

Annexation And Use Agreement

The State Of Texas §

KNOW ALL BY THESE PRESENTS:

County of Fort Bend §

This Annexation and Use Agreement (this "Agreement"), by and between **VILLAGES OF TOWN CENTER OWNERS ASSOCIATION, INC.** a Texas non-profit Corporation (hereinafter referred to as the "Association"), and **CALSARO TOWN CENTER, LTD.**, a Texas limited partnership, and/or **INTERCONTINENTAL UNITED INVESTORS, CORP.**, a Texas corporation (jointly hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS. Developer is the owner of certain tracts of land to be developed as "Villages of Town Center Sections 5" and "Villages of Town Center Sections 6", together containing approximately 201 lots as shown on Exhibit "A" attached hereto and referred to jointly herein as "Future Sections"; and

WHEREAS. Developer has developed and constructed certain recreational facilities as part of, and located within, Reserve F of Villages of Town Center Subdivision hereinafter referred to as the "Recreational Facilities"; and

WHEREAS. Developer desires to have the Future Sections annexed into the Association or, in the event such annexation does not occur, to provide for the residents of the Future Sections to have the full right to use the Recreational Facilities; and

WHEREAS. the Association and Developer hereby agree to the foregoing, pursuant to the terms set forth herein.

NOW THEREFORE IN CONSIDERATION of the mutual covenants and agreements set forth herein, Developer and Association hereby agree as follows:

1. Developer, upon the complete execution of this Agreement by both Developer and Association, agrees, as additional consideration to that set forth above, to pay the Association the sum of \$10,000.00 to be used by the Association for expansion of the Recreational Facilities, or for any other use the Association, in its sole discretion, deems necessary. Such sum to be retained by the Association whether or not the annexation of the Future Sections is ultimately accomplished.
2. The Association hereby agrees to provide all residents of the Future Sections the right to complete and full use of the Recreational Facilities. The Association, on

or before April 30, 2002, agrees to take all necessary steps, and provide factual proof to Developer of same, to obtain the required approval of its members for the annexation of the Future Sections into the jurisdiction of the Association to be part of the Villages of Town Center Subdivision (the "Subdivision"). Once the actual annexation approval has been obtained, each of the Future Sections shall be annexed into the Association upon written request by the Developer. The Developer's right to request, and fully and completely accomplished, the annexation shall be in effect until December 31, 2005. Should Developer choose this option, Villages of Town Center Section 5 and 6 may be separately annexed upon recordation of each plat and recordation of a Supplemental Declaration of Covenants, Conditions and Restrictions as more fully set forth in Section 6 hereof. Developer agrees to pay Association the sum of \$20,000.00 per Future Section upon the annexation of that particular Future Section. Association agrees that the owner of each lot in the Future Sections shall, after the annexation has been fully and completely accomplished, become members of the Association with the same rights as the existing members of the Association. After the annexation, but within ten (10) days thereafter, the Developer will convey to the Association and Association agrees to accept all of the common areas and reserves, including but not limited to the detention ponds or parks in the particular Future Section being annexed (the "Common Area") and then, the Association shall become the owner of such Common Area and shall be responsible for its future maintenance, as in the case of existing sections within the jurisdiction of the Association. Upon annexation and after, it is agreed that Developer shall maintain complete control of all architectural approval rights for the Future Section lots until said lots are sold by the builder to the homeowner. Association shall charge the owners of the lots in the Future Sections as follows:

Lots which are, or at any time have been, occupied shall be subjected to the annual assessment determined by the Board of Directors of the Association (the "Board") as applied to Villages of Town Center Sections One, Two, Three and Four. Lots which are not and have never been occupied, and which are owned by Developer, or the person who built (or causes to be built) the residential dwelling on the lot, shall be subject to an annual assessment equal to one-half (1/2) of the annual assessment applicable to occupied lots.

Should annexation not occur, all residents of the Future Sections, upon payment \$150.00 per lot Initiation Fee ("Initiation Fee") and payment of certain costs ("Direct Cost") of operation of the Recreational Facilities, shall have the right to full and complete use of the Recreational Facilities at no additional cost. The Direct Cost of operation shall be calculated by dividing those costs associated with the operation of the Recreational Facility by the total number of residents of the Association plus the number of residents of the Future Sections, all at the beginning of each fiscal year. All funds collected in excess of the amount of Direct Costs ("Excess Funds") for any fiscal year shall be placed in a Reserve Fund and such funds shall be dedicated solely for capital improvements and maintenance of the Recreational Facilities. All residents of the Association,

including those of Future Sections, shall contribute their Excess Funds to the Reserve Fund. Developer, and/or any resident in any Section contributing to the Reserve Fund, may demand an accounting of the Reserve Fund by providing written notice to the party charged with maintaining such records, and said party must then produce all requested records and documents within five (5) days of that party's receipt of such written notice. Payment of Initiation Fee for each section within the Future Sections will be due and payable within 30 days from the date of completion of construction of each section as certified by its design engineer.

