility of Grantee. Nothing contained herein shall be construed as constituting a representation or warranty by Grantor that water underlies any of the Real Property. However, in the event that an initial purchaser of a lot from THE DOUBLE DIAMOND DEVELOPMENT, INC. drills to a depth of 400 feet beneath the surface and fails to encounter sufficient water for reasonable household purposes, the initial purchaser shall have the right to use water for reasonable household purposes from a previously drilled well located in Section 28, Block WJG-8, T. C. Ry. Co. Survey, Brewster County, Texas, described as follows:

South 52° 29' West 1540.17 feet from a 1/2-inch rebar with cap marked "BASSHAM LSLS", set in an old rock mound, found to mark the common corner of Sections 27, 28, 33 and 34, Block WJG-8, T.C. Ry. Co. Survey, Brewster County, Texas.

In the event that an initial purchaser qualifies for use of the water from the above well as set out above, then the particular user shall bear a proportionate part of the expense of the operation and maintenance of said well in relation to the total number of persons using water from said well and shall bear the total expense of laying a pipeline to said well and connecting said line to the particular well. In addition, the user assumes all liabilities for laying his pipeline, connecting said line to the well and operating and maintaining said well and agrees to hold RALPH H. MERIWETHER or THE DOUBLE

DIAMOND DEVELOPMENT, INC. harmless from any and all claims caused by the installation and connection of the pipeline and operation and maintenance of the well.

Furthermore, in the event that an initial purchaser qualifies for use of water from the well, but fails to exercise said right within five (5) years after the original conveyance of a lot from THE DOUBLE DIAMOND DEVELOPMENT, INC. to the initial purchaser or Contract for Deed between THE DOUBLE DIAMOND DEVELOPMENT, INC. and the initial purchaser, or said initial purchaser of a lot fails to drill a well on said lot to a depth of 400 feet beneath the surface within five (5) years of the original conveyance of a lot from THE DOUBLE DIAMOND DEVELOPMENT, INC. to the initial purchaser or Contract for Deed between THE DOUBLE DIAMOND DEVELOPMENT, INC. and the initial purchaser, the right to use water as set out above shall terminate.

19. Signs. No sign or advertising device may be displayed on the Real Property except in the event of sale. There may be one (1) "FOR SALE" sign containing no more than ten (10) square feet in area displayed on the Real Property at any one time. The Grantor is excepted from this restriction.
20. Subdividing. The Real Property, as that term is defined herein, may not be resubdivided by the Grantee, except that Grantee shall have the right to subdivide a tract provided that no tract herein subdivided shall contain less than 5 acres.
21. Maintenance of Roads. Grantor agrees to maintain the roads and/or easements in a reasonable condition, as said roads presently exist, for purposes of ingress and egress until such time that Brewster County or any utility company takes over maintenance of such roads and/or easements. Grantee acknowledges and recognizes that a portion of the Real Property may underly the roads and easements retained in connection herewith if any, and does hereby acknowledge that such road easement exists over and upon the Real Property.
22. Easement for the Purpose of Ingress and Egress. Grantor does hereby acknowledge the implied easement for the purpose of

ingress and egress for the benefit of Grantees herein, SAVE AND EXCEPT as restricted by the dedication of the common area as shown in "4" above.

- 23. Lighting Restriction. General outside lighting used in the connection with the occupancy of a residence shall be kept at a minimum required for safety and security. No florescent or neon lights shall be used to illuminate the outside areas with the exception of temporary nighttime lighting for use in connection with sport events and facilities, such as riding arenas and tennis courts. There shall be no excessive lights and there shall be no sirens, bells or other noise making devices.
- 24. Orchards. Notwithstanding anything to the contrary contained herein the operation or development of an orchard or garden shall not be considered to be a commercial use as defined in these restrictions.
- 25. Motor Bikes. Motor Bikes and motor cycles are permitted on dedicated roads and common areas. There shall be a maximum speed limit of twenty (20) miles per hour, and no racing or speeding shall be permitted.
- 26. Grantor reserves the right in the plat and dedication of any adjacent property to designate an area or areas up to ten (10) acres in size to be designated as commercial area or areas on State Highway No. 118.

EXECUTED this _____ day of December, 1984.

THE DOUBLE DIAMOND DEVELOPMENT, INC.

By: _____
RALPH H. MERIWETHER, President

THE STATE OF TEXAS

*

COUNTY OF _____

*

This instrument was acknowledged before me on _____ day of _____, 1984 by RALPH H. MERIWETHER, President of THE DOUBLE DIAMOND DEVELOPMENT, INC., a Texas Corporation, on behalf of said corporation.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires:
Printed Name of Notary:

EXHIBIT "A"

Attached to and made a part of that certain Declaration of Restrictions, Covenants and Conditions for THE DOUBLE DIAMOND VETERANS ADDITION dated December _____, 1984.

TRACT NO. I

Section 28, Block WJG-8, T.C. Ry. Co. Survey, Brewster County, Texas, containing 656.95 acres, more or less, described by metes and bounds as follows, to-wit:

BEGINNING at a 1/2-inch rebar with cap marked "BASSHAM LSLs", set in an old rock mound, found to mark the common corner of Sections 27, 28, 33 and 34, Block WJG-8, T.C. Ry. Co. Survey, Brewster County, Texas, from which a 1-inch pipe in an old rock mound, found to mark the North common corner of Sections 39 and 40, said Block WJG-8 bears North 00° 17' 09" West 5805.46 varas;

THENCE South 01° 00' 20" East 1925.35 varas along the common line of said Sections 28 and 33 to the common corner of Section 28, 29, 32 and 33, said Block WJG-8, from which a 1/2-inch rebar with cap marked "BASSHAM LSLs", set in an old rock mound on a hill, found to mark the common corner of Sections 29, 30, 31 and 32, said Block WJG-8 bears South 01° 00' 20" East 1925.35 varas and a 1/2-inch rebar with cap marked "BASSHAM LSLs", set in an old rock mound on the East side of a hill, found to mark the common corner of Sections 44, 45 and 48, said Block WJG-8 bears North 89° 22' 14" East 3821.30 varas;

THENCE South 89° 22' 14" West 1924.56 varas along the common line of said Sections 28 and 29 to the common corner of Sections 24, 25, 28 and 29, said Block WJG-8;

THENCE North 00° 20' 57" West 1951.26 varas along the common line of said Sections 25 and 28 to a 3/8-inch rebar in an old rock mound, found to mark the common corner of Sections 25, 26, 27 and 28, said Block WJG-8;

THENCE South 89° 50' 54" East 1902.48 varas along the common line of said Sections 27 and 28 to the POINT OF BEGINNING.

TRACT NO. II

All of Section 33, Block WJG-8, T.C. Ry. Co. Survey, Brewster County, Texas, lying West of State Highway No. 118 containing 34.5 acres, more or less.