

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
BEACON BAY SUBDIVISION, SECTION TWO

THE STATE OF TEXAS

COUNTY OF POLK

THAT this Declaration of Covenants, Conditions, and Restrictions (hereinafter referred to as the "Declaration") is made on the date hereinafter set forth by BEACON HOLDINGS CORPORATION, a Texas corporation (hereinafter referred to as "Declarant") acting herein by and through its duly authorized officers.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain property known as Beacon Bay Subdivision, Section Two, a subdivision in Polk County, Texas, according to the map or plat (hereinafter referred to as "Subdivision Plat") thereof recorded in Volume __, Page __ inclusive, of the Map Records of Polk County, Texas; and

WHEREAS, it is the desire of Declarant to place certain covenants, conditions, restrictions, stipulations, and reservations upon and against Beacon Bay Subdivision, Section Two, in order to establish a uniform plan for the development, improvement, and sale of such property, and to ensure the preservation of such uniform plan for the benefit of both the present and future owners in said subdivision;

NOW, THEREFORE, Declarant hereby adopts, establishes, and imposes upon all of the Lots in Beacon Bay Subdivision, Section Two, the following reservations, easements, restrictions, covenants, and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the property which reservations shall run with said property and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration of Covenants, Conditions, and Restrictions, shall have the following meanings:

Section 1. "Architectural Control Committee" or "Committee" shall mean and refer to the Beacon Bay Subdivision, Section Two, Architectural Control Committee provided for in Article III hereof.

Section 2. "Declarant" shall mean and refer to Beacon Holdings Corporation, its successors and assigns, if such successors and assigns are so designated in writing by Declarant as the successors and assigns of all of Declarant's rights hereunder.

Section 3. "Living Unit" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons living together as a single housekeeping unit; provided, however, the term "Living Unit" shall not include a garage constructed on the Lot which is attached or detached from the other improvements on the Lot.

Section 4. "Lot" shall mean and refer to any of the numbered residential lots shown on the Subdivision Plat or any replat thereof or which may become incorporated by annexation.

Section 5. "Occupied Lot" shall mean and refer to any Lot on which there is a Living Unit in which one or more persons are residing.

Section 6. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 7. "Property" and/or "Properties" shall mean and refer to Beacon Bay Subdivision, Section Two, as identified in the subdivision plat.

Section 8. "Residential Dwelling" shall mean and refer to a single residential dwelling with garage.

Section 9. "River Authority" and/or "TRA" shall mean and refer to the Trinity River Authority.

Section 10. "Subdivision" shall mean and refer to the real property contained within the perimeter boundaries of the subdivision plat and any additional properties which may hereafter be brought within the scheme of this Declaration pursuant to the provisions set forth herein and hereafter brought within the jurisdiction of the association.

Section 11. "Subdivision Plat" shall mean and refer to the map or plat of Beacon Bay Subdivision, Section Two, recorded in Volume __, Page __ inclusive, of the Map Records of Polk County, Texas.

ARTICLE II RESTRICTIONS, EXCEPTIONS, AND DEDICATIONS

The Subdivision Plat dedicates for use, subject to the limitations set forth therein, the easements shown thereon and such Subdivision Plat further establishes minimum setback lines applicable to the Property. All dedications, limitations, restrictions, and reservations shown on the Subdivision Plat are incorporated and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed, conveying said Property or any part thereof, whether specifically referred to therein or not.

Section 1. Utility Easements.