3. Exercise of Declarant's Rights: Developer will not exercise any of the "Declarant" rights under the Supplemental Declaration of Covenants, Conditions and Restrictions for the Future Sections, including the right to annex additional properties into the Subdivision or under the jurisdiction of the Association without prior written consent of the Association; however, such consent shall not be unreasonably withheld.
4. Assignment of Declarant Rights: The Developer will not assign any of the "Declarant" rights under the Supplemental Declaration of Covenants, Conditions and Restrictions for the Future Sections without the prior written consent of the Association; however, such consent shall not be unreasonably withheld.
5. Indemnification: Both parties hereto agree to indemnify and hold each other harmless, including their respective officers, directors, shareholders, employees, successors, heirs, assigns, managers, agents, attorneys, affiliates, and owners in the Subdivision, from any and all losses, damages and expenses of whatever nature which may accrue, whether in contract, tort, or otherwise, in connection with either party's violation of the terms of this Agreement.
6. Supplemental Declaration: Developer shall prepare and file a Supplemental Declaration of Covenants, Conditions and Restrictions for each of the Future Sections, in the Office of the County Clerk of Fort Bend County, Texas; provided, however, the Board shall be entitled to review and approve each such Supplemental Declaration prior to their finalization and recording to ensure that same are compatible with the Declaration of Covenants, Conditions and Restrictions of Villages of Town Center, Section One.
7. Voting Rights: The Supplemental Declaration of Covenants, Conditions and Restrictions for each of the Future Sections shall provide for only one (1) class of voting membership, which voting membership will be Class A Membership and Class A Members shall be entitled to one (1) vote for each lot owned.
8. Termination of Agreement: On or before ten (10) days following the date of ratification of this Agreement by members of the Association and following annexation of the Villages of Town Center Section 5, Developer and the Association agree to execute all necessary documents, and take any other action

necessary, to cancel and terminate the Agreement Regarding Use of Real Estate dated September 9, 1998 ("Use Agreement"), by and between Developer and Association. Prior to such termination Association shall provide Developer with factual proof that all necessary requirements have been met for said annexation of the Future Sections, to the satisfaction of Developer. In the event the Future Sections are not annexed as provided herein, the Use Agreement shall remain in full force and effect and the terms of Section 2(A) of this Agreement shall be applied.

9. Miscellaneous: This Agreement and the rights hereunder may not be transferred or assigned by either party hereto without the prior written consent of the other party; however, such consent shall not be unreasonably withheld. This Agreement shall be construed under and in accordance with the laws of the State of Texas. This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns. This Agreement constitutes the sole agreement of the parties and supersedes any prior changes or written or oral agreements between the parties respecting the subject matter covered hereby. If any action at or in equity, including any action for declaratory relief, is brought to enforce and interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees from the other party. Venue for any action arising under this Agreement shall be in Fort Bend County, Texas. Nothing herein shall be construed to create a partnership or joint venture between Developer and the Association. The parties hereto represent and warrant to each other that they have the right, power and authority to enter into this Agreement and the covenants contained herein. This Agreement may be executed in one or more counterparts.

Executed and acknowledged by the undersigned.

VILLAGES OF TOWN CENTER OWNERS ASSOCIATION

BY: *Liane Friedman*

CALSARO TOWN CENTER, LTD.

BY: INTERCONTINENTAL UNITED INVESTORS CORP., GENERAL PARTNER

BY: *Tofigh Shirazi*
Tofigh Shirazi, President

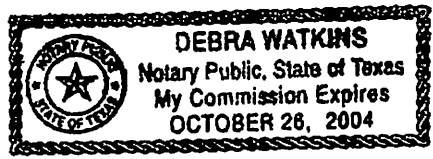
INTERCONTINENTAL UNITED INVESTORS, INC.

BY: [Signature]
Tofigh Shirazi, President
THE STATE OF TEXAS §
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COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Diane Andrews, President of VILLAGES OF TOWN CENTER OWNERS ASSOCIATION, INC., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same and for the purposes and consideration therein expressed on his own behalf and on behalf of VILLAGES OF TOWN CENTER OWNERS ASSOCIATION, INC..

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2 day of May, 2002.

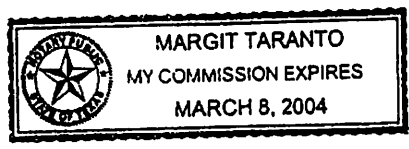
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NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



THE STATE OF TEXAS §
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COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Tofigh Shirazi, President of Intercontinental United Investors Corp., General Partner of CALSARO TOWN CENTER, LTD., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same and for the purposes and consideration therein expressed on behalf of CALSARO TOWN CENTER, LTD.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 3rd day of May, 2002.



[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS