

014-18-2110

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR GALVESTON BAY CLUB

THIS DECLARATION, is made effective as of the 20TH day of December
1999 by Mark J Meier, Mark D Meier and Edwin A Eubanks

BACKGROUND

Mark J. Meier, Mark D Meier and Edwin A Eubanks (defined below as the Founder), the owners of certain real property in Galveston County, Texas, which they intend to develop as an are to be known as Galveston Bay Club. The Founder desires to establish a framework for the development and occupancy of Galveston Bay Club and for the management, preservation, maintenance, enjoyment and use of the common areas of Galveston Bay Club.

NOW, THEREFORE, Founder hereby declares the Property (defined below) shall be held, transferred, sold, mortgaged, leased, conveyed and occupied subject to the following easements, charges, liens, restrictions, covenants, and conditions (collectively the "**covenants and restrictions**"), which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on and inure to the benefit of all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns.

ARTICLE 1: DEFINITIONS

Unless the context expressly requires otherwise, the following terms will have the following meanings wherever used in this Declaration:

Section 1.1 "**APPROVED ARCHITECT**" means architect approved by the Association to perform architectural services in connection with the construction of Dwellings and/or other buildings within Galveston Bay Club, as provided in Section 4.1. The approval of an architect may only extend to certain types of buildings. The list of Approved Architects shall be available from the Association and may be changed from time to time by the Association.

Section 1.2 "**Approved Bullder**" means a contractor approved by the Association to build Dwellings and/or other buildings within Galveston Bay Club, as provided for in

Section 4.1. The approval of a builder may only extend to the certain types of buildings. The list of Approved Builders shall be available from the Association and may be changed from time to time by the Association.

Section 1.3 "**Articles**" means the Articles of Incorporation of the Association, as amended from time to time. The initial Articles are attached hereto as Exhibit C.

Section 1.4 "**Assessments**" means any sum of money payable to the Association which is unpaid can result in a lien against an Owner's Lot, including, without limitation, the General Assessments, Special Assessments and Specific Assessments provided for in Article 7 of this Declaration.

Section 1.5 "**Association**" means the GALVESTON BAY CLUB HOMEOWNERS ASSOCIATION, INC , a Texas Corporation not for profit

Section 1.6 "**Block**" or "**Blocks**" means each numbered Block of Lots as established by the Plat(s)

Section 1.7 "**Board**" or "**Board of Directors**" means the Board of Directors of the Association.

Section 1.8 "**Bylaws**" means the Bylaws of the Association, as amended from time to time. The initial Bylaws are attached hereto as Exhibit D.

Section 1.9 "**Certification of Completion**" means the certification issued by the Committee as required by Section 3.6.13, confirming that the subject Improvements have been completed in accordance with the requirements of this Declaration

Section 1.10 "**Committee**" means, once established, the Architectural Control Committee established pursuant to this Declaration and the Articles and Bylaws and, prior to the establishment of the Committee, the Founders.

Section 1.11 "**Common Areas**" means the areas of the Property which are from time to time owned or leased by the Association or upon which the Association has easements or use rights, together with all other real and personal property owned or leased by the Association from time to time for the common use, benefit, and enjoyment of all or several of the Owners. Common Areas shall also include areas of the Property owned by

Founder which are to be transferred to the Association as Common Areas Nothing in this Declaration is intended as a dedication of any portion of the Common Areas to the Public.

Section 1.12 "**Common Paths**" means the pathways and promenades shown on the Plat(s), which are to be a part of the Common Areas

Section 1.13 "**Common Roads**" mean the vehicular roadways shown on the Plat(s) which are to be a part of the Common Areas.

Section 1.14 "**Declaration**" means this Declaration, as amended from time to time

Section 1.15 "**Dwelling**" means a residential structure constructed on a Residential Lot

Section 1.16 "**Easement Areas**" mean those areas designated as easement areas on the Plat(2) together with any additional easement areas in which easement rights may be granted to the Association for the benefit of Owners from time to time.

Section 1.17 "**Founder**" means Mark J Meier, Mark D Meier and Edwin A. Eubanks or their successors or assigns as may be expressly assigned rights hereunder by recorded instrument

Section 1.18 "**Improvement**" means any building, structure, landscaping or other item not naturally existing on a lot, whether temporary or permanent, including, by way of example only and not as a limitation, all satellite dishes, television and other antennas, statuary, fountains, flag, flagpoles or other ornamentation, clotheslines; children's playhouses; outbuildings, walkways; piping; garages, swimming pools, spas, basketball backboards or other recreational facilities, carports, driveways; parking areas, refuse and trash containers; fencing; walls, stairways, decks; landscaping; hedges, trees, shrubs, planting and other vegetation; poles; for sale, for rent and other signs (including, without limitation, signs in windows or elsewhere visible from the Common Area), water softening, air conditioning and heating and other equipment, paint and all other coloring or texturing device or covering on all surfaces; and utility equipment and systems.

Improvements does not include improvements and decorations within a Dwelling or other building not visible from the Common Areas

Section 1.19 "**Lot**" or "**Lots**" means each numbered, platted lot or parcel as established by the Plat(s).

Section 1.20 "**Members**" mean the Owners (including Founder) as more particularly described in Article 5.

Section 1.21 "**Mortgage**" means any valid instrument transferring any interest in or creating a lien on real property in favor of an unrelated third party as security for the repayment of indebtedness "**First Mortgage**" means a valid Mortgage having priority over all other Mortgages on the same property.

Section 1.22 "**Owner**" means a Residential Owner.

Section 1.23 "**Parcel**" or "**Parcels**" means each area, if any, designated as a "Parcel" on the Plat(s).

Section 1.24 "**Person**" means any natural person or artificial entity having legal capacity.

Section 1.25 "**Plat**" or "**Plats**" means the Plat of the initial Property recorded in Plat Book of Public Records, together with any Plat of additional property added to the Property as provided for in Section 2.2, as amended or modified from time to time.

Section 1.26 "**Property**" means the Property described in Exhibit A, together with such additional property as may be added to such Property as provided for in Section 2.2

Section 1.27 "**Public Records**" means the Public Records of Galveston County, Texas.

Section 1.28 "**Recreational Common Areas**" means the swimming pool, piers or other recreational facilities, if any, which are Common Areas and are available for the use by the Owners, but shall not include the Common Paths or Common Roads

Section 1.29 "**Residential Lot**" means the Lot designated in the Master Plan for use for single-family homes but does not include any Common Area owned by Founder or the Association

Section 1.30 "**Residential Owner**" means any person who from time to time holds record fee simple title to any Residential Lot. If more than one person holds such title, all such persons are Owners, jointly and severally

Section 1.31 "**Galveston Bay Club**" means the community being developed by Founder on the Property pursuant to and as shown on the Plat(s)

Section 1.32 "**Rules and Regulations**" means the Rules and Regulations of the Association as provided for in the Section 3.12. The initial Rules and Regulations are attached hereto as Exhibit E. The Rules and Regulations may be amended from time to time as provided for in Section 3.12.

Section 1.33 "**Supplemental Declaration**" means a Supplemental Declaration adding Annexable Area to the Property as provided for in Section 2.2 below.

Section 1.34 "**Club Architect**" means the architect or architectural firm designated by the Founder to act as the Committee prior to the election of the Committee. All references herein to the Committee shall refer to the Club Architect until the Committee is established. The Committee need not be established until Turnover occurs. Founders have selected Eubanks Group Architects as the initial Club Architect.

Section 1.35 "**Turnover**" means the termination of the Founder's Class B Membership as provided for in Section 5.5 of this Declaration.

Section 1.36 "**Club Regulations**" means the Galveston Bay Club Architectural Regulations, Urban Regulations, Landscape Regulations and Design Review Procedures.

Section 1.37 "**Voting Multiplier**" means a number equal to the Assessment Multiplier, which is used to determine the number of votes allocated to Nonresidential Lots.

ARTICLE 2: PROPERTY SUBJECT TO THIS DECLARATION

Section 2.1 "**Property**" The Property shall be held, transferred, sold, mortgaged, leased, conveyed, and occupied subject to this Declaration. The covenants and restrictions of this Declaration are to run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of Lots subsequently executed, and shall be binding upon, and enforceable against, all parties and all Persons claiming under such deeds and conveyances for a period of thirty (30) years from the date of recording, after which time, such covenants and restrictions shall automatically be extended for successive periods of ten (10) years, until terminated pursuant to Section 9.5 hereinafter.

Section 2.2 "**Additions to Property**" Galveston Bay Club may be developed in two or more phases and to that end Founder may, from time to time, but is not obligated to, add all or any portions of additional property to the Property subject to this Declaration. The Founder hereby reserves the right, exercisable from time to time without notice to the consent of any other party, to subject other real property to the covenants and restrictions set forth herein and to extend this Declaration to other property to be developed as part of Galveston Bay Club and thereby to bring such additional property within the jurisdiction of the Association and to subject such additional property to the Assessments provided for in this Declaration. Additions to the Property shall be made by filing in the Public Records one or more Supplemental Declarations with respect to the additional property to be then subjected to this Declaration. Each Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained herein as may be necessary to reflect the different character, if any, of the added property, provided, however, any such Supplemental Declaration shall not revoke or otherwise amend the provisions of this Declaration as this Declaration pertains to the Property then subject to this Declaration, except in accordance with the amendment procedures of this Declaration.

Section 2.3 "**Additions to Common Areas**" The Founder shall have the right, in its sole discretion, to lease or to convey title to any property owned from time to time by Founder, or any easement or interest therein, to the Association as part of the Common Areas, and any such lease or conveyance shall be effective upon recording the deed or instrument of conveyance or memorandum of lease or convey title to any property owned by such Person, or any interest therein, to the Association as a portion of the common Areas; providing that the Association, through the Board, shall have expressly accepted such conveyance by executing the deed or lease or other instruments of conveyance or by recording a written acceptance of such conveyance or lease in the Public Records.

Section 2.4 "**Changes in Annexable Area**" The Founder hereby reserves the right, exercisable from time to time without notice to or the consent of any other party, to add additional property to or remove property from the Area. The additions or deletions

authorized above shall be made by filing in the Public Records a Declaration of Addition to or Deletion from Annexable Area for Galveston Bay club, referencing this Declaration and describing the property to be added to or deleted

Section 2.5 "**Mergers**" Upon a merger or consolidation of the Association with another owners' association (or similar organization) as may be provided in the Bylaws, the Association's properties, rights and obligations may be transferred to another surviving or consolidated owners' association, or alternatively, the Association may constitute the surviving association pursuant to a merger. The surviving or consolidated owners' association may administer the covenants and restrictions established by this Declaration together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however shall effect any revocation, change or addition to the covenants and restrictions established by this Declaration within the presently existing Property, except in accordance with the amendment procedures of this Declaration

ARTICLE 3: EASEMENTS, RIGHTS AND REGULATIONS

Section 3.1 "**Rights and Easements are Appurtenances**" Except as otherwise expressly provided herein, rights and easements granted herein constitute rights and easements which are appurtenant to fee simple ownership of the Lots from time to time, provided that the Association, acting as agent for the Owners under an irrevocable agency coupled with an interest, who are in turn the beneficiaries of all the covenants and restrictions herein contained, is vested with the right on its own on behalf and on behalf of all Owners and parties interested in the Property to enforce all the covenants and restrictions of this Declaration.

Section 3.2 "Certain Easement"

3.2.1 All easement areas shown on the Plat(s) are nonexclusive easements grants. Founder reserves, both for itself and the Associations, the right to grant additional non-exclusive easements over, under, across and through such areas, provided that such additional easement grants do not materially interfere with the activities for which such areas were established

3.2.2 The Founder hereby reserves unto itself and grants to the Association subject to the terms and conditions of this Declaration, a non-exclusive easement burdening the areas of the Property designated on the Plat(s) as "**Buffer Easement**" areas. Such reservation and grant is for the purpose of preserving existing vegetation and constructing, reconstructing, maintaining and operating such landscaping, irrigation, signage, fences, walls and other structures, improvements, and facilities as the Association deems appropriate to provide sound and visual buffering and screening of the Property from contiguous areas and streets. The Association shall be responsible for the maintenance, repair and replacement of the structures, improvements, facilities and landscaping constructed or installed by the Founder or the Association within the Buffer Easement areas. No Owner shall alter or otherwise interfere with the structures, improvements, facilities and landscaping installed in the Buffer Easement areas or place or allow to be placed any Improvement in any Buffer Easement area without the prior written consent of the Association and the Committee.

3.2.3 Easements over, under, across and through each Lot are expressly reserved to the Founder and granted to the Association, their agents, contractors, representatives and employees for the purpose of making any repairs and performing any maintenance or other activities provided for or required by this Declaration, regardless of whether such repairs, maintenance or activities directly benefit the Lot upon which they are performed or over which access is required. Any material damage to a Lot caused as a result of such access shall be repaired by the Association.

Section 3.3 **Owner's Right to Use Common Areas**. Founder grants to every Owner, subject to provisions of this Declaration and the Rules and Regulations, the right and easement to use the Common Areas for their normal and intended purposes, as designated by the Association from time to time. The Association shall, consistent with this Declaration, have the right to alter, change, improve, add to or eliminate portions of the Common Areas.

Section 3.4 **Title to Common Properties**. The Founder may retain the legal title to the areas of the Property to become Common Areas until such time as it has completed

any contemplated improvements thereon, and, in the opinion of the Founder, the Association is able to maintain such areas.

Section 3.5 Limitations to Easement Rights The rights and easements created herein for the benefit of the Owners, shall be subject to the following.

3.5.1 The right of the Association to limit the use of the Common Areas to Owners, to members of an Owner's family residing with the Owner, to social guests of the owners, and to tenants of the Owner and their family residing with them and social guests

3.5.2 The right of the Association to suspend any Owner's right to use any Recreational Common Areas for any period during which any Assessment against the Owner's Lot remains unpaid, or for a period continuing to not later than the sixtieth (60th) day after termination of any violation of the Rules and Regulations or any of the covenants and restrictions of this Declaration

3.5.3 The right of the Founder or the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility organized for a purpose consistent with the intent of this Declaration, provided that no such dedication or transfer shall be effective by the Association unless it shall have first been approved by the Owners entitled to at least a majority of the total votes of the Association. Notwithstanding the foregoing, the Board of Directors of the Association shall have the right, without notice to or the approval of or any vote by the Owners, to grant easements for the installation and maintenance of electrical, telephone, natural gas, cable television, water, irrigation, sewer and other utility facilities upon, over, under and across the Common Areas

3.5.4 The right of the Founder or the Association to assign, by document recorded in the Public Records, to Owners of one or more specific Lot(s), the sole and exclusive use of specified portions of the Common Areas. Upon such assignment, the exclusive use of such portions of the Common Areas shall be appurtenant to such specific Lot(s) and no Owner shall be permitted to reassign such use to the Owner of a different Lot, without the prior written consent of the Association. Any such assignment shall be subject to such conditions as the Founder or the Association may impose. No Owner shall

have the right to use or to enter upon any portion of the Common Areas which has been so assigned by the Association to another Owner or Owners.

Section 3.6 **General Restrictions.** The following restrictive covenants are hereby imposed upon the Property as covenants running with the land

3.6.1 No Lot or any Improvement there on shall be used for any purposes in violation of the Plat, this Declaration or the Club Regulations.

3.6.2 No activity deemed by the Association to constitute a noxious, offensive or hazardous activity shall be permitted by any Owner on any Lot or Common Area, nor shall anything be done thereon which in the opinion of the Association constitutes an annoyance, nuisance or safety hazard to individual Owners or to the community in general. No Owner shall permit or allow anything to be done or kept in any Dwelling, on any Lot, or within the Common Areas, which would be a violation of any law, regulation, or other governmental restriction or requirement.

3.6.3 No accumulation of debris, rubble, piles of dirt, fill or other unsightly material shall be allowed to accumulate or be deposited in any area of the Property. Trash, garbage or other waste shall be kept in closed sanitary containers or as otherwise required by the Association. All equipment for the storage or disposal of such waste shall (i) be of a type approved by the Committee, (ii) be kept in a clean and sanitary condition, and (iii) be kept in a location approved by the Committee

3.6.4 If permitted by zoning and other applicable governmental restrictions and requirements, not more than one room in a Dwelling may be used as a home office in connection with the operation of a business, however, no employees of such business (other than family members) may work in a Dwelling and no clients or customers shall be seen or allowed in any Dwelling in connection with such business.

3.6.5 During any period when water and sewage disposal services are in operation and servicing Lots in accordance with the standard requirements of applicable governmental entities, no individual wells for potable water will be permitted on any Lot, except to service any development or sales trailer operated by Founder in connection with the initial development of the Property and the sale of the Lots.

3.6.6 Once a Lot has been sold by the Founder, the same shall be maintained in good appearance. During construction, each Lot shall be kept in a neat and orderly condition with construction debris and trash being neatly stacked or confined in containers or trash enclosures. The Association may require a reasonable deposit be paid to be held during the period of any construction as security to assure compliance with the terms of this Declaration.

3.6.7 Nothing shall be placed on, altered in, constructed on or removed from the Common Areas, except with the prior written consent of the Association.

3.6.8 No kitchen or cooking facilities other than those approved by the Committee pursuant to Article 4 shall be installed in any Dwelling.

3.6.9 No swimming, wading, reflective or other pools may be constructed or located on a Residential Lot.

3.6.10 All utility lines and lead-in wires, including but not limited to, cable television lines, electrical lines and telephone lines, located within the confines of any Lot or within any Easement Areas, shall be located underground.

3.6.11 Walls, fences and hedges used to separate one Residential Lot from another are prohibited.

3.6.12 No time-share ownership of any Dwelling shall be permitted. Time-share ownership shall include any method of ownership where the right of use, possession or occupancy is divided into time units or points and sold, leased or licensed to various individuals. Time-share ownership shall generally not include ownership by a group of individuals as tenants-in-common.

3.6.13 Only one (1) detached single family dwelling may be constructed upon a Residential Lot and same shall be no more than Three Thousand Five Hundred (3,500) square feet nor less than One Thousand Two Hundred (1,200) square feet in size.

3.6.14 No changes in the elevation of the land shall be made on any Lot, without the consent of the Committee. No Lot or group of Lots shall be re-subdivided, except that, with the prior consent of the Committee, in its sole discretion, two or more Lots or one Lot and a partial Lot may be joined together to serve as one building site.

3.6.15 Any structure on any Lot which is damaged or destroyed in whole or in part must be rebuilt in accordance with the requirements of this Declaration or completely removed within one (1) year from the date of damage or destruction. Section 4.2.5 of this Declaration shall also apply to any such rebuilding and the time periods thereof shall be deemed to run from the date of the damage or destruction. All debris must be removed and the Lot restored to a sightly condition within sixty (60) days after such damage or destruction.

3.6.16 No Improvements upon any Lot shall be used or occupied until a "Certification of Completion" has been obtained from the Committee. The Committee shall issue a "Certification of Completion" or a written statement as to why it cannot be issued as to any Improvement within ten (10) days of a request therefore from the Owner or Approved Builder of such Improvements.

Section 3.7 **Provisions Inoperative as to Initial Construction.** Nothing contained in this Declaration will be construed or applied to prevent the Founder or, with Founder's written consent, any Approved Builder from doing or performing on all or any part of the Property owned or controlled by the Founder, or being constructed upon by such Approved Builder, whatever Founder, determine to be reasonably necessary or convenient to complete the development of Galveston Bay Club, sale of the Lots and the construction of buildings, including without limitation:

3.7.1 Erecting, construction, and maintaining such structures and other improvements as Founder may deem to be necessary or convenient for the completion of the development of Galveston Bay Club, the sale of the Lots, construction of buildings on all of the Lots, and the establishment of the Property as a residential community

Section 3.8 **Access by Association.** The agents or representatives of the Association shall have the right of entry onto each Lot to the extent reasonably necessary to discharge any duty imposed, or exercise any right granted, by this Declaration, or to investigate compliance with or enforce the provisions of this Declaration and the Rules and Regulations. Such right of entry must be exercised in a peaceful and reasonable manner and at reasonable times, and the entry may be only upon reasonable notice whenever

circumstances permit. Notwithstanding, the foregoing, entry into any enclosed non-public area of any completed structure upon any Lot may not be made without the consent of its Owner or occupant, except pursuant to court order or other authority conferred by law.

Section 3.9 Maintenance. Except as specifically provided herein to the contrary, each Owner shall be responsible for the maintenance, repair and replacement of all Improvements on their Lot(s) in a first-class condition. The surface of the Easement Areas, if any, within each Lot shall be maintained by the Owner of the Lot (subject to the rights of the Association hereunder), and the facilities within the Easement Areas shall be maintained by the Association or the public authority or utility company reasonable for such facilities. Any area or Improvement located within or on a Lot and not specifically required by this Declaration to be maintained, repaired or replaced by the Association shall be maintained, repaired or replaced by the Owner of the applicable Lot.

Section 3.10 Association's Performance of Owner's Duties. If an Owner of any Lot shall fail to comply with any of its obligations under this Declaration and such failure continues for ten (10) days after written notice of such failure from the Association, the Association, after approval of a majority of the Board, shall have the right, through its agents, employees or contractors, to enter upon said Lot and to perform such acts and pay such amounts necessary to fulfill such obligations and bring the Lot and Owner into compliance with this Declaration and all costs and expenses incurred in connection therewith shall be a Specific Assessment against such Lot.

Section 3.11 Rules and Regulations. The Board may, from time to time, without the vote or consent of the Owners, adopt new Rules and Regulations or amend the existing Rules and Regulations governing the operation, use, enjoyment, maintenance, management and control of the Common Areas and the facilities incident thereto and the conduct of the Owners and their family, guests and tenants on the Common Areas and on their Lots (outside of the buildings thereon) and the operation of Galveston Bay Club generally. Copies of the Rules and Regulations shall be furnished to each Owner at least ten (10) days in advance of the time such Rules and Regulations become effective. The Association shall have available copies of the most current Rules and Regulations and

provide them to each Owner upon request. The Association shall have the right to charge a reasonable fee for additional copies of the Rules and Regulations requested by any Owner to offset production costs.

Section 3.12 **Encroachment Easements.** The Founder hereby grants to the Owner of each Lot an easement over the adjoining Lots and Common Areas for minor encroachments of porches, stoops, roof overhangs, balconies, bay windows or other similar Improvements; provided (i) that any such encroachment does not extend beyond the Lot set back lines by more than twelve (12) inches, except in the case of second story porches which may extend up to eighteen (18) inches into the building set backs, and (ii) that such encroachment is consistent with the Club Regulations and was specifically approved by the Committee.

ARTICLE 4: ARCHITECTURAL AND CONSTRUCTION RESTRICTIONS

Section 4.1 **Approved Architects and Builders.** Dwellings, buildings and other structures on all Lots within Galveston Bay Club shall be designed by an Approved Architect and built by an Approved Builder. On the request of an Owner, the Association shall provide the Owner with a list of the Approved Architects and Approved Builders as well as with application forms for builders and architects to apply for approval from the Association. The Association shall have the option to charge all or any builders and architects a reasonable non-refundable application fee for the processing of any application for approval to be an Approved Architect or an Approved Builder within Galveston Bay Club. Founder's or the Association's approval of an architect as an Approved Architect or of a builder as an Approved Builder shall only mean that such Person is entitled to act as an architect or builder within Galveston Bay Club and shall not constitute any representation or implication as to such Person's abilities or skills.

Section 4.2 **Architectural and Construction Restrictions.** The following general restrictions shall apply to each and every Lot now or hereafter located within the Property.

4.2.1 All Improvements on all Lots shall comply with the Club Regulations in effect at the time such Improvements were approved by the Committee. The Committee may limit the time of the effectiveness of any approval. Upon the expiration of the

effectiveness of the approval the proposed Improvement must be resubmitted for approval under the then current Club Regulations.

4.2.2 One or more entire Residential Lots may, with the consent of the Association, be combined with portions of additional Lot(s), but no Dwelling may be constructed on less than one entire Residential Lot. No Lot shall be divided or re-subdivided unless both portions of said Lot will be used to increase the size of the adjacent Lots as platted. Resubdivision of a Lot shall not affect the obligation of the subdivided Lot to pay pro-rata Assessments so that the total revenues collected are that which would have been collected had there been no resubdivision.

4.2.3 Unless approved by the Committee, garages may not be converted into living space, nor shall the garage be modified so as to prevent its use for the number of standard size vehicles for which it was originally designed and approved by the Committee.

4.2.4 It is the Founder's intent that in the development of Galveston Bay Club the existing scrub vegetation on the Property be preserved to the fullest extent possible. In furtherance of that intent, each Owner in connection with the development of its Lot shall be required to preserve existing scrub vegetation to the fullest extent practical. In connection with the construction of any building, the Owner shall submit to the Committee a scrub management and preservation plan which shall indicate all scrub located on the Lot, which scrub shall be removed, and which scrub shall be preserved. Upon the Committee's approval of such plan, the Owner shall strictly comply with the plan and take all necessary steps to ensure the preservation of all scrub designated on such plan for preservation, including following any guidelines established by the Club Regulations.

4.2.5 Once construction of improvements on a Residential Lot begins, all such construction shall be completed with eighteen (18) months.

Section 4.3 Approval of Plans and Architectural Control Committee.

4.3.1 No Improvement, regardless of size or purpose, whether attached to or detached from a main Dwelling or other building, whether temporary or permanent, shall

be commenced, placed, erected, or allowed to remain on any Lot, nor shall any modification, addition to, or exterior change or alteration thereto be made, unless and until a request therefor has been submitted to and approved in writing by the Committee in the manner provided for by the Village Regulations. The applicant for such approval shall, together with the request therefor, submit such plans, specifications, drawings, information and materials as the Committee may request from time to time in order to make an informed decision (collectively, the "**plans and specifications**"), which shall include, without limitation, the materials required by the Rules and Regulations.

4.3.2 In reviewing the plans and specifications and other submitted materials, the Committee may take into consideration such factors as it deems appropriate, including, without limitation, the consistency of the proposed improvements with the Regulations, the suitability and desirability of the proposed improvements and of the materials of which the same are proposed to be built, the Lot upon which they are proposed to be installed, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood, and the effect and appearance of such construction as viewed from neighboring Lots and Common Areas.

4.3.3 The Committee shall have thirty (30) days from submittal of a full and complete package within which to approve or reject the plans and specifications. The Committee shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not fully consistent with the Club Regulations or which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons relating to future development within Galveston Bay Club. In the event the Committee rejects such plans and specifications as submitted, the Committee shall so inform the Owner in writing to the applicant's address indicated on the submittal stating with reasonable detail the reason(s) for disapproval and the Committee's recommendations to obtain Committee approval. In the event that the applicant makes all the changes requested by the Committee within ninety (90) days after approval is denied and resubmits its application in conformity with the requirements of this Declaration, the plans and

specifications shall be approved by the Committee within fifteen (15) business days after resubmission.

4.3.4 Upon the Committee's written approval, construction shall be started and prosecuted to completion diligently, continuously and promptly and in substantial conformity with the approved plans and specifications. A copy of the Committee's approval of construction shall be posted on the Lot during construction. The Committee shall be entitled to stop any construction in violation of these restrictions, and any improvement made without application having first been made and approval obtained as provided above, shall be deemed to be in violation of this Declaration and the Association may require that the unapproved improvement be removed and the Lot restored to its prior condition at the Owner's expense.

4.3.5 The Committee shall have the right to charge a reasonable fee for reviewing each application for approval of plans and specifications. If any approval lapses due to passage of time or otherwise, a new review fee may be charged.

4.3.6 The Committee's review of plans and specifications shall be conducted for the purpose of the Association's architectural control responsibilities hereunder. Such approval shall not constitute any representation, warranty or certification as to the correctness, completeness, accuracy or feasibility of such documents or any work, items or systems shown thereon or contemplated thereby or of their compliance with governmental restrictions or requirements.

4.3.7 Any damage to roads, paths, ditches, utility lines, irrigation facilities, landscaping, natural areas or vegetation, curbs or pathways, or other improvements on or serving the Property caused by any Owner, Owner's tenant's, contractor or subcontractor or its or their agents, employees or invitees shall, at the request of the Association, be repaired (in conformity with such requirements as the Association may impose) by such Owner or the Association may itself make any necessary or desirable repairs and all costs incurred in connection therewith shall be a Specific Assessment against the responsible Owner's Lot.

Section 4.4 **Waivers.** The Committee shall have the right to waive any requirements of the Club Regulations (without the obligation to satisfy the requirements of Section 9.7 hereafter) as to any Lot or Lots if the Committee in its discretion deems such waiver consistent with the spirit and intent of the Club Regulations.

Section 4.5 **Club Regulations.** The Club Regulations may be amended from time to time by a majority vote of the Board, except that the Club Regulations may not be amended without Founder's prior written consent so long as Founder owns any Lot(s)

ARTICLE 5: MEMBERSHIP AND VOTING RIGHTS

Section 5.1 **Membership.** Every Owner of a Lot shall become a Member of the Association. If title to a Lot is held by more than one Person each such Person is a Member. An Owner of more than one Lot is entitled to one membership for each Lot owned (subject to Section 5.3 below). Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title. No person other than an Owner may be a Member of the Association, and membership in the Association may not be transferred except by the transfer of title to a Lot.

Section 5.2 **Voting.** The Association shall have two classes of voting membership, Class A and Class B. So long as there is Class B membership, Class A members are all Owners except Founder. The Class B member shall be the Founder. Upon termination of Class B membership, as provided below, Class A members are all Owners, including Founder so long as Founder is an Owner. All Members, Class A or Class B, are entitled to cast one vote for each Residential Lot owned, but as provided in the Association's Bylaws, the Class B member is entitled to elect the Board of Directors until the termination of the Class B membership.

Section 5.3 **Co-Ownership.** If more than one Person owns an interest in any Lot, or if more than one Person owns separate portions of a Lot, all such Persons are Members; but there may be only one vote(s) in the aggregate cast with respect to each such entire Lot. Such vote may be exercised as the co-Owners determine among themselves; but no split vote is permitted among co-Owners. Prior to any meeting at which a vote is to be taken, each co-Owner must file the name of the voting co-Owner with the

secretary of the Association to be entitled to vote at such meeting, unless such co-Owners have filed a general voting authority with the Secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held jointly by a husband and wife, either spouse is entitled to cast the vote for such Lot unless and until the Association is notified by either spouse otherwise in writing.

Section 5.4 **Class B Termination.** The Class B membership will terminate and convert automatically to Class A membership (to the extent the Founder then owns Lots) ("**Turnover**") upon the happening of any of the following, whichever occurs first

5.4.1 Three (3) months after the Founder conveys, other than to a successor developer, all of its right, title and interest in and to ninety percent (90%) of the total of all existing Lots in the Property For purposes of this provision, a Lot shall be considered conveyed when the deed is duly recorded in the Public Records.

5.4.2 The Founder records a disclaimer of its Class B membership in the Public Records.

Upon termination of the Class B membership, all provisions of this Declaration, Articles, or Bylaws referring to Class B membership will be obsolete and without further force or effect, including any provision requiring voting by classes of membership However, notwithstanding the termination of the Class B membership, Founder may, at its option, in place of voting its Class A membership votes for the election of the Board of Directors, appoint one of the Directors to the Board of Directors, so long as Founder holds for sale in the ordinary course of business at least five percent (5%) of the total of all the existing Lots in the Property and any planned Lots If Directors are being elected for different terms the Founder shall be entitled to appoint a Director who will sit for the longest term being offered

Section 5.5 **Amplification.** The provisions of this Declaration are amplified by the Association's Articles and Bylaws, but no such amplification will alter or amend substantially any of the rights or obligations of the Owners set forth in this Declaration The Founder intends the provisions of this Declaration on the one hand, and the Articles and Bylaws, on the other, be interpreted, construed, applied and enforced to avoid

inconsistencies or conflicting results. If such conflict necessarily results, however, Founder intends that the provisions of this Declaration control over the Articles or Bylaws and that the provisions of the Articles control over the Bylaws.

ARTICLE 6: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 6.1 **General Duties of the Association.** The following covers the basic and general duties of the Association:

6.1.1 The Association shall enforce the Rules and Regulations and all covenants and restriction of this Declaration and control and manage the Common Areas and Galveston Bay Club pursuant to the terms and provisions of this Declaration and the Association's Articles and Bylaws

6 1 2 The Association may, but is not obligated to and shall have no liability for failure to, employ security guard(s) or a security guard service All Owners acknowledge that the Founder, while in control of the Association, does not intend to hire or pay for security guard(s), and shall have no liability in connection therewith.

6 1.3 The Association shall provide for the maintenance, management, repair and, if necessary, replacement of the Common Areas in good and attractive condition, except as to any portion of the Common Areas which are required to be maintained as a portion of a Lot by the Lot Owner.

6 1.4 The Association shall pay the ad valorem taxes and other governmental taxes assessed against the Common Areas owned by Founder or the Association and obtain and pay the premiums for public liability and casualty insurance as to the Common Areas and such other types of insurance as it deems advisable Said insurance policy(s) shall be for the benefit of the Association, the Founder, Members of the Association and such other parties as the Association determines The aforesaid insurance policy(s) shall be in such amounts, subject to such conditions and contain such provisions (including deductible provisions) as the Board determines

6 1 5 The Association shall have the power to establish reserves for the improvement, repair, maintenance, and replacement of the Common Areas.

6.1.6 The Association shall have the power to incur all costs and expenses necessary or desirable to carry out its duties and responsibilities under this Declaration and in furtherance of the purposes set forth in this Declaration. It shall be the duty and responsibility of the Association, through its Board of Directors, to fix and determine from time to time, the sum or sums necessary and adequate to provide for the costs and expenses of the Association. The procedure for the determination of such Assessments shall be as hereinafter set forth in this Declaration

Section 6.2 **Management Contracts.** The Association shall expressly have the power to contract for the management of the Association and the Common Areas. The Association shall further have the power to employ personnel to perform the services required for proper administration of the Association.

ARTICLE 7: ASSESSMENTS

Section 7.1 **Assessments Established.** In accepting a deed to any Lot within the Property, each Owner, whether or not it is so expressed in such deed, is deemed to covenant to pay to the Association:

7.1.1 A semi-annual General Assessment, as defined in Section 7.2, and

7.1.2 Special Assessments, as defined in Section 7.3; and

7.1.3 Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration as defined in Section 7.4; and

7.1.4 All excise or other taxes, if any, that from time to time may be imposed upon all or any portion of the Assessments established by this Article

All of the foregoing, together with late fees and interest as specified in Section 7.9 and all costs and expenses of collection, including without limitation attorneys' fees, shall be a continuing charge on the land and secured by a continuing lien upon the Lot (and improvements thereon) against which each Assessment is made as provided in Section 7.9. Each such Assessment, together with late fees and interest as aforesaid and all costs and expenses of collection, including attorneys' fees incurred, also is the personal obligation of the Person or Persons who was or were the Owner(s) of such Lot when such Assessment fell due. Such personal obligation for delinquent assessments shall become

the joint and several obligation of the Owner's successors in title upon transfer of a Lot while delinquent Assessments are outstanding

Section 7.2 **General Assessment.** Subject to the provisions of the following sentence and Section 7.4 hereafter, the Assessments levied by the Association must be used exclusively (as determined by the Board) to promote the common good and welfare of the residents of Galveston Bay Club, for the operation of the Association, for the operation, maintenance, management, repair and replacement of the Common Areas, and to pay the costs and expenses of the Association incurred in furtherance of its duties, responsibilities and rights hereunder. To effectuate the foregoing, the Association may levy an annual general assessment ("General Assessment") to provide and be used for payment of the costs and expenses of the Association. Commencing with the year immediately following the year of the conveyance of the first Lot to an Owner other than the Founder, the maximum annual General Assessment for any year may not be increased more than twenty percent (20%) above the maximum assessment for the previous year unless approved by a vote of two-thirds (2/3rds) of each class of Owners who are voting in person or by proxy, at a meeting duly called to consider such increase. Subject to the foregoing, the amount of the annual General Assessment shall be fixed by the Board at least thirty (30) days in advance of each General Assessment period based upon an adopted budget. The General Assessment period shall coincide with the Association's fiscal year. Written notice of the amount of the General Assessment will be given to every Owner, but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid Assessment. The General Assessment may be payable in such installments as may be determined, from time to time, by the Board.

Section 7.3 **Special Assessments.** In addition to the General Assessment, the Association may levy in any fiscal year a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of any capital improvement or repair upon or to the Common Areas or for the purpose of defraying known expenses which exceeded, or when mature will exceed, the budget prepared and on which the General

Assessment was based. Any such Special Assessment shall have the approval of at least two-thirds (2/3) of the votes of each class of Owners who are voting in person or by proxy, at a meeting duly called for that purpose, provided however as follows: (a) no such approval shall be required unless the amount of any such Special Assessment exceeds a sum equal to one half the General Assessment payable by the Owners of the Residential Lots for the year immediately prior to the date of such Special Assessment, (b) Special Assessments for taxes and governmental or quasi-governmental charges or assessments shall not require such approval; and (c) Special Assessment for needed replacements or repairs to capital improvements shall not require such approval.

Section 7.4 Specific Assessments. In addition to General Assessments and Special Assessments, the Association may levy reasonable fine(s) against the Owner of any Lot(s) from time to time for violations of the covenants and restrictions set forth herein or of the Rules and Regulations by the Owner or the Owner's family, tenants, guests or invitees, and may levy an assessment against the Owner of any Lot to reimburse itself for any costs and expenses incurred by the Association to fulfill the obligations of the Owner under this Declaration as provided for in Section 3.11 of this Declaration. Such fine(s) shall not exceed \$50 per violation or such higher amount as may be permitted by Texas law, from time to time. In the event of a willful violation of the covenants and restrictions of this Declaration or the Rules and Regulations which continues after ten (10) days written notice to the Owner, each day the violation continues may be considered a separate violation for purposes of assessing fines. Any such fine(s) and assessments, together with any other charges or indebtedness of any Owner to the Association may be assessed by the Association as a specific assessment ("**Specific Assessment**") against such Owner's Lot(s). No such fine(s) shall be imposed, however, without notice to the Owner sought to be fined and an opportunity for a hearing before a committee of at least three (3) Members appointed by the Board who are not officers, directors or employees of the Association. If such committee does not approve the fine, it may not be imposed.

Section 7.5 Uniform Amount of Assessments. The General Assessment and any Special Assessments must be uniform throughout the Residential Lots. Notwithstanding

any other provision herein contained, in the event Lots are consolidated with other Lots or partial Lots as permitted by this Declaration, General and Special Assessments shall thereafter be imposed against any such consolidated Lot(s) in proportion to the increase in size by virtue of the consolidation.

Section 7.6 **Founder's Assessments.** Notwithstanding anything contained herein to the contrary, until Turnover, Founder may, at its sole option, prior to each fiscal year of the Association, elect to either (i) be excused from the payment of any Assessments under this Declaration, but, in lieu thereof, Founder shall pay all expenses incurred by the Association in excess of the Assessments and Capital Contribution Fees collected by the Association or (ii) pay Assessments as provided for in this Declaration for the existing Lots which Founder owns. Founder shall render an accounting of income and expenses incurred as may be required by law. Prior to Turnover, while it is in control of the Association by virtue of its ability to elect the Board of Directors, the Founder shall not be required to establish or contribute to any reserve accounts.

Section 7.7 **Remedies of Association and Lien for Assessment.** If any Assessment is not paid within thirty (30) days after its due date, (i) a five percent (5%) administrative late fee may be added to the Assessment and (ii) such overdue Assessment shall bear interest at a rate equal to the lesser of (a) eighteen percent (18%) per annum or (b) the maximum rate permitted by Texas law. The Association may bring an action at law against the Owner personally obligated to pay such Assessment, foreclose its lien against such Owner's Lot and improvements thereon or both. No Owner may waive or otherwise escape liability for the Association's Assessments. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien or its priority. All sums assessed to any Lot, together with late fees, interest and all costs and expenses of collection, including reasonable attorneys' fees, may be the basis for a money or other judgment and are secured by a lien on such Lot (and improvements thereon) in favor of the Association. Such lien is subject and inferior to the lien of any First Mortgage encumbering such Lot. Except for liens of any First Mortgage, all other liens accruing on any Lot after this

Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Article 7, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors of the existence of the Association's lien and its priority. The Association from time to time may record a notice of lien for the purpose of further evidencing the lien established by this Article, but neither the recording of, nor failure to record, any such notice of lien will affect the existence or priority of the Association's lien.

Section 7.8 Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Texas. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Owner also is required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, which Assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the Owner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its owner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction of the foreclosure may enter a personal judgment against the Owner for such deficiency. Nothing herein shall be construed as a limitation on the right of Founder to bid at any foreclosure sale pursuant to this Section 7.10.

Section 7.9 Subordination of Lien. The lien for the Assessments provided in this Article is subordinate to the lien of any valid First Mortgage. Sale or transfer of any Lot does not affect the assessment Lien, except that the sale or transfer of any Lot pursuant to the valid foreclosure of any First Mortgage, or any valid voluntary conveyance or other proceeding in lieu of such foreclosure, extinguishes the assessment lien as to payments

that became due prior to such sale or transfer, without prejudice, however, to the Association's right to collect such delinquent amounts by suit against any Owner personally liable for their payment. No such sale or transfer relieves such Lot from liability for Assessments thereafter becoming due, or from their lien. The Association shall endeavor to give any institutional holder of a First Mortgage of record thirty (30) days notice within which to cure any delinquency in the payment of Assessments before instituting foreclosure proceedings against the Lot. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien established by this Article; provided that in no event shall such encumbrancer be subrogated to any rights of the Association with respect to the lien established hereby.

Section 7.10 **Homesteads.** Each Owner, by accepting the deed for a Lot is charged with actual or constructive notice of the lien provisions of this Declaration and the intent of this Declaration that the Lots and Improvements thereon stand as security for certain obligations of the Owners under this Declaration. The lien created by this Declaration is deemed to relate back to the time of the filing of this Declaration and will be deemed a pre-existing lien for purposes of homestead and will prevail over the homestead rights of any Owner. The subordination of the lien for Assessments to any First Mortgage provided in Section 7.11 of this Declaration shall not affect the relation back of the lien, except only to the extent necessary to subordinate the lien to any valid First Mortgage.

Section 7.11 **Certificate.** Upon demand, and for a reasonable charge, the Association will furnish to any interested person a certification signed by an officer of the Association setting forth whether the General Assessment and any Special Assessment or Specific Assessment have been paid and, if not, the unpaid balance(s).

ARTICLE 8: ENVIRONMENTAL PROTECTIONS

Section 8.1 **Construction Setback.** No structures other than boardwalks, walkovers and pavilions shall be located seaward of the Coastal Construction Control Line ("CCCL") as shown on the Plat.

Section 8.2 **Exterior Lighting.** Exterior Lighting shall be subject to the following restrictions:

8.2.1 All proposed fixtures shall be appropriately shielded, louvered and/or recessed.

8.2.2 Fixtures, other than street lights, shall be low-mounted through the use of bollards, ground level fixtures, or low wall mounts.

8.2.3 Lights proposed for any structures on the seaward side of the CCCL must incorporate shielded low pressure sodium lamps, low wattage (i.e., 50W or less) "bug" type bulbs or other light sources approved by the Architectural Committee

8.2.4 High intensity lighting, such as that proposed for roadways, shall utilize shielded low pressure sodium lamps or other light sources approved by the United States Fish and Wildlife Service (or its successor entity) ("FWS") The number of high intensity lamps shall be kept to a minimum.

8.2.5 Only low intensity lighting shall be utilized in parking areas This lighting shall be set on a base which raises the source of light no higher than 48" off the parking surface and shall be shielded

8.2.6 All lighting located in trees shall be approved by the Architectural Committee

Section 8.3 **Boardwalks.** Boardwalks, walkovers and pavilions extending seaward of the CCCL line shall be approved by the Architectural Committee. Pedestrian circulation systems shall be designed to direct foot traffic to the boardwalks The boardwalks, walkovers and pavilions shall be limited to the number and approximate locations specified in the Master Plan unless approved by FWS and permitted by the Architectural Committee

Section 8.4 **Trash Receptacles.** Scavenger-resistant trash receptacles shall be utilized throughout Galveston Bay Club. Owners and other responsible parties shall be required to keep garbage cans and other refuse containers tightly covered and properly maintained.

Section 8.5 **Waterfront Protection.** Pedestrian traffic shall be directed to the above-referenced boardwalks and walkovers. The Common Area vegetation landward to the Coastal Construction Control Line shall not be disturbed by construction except for limited boardwalks, walkovers and pavilions. Native vegetation shall be retained to the

extent reasonably possible Indigenous species shall be utilized for new plantings. Stormwater runoff shall be controlled to avoid erosion.

Section 8.6 **Domestic Cats and Dogs.** All domestic cats and dogs must be confined to Dwellings or other buildings unless accompanied and on a leash. No one Residential Lot may house more than 2 cats and 2 dogs

ARTICLE 9: GENERAL PROVISIONS

Section 9 1 **Operation.** The covenants and restrictions of this Declaration are self-executing and will run with the Property and be binding upon all Persons having, any right, executed by the Association with the formalities from time to time required of a deed and joined in by not less than the Owners of ninety percent (90 %) of all Lots; and (ii) thereafter by an instrument so executed by the Association and joined in by not less than the Owners of seventy-five percent (75 %) of all Lots. No amendment is effective until recorded in the Public Records, and the Association's proper execution will entitle it to be publicly recorded, notwithstanding the informal execution by the requisite percentage of Owners The joinder by the requisite number of Owners may be contained in an exhibit to the amendment. Notwithstanding the foregoing, no instrument of amendment or termination shall be effective while Founder has more than ten (10) votes unless Founder shall approve and join in such instrument. For purposes of this Section, a Lot shall be considered conveyed when the deed is duly recorded in the Public Records Notwithstanding anything to the contrary herein, by a majority vote of the Board, the Association may at any time, amend this Declaration where necessary to comply with regulations of the Veterans Administration, the Federal Housing Administration, the Office of Interstate Land Sales Registration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank Board or other similar federal or state governmental entity.

Section 9 2 **Rights of Mortgages.** Any holder of any First Mortgage shall have the following rights

9.2.1 During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect the books, records, and papers of the Association at the location where they are commonly kept,

9.2.2 Upon payment of any reasonable, uniform charge that the Association may impose to defray its costs, to receive copies of the Association's books, records, or papers, certified upon request;

9.2.3 Upon written request to the Secretary of the Association, to receive copies of the annual financial statements of the Association; provided, however, the Association may make a reasonable charge to defray its costs incurred in providing such copies,

9.2.4 To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon; and

9.2.5 By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable annual fee that the Association from time to time may establish for the purpose of defraying its costs, to receive any notice that is required to be given to the Class A members of the Association under any provision of this Declaration, or the Articles or Bylaws

Section 9.3 **Variances.** The right and discretion is hereby reserved to the Association to grant variances with respect to individual Lots from the obligations of Articles 3 and 4 in cases where not to grant such variance would create hardship in the opinion of the Board or where the granting of such variances would in the opinion of the Board be in keeping with the spirit and intent of this Declaration and would not materially adversely affect any neighboring Lot or the Property as a whole. Such variances, if granted, shall be granted upon application to the Board by the Owner in writing setting forth in detail the variance requested and reasons therefor. Copies of each application for variance shall be forwarded (certified mail, return receipt requested) to each Owner of a Lot which adjoins or fronts on the Lot for which the variance is requested. If appropriate, any such variance

shall be granted by the Board in writing, and shall be executed by the Board and the Owner with the formalities of a deed and recorded in the Public Records. The variance may be conditioned on the Owner's compliance with such conditions as the Board deems advisable. The Owner requesting a variance will be responsible for payment of all costs associated with processing a variance request whether or not the variance is granted.

Section 9.4 **Severability.** Invalidation of any particular provision of this Declaration, by judgment or court order will not affect any other provision or any valid portion or application of such invalid provision, all of which shall remain in full force and effect, provided, however, any Court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in this Declaration, when necessary to avoid a finding of invalidity while effectuating Founder's intent of providing a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Property.

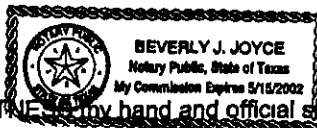
IN WITNESS WHEREOF, the Founders have duly executed this instrument on the day and year first above written

FOUNDER:

By Mark J. Meier
MARK J MEIER

STATE OF TEXAS §
 §
COUNTY OF Harris §

On Dec 20, 1995, before me, Beverly J. Joyce,
a Notary Public, personally appeared MARK J MEIER, personally known to me and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person or the entity upon behalf of which the person acted,
executed the instrument.



WITNESSE my hand and official seal

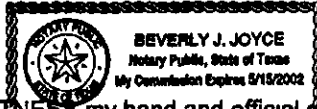
Beverly J. Joyce
Signature of Notary

FOUNDER:

By: Mark D. Meier
MARK D MEIER

STATE OF TEXAS §
COUNTY OF Harris §
§

On Dec. 20, 1999, before me, Beverly J. Joyce,
a Notary Public, personally appeared MARK D MEIER, personally known to me and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person or the entity upon behalf of which the person acted,
executed the instrument



WITNES my hand and official seal

Beverly J. Joyce
Signature of Notary

FOUNDER:
By. *Edwin A. Eubanks*
EDWIN A. EUBANKS

STATE OF TEXAS §
COUNTY OF Harris §
§

On Dec. 20, 1999, before me, Beverly J. Joyce,
a Notary Public, personally appeared EDWIN A. EUBANKS, personally known to me and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person or the entity upon behalf of which the person acted,
executed the instrument.



WITNESSE my hand and official seal.

Beverly J. Joyce
Signature of Notary

*McLACHLIN & ASSOCIATES
2318 MARKET STREET
GALVESTON, TX 77550*

GALVESTON BAY CLUB

The Road Less Traveled
Galveston Texas

A 21 Lot Subdivision

Developer: Ed. Eubanks, Mark D. Meier, Mark J. Meier
Triton Coastal Ventures, LLC
Surveyor: Andrew Johnson, Jr RPLS 1530

Being 5.56 acres of land out of part of Lots 481 and 482 in Section 2 of the Trimble and Lindsey Survey of Galvesto Island, Galveston County, Texas and Lots 13, 14 and the South 135 feet of Lot 12, together with the 30' private road, adjoining on the South out of SEA BREEZE "ON ECKERT BAYOU" ADDITION No. 1, a subdivision of Part of Lot 478 in Section 2, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas, as recorded in Volume 234-A, Page in the office of the County Clerk of Galveston County, Texas, and being more particularly described by metes and boun follows:

BEGINNING at a point S 25-00-00 E, a distance of 75 feet from the Northeast corner of said Lot 12,
THENCE S 25-00-00 E, along the Easterly line of said Lot 12, a distance of 165.00 feet to South line of said Lot 47
THENCE S 65-00-00 W, along the South line of said Lot 478, a distance of 330.00 feet to the Southwest corner of Lot 14 and the Southeast corner of said Lot 481 and the Northeast corner of said Lot 482,
THENCE S 25-00-00 E, along the Easterly line of said Lot 482, a distance of 1068.65 feet to the shoreline of Eckert Bayou;
THENCE along the said shoreline (the dark line Westerly and Northerly of the labeled lot lines)
THENCE N 62-06-21 W, along the said shoreline, a distance of 15.99 feet;
THENCE N 56-30-55 W, along the said shoreline, a distance of 8.12 feet;
THENCE N 50-02-14 W, along the said shoreline, a distance of 27.45 feet;
THENCE N 48-39-45 W, along the said shoreline, a distance of 40.39 feet;
THENCE N 48-04-24 W, along the said shoreline, a distance of 23.93 feet;
THENCE N 57-23-08 W, along the said shoreline, a distance of 15.28 feet;
THENCE N 38-08-37 W, along the said shoreline, a distance of 43.41 feet;
THENCE N 63-33-28 W, along the said shoreline, a distance of 16.28 feet;
THENCE N 63-50-24 W, along the said shoreline, a distance of 19.31 feet;
THENCE N 44-28-26 W, along the said shoreline, a distance of 5.72 feet;
THENCE N 31-51-41 W, along the said shoreline, a distance of 32.85 feet;
THENCE N 57-22-55 W, along the said shoreline, a distance of 34.74 feet;
THENCE N 13-07-14 W, along the said shoreline, a distance of 19.92 feet;
THENCE N 47-38-41 W, along the said shoreline, a distance of 100.98 feet;
THENCE N 34-47-57 W, along the said shoreline, a distance of 69.56 feet;
THENCE N 07-53-56 W, along the said shoreline, a distance of 28.01 feet;
THENCE N 26-16-01 W, along the said shoreline, a distance of 59.16 feet;
THENCE N 26-50-12 W, along the said shoreline, a distance of 84.05 feet;
THENCE N 39-13-06 W, along the said shoreline, a distance of 49.80 feet;
THENCE N 26-57-46 W, along the said shoreline, a distance of 62.38 feet;
THENCE N 66-58-36 W, along the said shoreline, a distance of 27.29 feet;
THENCE N 26-16-05 W, along the said shoreline, a distance of 58.32 feet;
THENCE N 39-46-42 W, along the said shoreline, a distance of 55.65 feet;
THENCE N 59-43-04 W, along the said shoreline, a distance of 55.28 feet;
THENCE N 69-02-30 W, along the said shoreline, a distance of 37.35 feet;
THENCE N 48-06-38 W, along the said shoreline, a distance of 44.28 feet;
THENCE N 01-45-27 E, along the said shoreline, a distance of 28.38 feet;
THENCE N 23-30-20 W, along the said shoreline, a distance of 23.10 feet;
THENCE N 32-58-47 E, along the said shoreline, a distance of 18.68 feet;
THENCE N 02-07-16 E, along the said shoreline, a distance of 72.10 feet;
THENCE N 15-24-17 E, along the said shoreline, a distance of 27.95 feet;
THENCE N 21-43-03 E, along the said shoreline, a distance of 48.37 feet;
THENCE N 06-53-59 E, along the said shoreline, a distance of 21.86 feet;
THENCE N 23-57-21 E, along the said shoreline, a distance of 57.79 feet;
THENCE N 51-22-54 E, along the said shoreline, a distance of 30.42 feet;
THENCE N 53-05-44 E, along the said shoreline, a distance of 91.74 feet;
THENCE N 84-46-18 E, along the said shoreline, a distance of 24.84 feet;
THENCE N 83-00-35 E, along the said shoreline, a distance of 26.36 feet;
THENCE N 65-11-52 E, along the said shoreline, a distance of 14.39 feet;
THENCE N 63-14-42 E, along the said shoreline, a distance of 12.83 feet;
THENCE N 49-41-45 E, along the said shoreline, a distance of 32.19 feet;
THENCE N 80-20-32 E, along the said shoreline, a distance of 35.34 feet;
THENCE N 61-48-53 E, along the said shoreline, a distance of 38.42 feet;
THENCE N 64-49-42 E, along the said shoreline, a distance of 37.56 feet;
THENCE N 66-49-16 E, along the said shoreline, a distance of 15.73 feet;
THENCE N 31-55-01 W, along the said shoreline, a distance of 28.20 feet to the North line of the South 135 feet of L 12,
THENCE N 65-00-00 E, a distance of 101.84 feet to the PLACE OF BEGINNING, and containing 5.56 acres more or less

The above described property does lie within the 100 Year Flood Plain as established by the U. S. Department of Housing and Urban Development as shown on COMMUNITY 485469, PANEL 0041, SUFFIX D, and is in ZONE V-20, BASE FLOOD ELEVATION of 15 feet (elevation of the lowest part of the lowest beam).

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY

Patricia Ritchie 014-18-2144

1999 DEC 28 01:31 PM 9964792
HOOD_P \$75.00
Patricia Ritchie, COUNTY CLERK
GALVESTON, TEXAS