- (a) All Lots are subject to the utility easements shown on the plat or designated in these Restrictions.
- (b) No building shall be located over, under, upon or across any portion of any utility easement; however, the Owner of each Lot shall have the right to construct, keep, use and maintain driveways and similar improvements across the utility easements located on the front of the Lot and/or along the side of corner Lots adjacent to street rights-of-way.
- (c) With the prior written approval of the Committee, the Owner of each Lot also shall have the right to construct, locate, keep, and maintain driveways, walkways, steps, air conditioner

units, and equipment over, across, or upon any utility easement along the side of such Lots (the "Side Lot Utility Easement") and shall be entitled, at all times, to cross, have access to and use the improvements located thereon; however, any such improvements placed upon such Side Lot Utility Easement by the Owner shall be constructed, maintained and used at Owner's risk and the location of such improvements shall not impede the natural flow of water across the Lot. The Owner of each Lot subject to said Side Lot Utility Easements shall be responsible for (1) any and all repairs to the driveways, walkways, steps, air conditioner units, and equipment which cross or are located upon such Side Lot Utility Easements caused by the utility district, any public utility, or cable television company in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Side Lot Utility Easements.

- (d) In no event shall any Owner construct, keep, maintain, or use walkways, steps, equipment, and improvements upon any utility easements located along the rear of any Lot.
- (e) In addition to the utility easements shown on the recorded Plat, there is hereby dedicated a five-foot (5') wide Sam Houston Cooperative utility company easement, extending from the surface of the ground downward, said easement being two and one-half (2-1/2') feet on each side of underground electric service lines as now or hereafter constructed and will extend along the route selected by Sam Houston Cooperative utility company from Sam Houston Cooperative's distribution facilities to the electric meter when and as located upon Lots and Reserves in the Subdivision. Sam Houston Cooperative utility company shall have the right to excavate said Lot easement strip, and to remove objects, structures, growth, or protrusions thereon.
- (f) The Owner of each Lot shall indemnify and hold harmless Declarant, public utility companies, private utility companies, and any cable television company having facilities located over, across, or under utility easements from any loss, expense, suit or demand resulting from injuries to persons or damage to Property in any way occurring, incident to, arising out of, or in connection with said Owner's installation, maintenance, repair or removal of any permitted improvements located within utility easements. Neither Declarant nor any utility company or cable television company using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees or servants to fences, shrubbery, trees, flowers, or any other real or personal property of the Owner situated on the easement.

ARTICLE III USE RESTRICTIONS

Section 1. Land Use and Building Type.

- (a) All Lots shall be restricted in use and shall be used for residential purposes only (hereinafter referred to as "Lots") except as outlined in Section 1(a) herein. No structure shall be erected, altered, placed, or permitted to remain on any Residential Lot other than one (1) single family dwelling with a detached or an attached fully enclosed garage for not less than two (2) nor more than three (3) cars. The garage will be available for parking automobiles at all times without any modifications being made to the interior of said garage. Such garage shall be constructed at the same time as the dwelling and act as an integral part of the residential structure, constructed with the same design, color and materials as the residence. Occupancy of the dwelling shall not be authorized until the garage is complete. The residential dwelling shall not exceed a height of thirty-five (35) feet. The height shall be measured from where the highest point of the natural grade of the Lot abuts the structure, except where the slab must be elevated above the natural grade to achieve minimum slab elevation as required by the Committee. In this situation, the height shall be measured from the minimum slab elevation established by the Committee. A detached garage shall not exceed one story in height.

however, if a bona fide servants' quarters is constructed above the garage, the total height will not exceed the main dwelling height or number of stories. No garage or servants' quarters or other permitted structure shall be erected or built on any Lot until construction of the residential dwelling has commenced.

No garage may open to the rear of a Waterfront Lot unless otherwise approved by the Committee. All detached garages where permitted in this Article must be attached to the main residence with a covered walk or porte cochere with the cover or porch being a minimum of six feet (6') wide.

As used herein, the term "Residential Purposes" shall be construed to prohibit the use of said Lots for garage apartments or apartment houses; and no Lot shall be used for business or professional purposes of any kind except as outlined in Section 1(a) herein, nor for any commercial or manufacturing purpose. Each Lot improvement thereon shall be used only as a single family residence. The rental of a dwelling for occupancy as a residence shall not be construed as a business. No building of any kind or character shall be moved onto any Lot within said Properties without written permission of the Committee; however, no Residential Dwelling shall be moved onto any Lot within said Properties. The use of a tent, house trailer, travel trailer, camper, or motor home, either as a weekend, temporary, or permanent residence is prohibited.

- (b) Residences shall be allowed to have one room designated as a home office. The intent of this restriction is to allow for a home business that is converted to a computer/modem based technology. It is further understood that this restriction is not to be construed to be used for retail/consumer-oriented business that would encourage or increase street traffic. Garage sales or yard sales (or any similar vending of merchandise), conducted on any Lot more than once per year shall be considered business activity and therefore prohibited.

Section 2. Carports. Carports may be utilized and built only in addition to the required garage. The carport must be an integral part of the residential structure and constructed with the same design, color, and materials as the Residential Dwelling. Only motor vehicles, as identified in Section 23 of this Article, shall be parked or stored in a carport. Carports must be approved in writing prior to construction by the Architectural Control Committee.

Section 3. Architectural Control. No improvements shall be erected, placed, repaired, or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the improvement thereon have been approved by the Architectural Control Committee. Plans shall be reviewed with respect to harmony with the existing structures, design, color, location with respect to topography and finished grade elevation and compliance with minimum construction standards provided for herein. The Committee is authorized to grant variances if the variance is reasonable and if the structure is not inconsistent with the general scheme and harmony of the development.

Section 4. Dwelling Size. The minimum square footage of the total living area of the main residential dwelling, exclusive of open porches, garages, carports, and servants' quarters shall be as follows:

- (a) Lots 3 through 5 shall have a minimum living area of 1,800 square feet.
 (b) Lots 1 and 2 and Lots 6 through 18 shall have a minimum living area of 1,500 square feet.

Section 5. Type of Construction Materials and Landscaping.

- (a) Residences, garages, and carports shall be of ninety percent (90%) masonry construction or its equivalent on its exterior wall area, unless otherwise approved, in righting, by the Architectural Control Committee. Masonry includes stucco on metal lath.
- (b) No roofing material shall be used on any building in any part of the Properties without the written approval of the Committee. All roofing material must be applied in accordance with the manufacturer's specifications.
- (c) Landscape plans must be approved by the Committee before work commences. All yards shall be landscaped, with landscaping to be completed within the three (3) months after residence is occupied. All landscape plans shall include the installation and planting of a minimum of two (2) hardwood trees with a six-foot (6') height minimum (15-gallon container minimum) unless larger trees exist.
- (d) Roof vents, vent stacks, galvanized roof valleys, and other roof items must be painted to match the roof materials. Galvanized roof valleys must be primed before being painted to ensure the prevention of peeling.
- (e) Any retaining wall around any building slab shall be masonry construction. The use of wood or wood siding for such retaining walls shall be prohibited.

Section 6. Building Location. No main residence, garage, or carport, nor any part thereof, shall be located on any Lot nearer than the minimum building lines as shown on the Subdivision Plat. However, at such time as plans are submitted to the Committee for approval, the Committee may require that the residence, garage, or carport be located at a greater or closer distance from the back Lot line than the building line shown on the recorded plat. Eaves, steps, and open porches shall not be considered as a part of the building, provided that no portion of any residence, garage, carport, or structure shall encroach upon another Lot.

The Committee may approve deviations or grant variances of the building location requirements provided the variance or deviation does not alter the scope and intention of these Restrictions. The Owner shall make a written request to the Committee for a variance or deviation.

Any Owner of one or more adjoining Lots, with the written permission of the Committee, may merge such Lots into one building site with the privilege of placing or constructing improvements on such resulting site, in which case side setback lines shall be measured from the resulting side property lines rather than the Lot lines as indicated on the recorded plat and such composite building site shall thereupon be regarded as a "Lot" for the purposes of this Article III, Section 6, only.

Section 7. Slab Requirements. All building foundations shall consist of a concrete slab, unless the Committee approves a different type of foundation when circumstances, such as topography of the Lot, make it impractical to use a concrete slab on all or any portion of the foundation of the building improvements constructed on the Lot. The finished slab elevation for all structures shall be a minimum of 137.0' MSL of Polk County, Texas, the Polk County Engineers' Office, and other applicable governmental authorities. All Waterfront Lots shall be at a minimum slab elevation of 137.0 feet due to the flowage easement around Lake Livingston. All residential foundations/slabs for all Lots in the subdivision must be a minimum of as described in the Construction Specifications/New Construction Application. The Committee does not require but does recommend the use of piers in connection with building foundations. The Committee does not determine whether the structural integrity of the slab is adequate. A structural engineer should be consulted on these matters. In the development of the Property, Declarant has placed certain amounts of fill dirt on some of the Lots including the Waterfront Lots. Sufficient soil

investigation should be obtained for proper slab design. The Committee may make deviations in the above foundation requirements provided such deviations do not alter the scope and intent of the restrictions.

Section 8. Timing of Construction. Construction of any Residential Dwelling on any Lot must be commenced within three (3) months of approval of construction plans and specifications by the Committee. Completion of construction of any such improvements must be accomplished within twelve (12) months following the commencement of construction. For the purposes hereof, the term "commencement of construction" shall be deemed to mean the date on which the first foundation forms are set. After commencement of construction, the work thereon shall be prosecuted diligently to the end that the same shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. The foregoing periods shall be extended in the event of and only for the duration of delays due to strikes, war, acts of God, or other causes beyond the reasonable control of the builder or Owner. Additionally, failure to complete construction in a timely manner shall allow the Declarant to enter upon the Lot and complete the construction at the cost and expense of the Owner of the Lot. All sums owing to the Declarant by reason of the foregoing shall constitute an assessment and shall be secured by a lien.

Section 9. Annoyances or Nuisances. No noxious or offensive activity shall be carried on upon any Lot or any portion of Lake Livingston or any canal connecting to Lake Livingston adjacent to the Subdivision, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No exterior speaker, horn, whistle, bell, or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used, or placed on a Lot. Activities especially prohibited include, but are not limited to the following:

- (a) The performance of work on boats, automobiles, or other vehicles upon the Lot or in driveways or streets abutting Lots except as permitted in Section 22 of this Article.
- (b) The use or discharge of firearms, firecrackers, or other fireworks within the Properties.
- (c) Storage of flammable liquids in excess of five (5) gallons.
- (d) Activities which may be offensive by reason of odor, fumes, dust, smoke, vision, vibration, or pollution which are hazardous by reason of excessive danger, fire, or explosion.
- (e) Excessive noise from the operation of any boat on Lake Livingston or any canal connecting to Lake Livingston.

Section 10. Temporary Structures. No structure of a temporary character, whether motor home trailer, recreational vehicle, travel trailer, mobile home trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time as a residence, or for any other purpose, either temporarily or permanently. Portable toilet facilities may be placed at the construction site of all Residential Dwellings during construction.

Section 11. Signs and Billboards. No advertising signs, for sale signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on any portion of the Subdivision. Declarant, however, shall have the right to erect identifying signs at the entrance of the Subdivision, and Declarant may place and maintain or permit to be placed and maintained such builder advertising signs as it may desire in its sole discretion in connection with the construction of homes in the Subdivision. The Declarant shall have the right to enter in and upon any Lot for the purposes of removing any sign being maintained thereon which has not been approved by it. In no event shall the Declarant be liable to any person or persons for any damages of whatever nature for removing such signs in a reasonable manner.

Section 12. Basketball Goals. Basketball goals may not be mounted on or attached to any Residential Dwelling or its garage. Only the use of portable basketball goals shall be allowed on any Lot, and all portable basketball goals shall be stored out of public view behind a screen at all times when not immediately in use.

Section 13. Oil and Mining Operations. No water drilling, oil drilling, or development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, maintained, or permitted upon any Lot. Declarant shall reserve to itself, its successors and assigns, all oil, gas, and other minerals in, on, or under or that may be produced from the Subdivision, but Declarant shall be controlled by the restrictions hereof. However, Declarant does not waive any right to exploit, explore, or develop mine, or produce such oil, gas, and other minerals with wells drilled on the surface of lands other than the Subdivision, including but not limited to directional wells bottomed beneath or drilled through any part (other than the surface) of the Subdivision or by pooling its oil, gas, and mineral interests with lands adjoining the Subdivision in accordance with the laws and regulations of the State of Texas.

Section 14. Storage and Disposal of Garbage and Refuse. No Lot shall be used or maintained as dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic, or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in construction may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable manner on the Lot.

Section 15. Electric Distribution System. The type of electric service supplied to Owners will be alternating current at approximately 60 cycles per second, single-phase, three-wire, 120/240 volts and metered at 240 volts. It is understood and agreed that only electrical service of the characteristics described above, will be furnished by Sam Houston Electric Cooperative in Beacon Bay Subdivision, and that such service will be from the electric distribution system to be installed by Sam Houston Electric Cooperative, and Owners agree that only electric service at 120/240 volts, single-phase, three-wire, will be available for Lots. The locked rotor current of any motor connected to this service will be limited in accordance with the standard service practices of Sam Houston Electric Cooperative. The utility easement areas dedicated and shown on the plat map of Beacon Bay Subdivision may be cleared and kept clear by any utility of all trees, bushes, and other growth, including overhanging branches from trees or protrusions from structures located upon adjacent property, without payment to Owners by such utility for each clearance, cutting, or trimming. The provisions of this paragraph shall constitute a covenant running with the land as to each Lot.

Only underground electrical service shall be available for Lots and no above-surface electric service wire shall be installed outside of any residence or other structure. Developer may allow overhead service lines on the perimeter boundary of the Subdivision. It is required that individual underground electrical service drops be installed to each residence. The Owners of each residence will therefore comply with Sam Houston Electric Cooperative's policy regarding such underground service installations, and the Owners do hereby agree to pay any charges which might be incurred for the installation of the underground service as set forth in said policy. Sam Houston Electric Cooperative's policy is subject to change as set forth in the policy. The Owners shall ascertain the location of said service drops and keep the area over the route of said service drops free of excavations and clear of structures, trees, and other obstructions; and Sam Houston Electric Cooperative may install, maintain, repair, replace, and remove said underground service drops and open the ground for any such purpose or purposes; and no payment will be due or made by any utility for such use or activity.

Declarant hereby reserves the right to grant upon, across, and over each Lot an easement and license along the front and rear of each Lot, and within the building setback areas of each lot to the width of two (2) feet measured from each boundary of each Lot, protruding from each boundary into the interior portion of each Lot, for the purpose of erection, construction, maintenance, repairs, and the continuous placement of all electrical lighting system throughout the Property. This reserved right is expressly reserved on behalf of and for the benefit of Declarant and any public utility company, including but not limited to Sam Houston Electric Cooperative. This reserved right includes expressed right of Declarant and each public utility company to clear, grade, and remove such obstructions including but not limited to trees, brush, and other landscaping that the Declarant or the public utility company deems necessary in order to effectuate the construction, erection, maintenance, and continuance placement of the electrical lighting system hereby contemplated. Declarant further reserves hereby unto itself and to any such public utility company the expressed right to enter upon any Lot for the purpose of construction, installation, maintenance, repair, and continuous placement of the electrical lighting contemplated hereunder and to remove any obstruction as might exist within this designated area, and such shall not be deemed to be trespass in any respect to the rights of the Owner of the Lot. Each Owner, by acceptance of a deed to a Lot in these Properties, does acknowledge the existence of this reserved right and the rights hereunder created, such right being for the expressed benefit of each other Lot in the Properties. Neither Declarant nor any public company acting under the easement license or rights referred to herein shall be liable for any damages done by themselves or their assigns, agents, employees, or servants to any fences, shrubbery, trees, flowers, or any other property of the Lot Owner situated on the Property by this easement and license.

Section 16. Views to and from Lake Livingston. Views to and from Lake Livingston are encouraged so that each view can become a positive addition to the environment of the Properties. It is not the intent of these restrictions to remove any existing trees from the Property. The removal of existing trees from Lots must be approved by the Committee.

Section 17. Walls, Fences, and Hedges. All walls, fences, and hedges must be approved by the Committee. Except as otherwise provided herein, no walls or fences shall be erected or maintained nearer to the front of any Lot than the front of the Residential Dwelling constructed on the Lot.

Except as otherwise provided herein, all walls and fences on Waterfront Lots must be of ornamental iron construction and shall be black in color and of a design that conforms to the Committee's predetermined plan for such fences. The Committee may grant variances upon written request by the Owner. Pilasters which are in harmony with the main residential structure shall be used in conjunction with all ornamental iron fences.

No chain link fences shall be erected, placed, or permitted to remain on any residential Lot. No fence shall be installed which will impede the natural flow of water across the Lot. No fence shall be installed on the 10'0" easement reserved adjacent to Lake Livingston or Beacon Bay Marina.

Ownership of any wall, fence, or hedge erected as a protective screening on a Lot shall pass with title to the Lot, and it shall be the Owner's responsibility to maintain said protective screening thereafter. In the event of default on the part of the Owner or occupant of any Lot to maintain said protective screening and such failure continuing after ten (10) days' written notice thereof, the Declarant, at its option, without liability to the Owner or occupant in trespass or otherwise may, in its discretion, enter upon said Lot and cause said protective screening to be repaired or maintained or do any other thing necessary to secure compliance with these restrictions, so as to place said protective screening in a satisfactory condition and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the Lot to pay such statement immediately upon receipt thereof, and all such payments by the Declarant shall likewise be secured by a vendor's

lien for the benefit of the Declarant. Plans and specifications shall be submitted as in the case with other structures.

Section 18. Mailboxes. The Declarant or the Committee, as the case may be, shall have the right to furnish and install a central mailbox system, for the use and benefit of the owners, of the Declarant's choice, and choice of location.

Section 19. Utilities. Improvements situated on a Lot shall be connected to the water and sewer lines as soon as practical after same are available at the property line. No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot. The installation and use of any propane, butane, LP gas, or other gas tank, bottle, or cylinder of any type (excluding those normally associated with outdoor barbecue grills) shall require the prior written approval of the Committee and shall be screened from public view. All telephone, electric cable, or other service line shall be installed underground. When natural gas is made available to Owners, the Lot Owner must immediately discontinue use of propane, butane, LP gas, or other type of hydrocarbon fuel being used at the time and convert to the natural gas line.

Initially, a private utility system will provide water and sewer services to the Subdivision. All Owners shall be responsible for making payments for said utility services directly to Beacon Holdings Corporation or its assignee in a timely manner.

Section 20. Views, Obstructions, and Privacy. In order to promote the aesthetic quality of "view" within Beacon Bay Subdivision and particularly the views of Lake Livingston the committee shall have the right to review and approve any item placed on a Lot, including but not limited to the following:

- (a) The location of all windows and the type of proposed window treatments and exposed window coverings;
- (b) The probable view from second-story windows and balconies and decks (particularly where there is a potential invasion of privacy to an adjoining neighbor);
- (c) Sunlight obstructions;
- (d) Roof-top solar collectors;
- (e) Flagpoles, flags, pennants, ribbons, streamers, windsocks, and weathervanes;
- (f) Fire and burglar alarms which emit lights and sounds;
- (g) Children's playground or recreational equipment;
- (h) Exterior lights;
- (i) Ornamental statuary, sculpture and/or yard art visible from a street or Common Area excluding those which may be a part of an otherwise approved landscape plan;
- (j) The location of the Residential Dwelling on the Lot;
- (k) The location of satellite dishes and antennas; and
- (l) The location and design of boat docks and canopies upon Lot No. 1.

Prohibited Items. The following items are prohibited on any Residential Lot:

- (a) Clotheslines, reels, hanging circles, and other exterior clothes-drying devices;
- (b) Above-ground swimming pools;
- (c) Window-unit air conditioners;
- (d) Storage of more than five (5) gallons of fuel outside of regular vehicle gas tanks; and
- (e) Unregistered, unlicensed, or inoperable motor vehicles.

Section 21. Lot/Yard Maintenance. The landscaping of all Lots shall require written approval of the Committee. The Owners or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to the construction of improvements as herein permitted. The Owners or occupants of any Lots at the intersection of streets or adjacent to the Lake, parks, playgrounds, or other facilities where the rear

yard or portion of the Lot is visible to full public view shall construct and maintain suitable enclosure to screen the following from public view: yard equipment, wood piles, or storage piles which are incident to the normal residential requirements of a typical family.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, the Declarant or their assigns may, at their option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash, and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place said Lot in a neat, attractive, healthful, and sanitary condition and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant agrees by the purchase or occupancy of the Property to pay such statement immediately upon receipt thereof, and all such payments shall be made to the Declarant.

No Owner or contractor may enter upon the Lot adjacent to the one on which he is building for the purpose of ingress or egress to his Lot during or after construction unless such adjacent Lot is also owned by such Owner or such Owner has written approval from the adjacent Lot Owner. Such approval must be furnished to the Committee. All adjacent Lots shall be kept free of any trees, underbrush, trash, rubbish, and/or any other building debris during construction of improvements.

Section 22. Motor Vehicles. No unlicensed motor vehicles shall be allowed within the Subdivision. No "go-carts," four-wheelers, two-wheelers, or other similar vehicles shall be permitted to be operated on the Properties if, in the sole judgment of the Declarant, such operation for reason of noise or fumes emitted, or by reason of manner of use, shall constitute a nuisance or jeopardize the safety of the Owners, their tenants, and their families.

Section 23. Storage and Repair of Automobiles, Boats, Trailers, and Other Vehicles. No motor vehicles shall be parked or stored on any part of any Lot, easement, right-of-way, or any other areas unless such vehicle is concealed from public view inside a garage or other approved enclosure, except passenger automobiles, passenger vans, or pickup trucks that: are in operating condition; have current license plates and inspection sticker; are in daily use as motor vehicles on the streets and highways of the State of Texas; and which do not exceed six (6) feet, six (6) inches in height or seven (7) feet, seven (7) inches in width, or twenty-one (21) feet in length, may be parked in the driveway on such Lot. No non-motorized vehicle, trailer, boat, marine craft, hover craft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, or any other area unless such object is concealed from public view inside the garage or other approved enclosure. The term "approved enclosure" shall mean an enclosure that has been previously approved by the Committee. Owners, visitors, and guests are encouraged not to park vehicles in the streets of the Subdivision.

No repair work, dismantling, or assembling of motor vehicles or other machinery or equipment shall be done or permitted on any street, driveway, or any portion of the Properties. If a complaint is received about a violation of any part of this section, the Declarant will be the final authority on the matter. This restriction shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and in use for the construction, repair, or maintenance of the Subdivision facilities or of a house or of any other structure. No Owner of any Lot or visitor or guest of any Owner, occupant, or resident shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a temporary nature. No motor vehicles shall be parked on any private street within the Subdivision for a period in excess of twelve (12) continuous hours. In the event of default on the part of any Owner or occupant of any Lot in observing the above requirements or any of them, the Declarant or their assigns may, at their option, without liability to the Owner or occupant in trespass or otherwise, cause the motor vehicle not in compliance herewith to be towed to a public storage facility selected by the Declarant. The

Owner or occupant agrees by the purchase or occupancy of the Property to pay any and all towing and storage fees for said motor vehicle, and all such payments shall be made to the Declarant.

Section 24. Antennas and Satellite Dishes. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite, or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property, including any Lot which is visible from any street, common area, or other Lot unless it is impossible to receive signals from said location. In that event the receiving device may be placed in a visible location as approved by the Committee. The Committee may require as much screening as possible while not substantially interfering with reception. The Declarant shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite, or other signals for the benefit of all or a portion of the Properties. No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No MMDS antenna mast may exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite, or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. The Declarant by promulgating this section is not attempting to violate the Telecommunications Act of 1996 (the "Act") as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the Act.

Section 25. Solar Panels. All solar panels installed shall be framed in such a manner so the structure members are not visible. The framing material shall be one that is in harmony with the rest of the structure. Architectural approval is required prior to the installation of any solar panels. The Declarant reserves the right to seek the removal of any solar panel that was installed without first obtaining approval or any solar panel that violates these restrictions.

Section 26. Pets. No animals of any kind shall be raised, bred, or kept except as hereinafter provided. A reasonable number, not to exceed a total of two (2) of dogs, cats, or other household pets, shall be kept on any Lot (except for fish of a type customarily kept within normal home aquariums, with respect to which there shall be no limitation on amount) provided that: (a) they are not kept, bred, or maintained for commercial purposes; (b) they do not make objectionable noises, create any objectionable odor, or otherwise constitute an unreasonable nuisance in the opinion of the Declarant; (c) they are kept in a fenced yard or on a leash when walking with the Owner; and (d) they are not in violation of any other provision hereof. No horses, cows, hogs, wild or exotic animals, poultry, or livestock of any kind may be kept on any Lot.

Section 27. Drainage. Each Owner of a Lot agrees that he will not in any way interfere with the established drainage pattern over his Lot from adjoining Lots or other Lots in the Properties. Any changes necessary in the established drainage pattern must be included on the Owner's plans and specifications when submitted to the Committee. Such drainage plans shall be subject to the Committee's approval. Each Owner agrees that he will take all necessary steps to provide for additional drainage of his Lot in the event it becomes necessary. Established drainage shall be defined as drainage that exists at the time the Declarant completes street construction.

In the event of construction on any lot, the Owner must provide a drainage plan to the Committee for approval. No pockets or low areas may be left on the Lot where water will stand following a rain or during normal yard watering. With the approval of the committee, an Owner may establish an alternate drainage plan for low areas by installing underground pipe and area inlets or other such methods as approved by the Committee.

Section 28. Driveways. Driveways may be built of brick, stone, concrete, or other materials approved by the Committee. All concrete driveways shall be constructed with quality grade concrete, five (5) sack cement per cubic yard, and be reinforced with a minimum of #6, 6" X 6" welded wire mesh. Driveway's width shall be a minimum of nine (9) feet. Driveways shall be constructed so as to prevent normal street flooding from entering upon the adjoining Property

accessed by the driveway. The Committee shall have the right to approve the location of the driveway on the Lot.

Section 29. Walkways/Sidewalks. No walkways or sidewalks shall be constructed across the front of any Lot. Walkways may be constructed from the street adjacent to the front of the Lot to the front entrance of the residence constructed on the Lot.

Section 30. Swimming Pools. No swimming pool may be constructed on any Lot without the prior written consent of the Committee. Two sets of plans and specifications for the proposed pool shall be submitted to the Committee including a plot plat showing the locations and dimensions of the pool and related improvements together with the plumbing and excavation disposal plan.

Section 31. Docks and Boat Slips. No dock, boat slip, or other structure may be installed or constructed without approval of the Committee. No "homemade" type dock, boat slip, boat cover, or bulkheading will be allowed. Request to construct any such structure shall be in writing to the Committee and must be accompanied with complete plans and specifications. The Committee shall act upon such request as with other structures.

In addition to being approved by the Committee, all plans for all docks and boat slips must be approved in writing by the Trinity River Authority and any other governmental agencies having jurisdiction.

ARTICLE IV SPECIAL RESTRICTIONS FOR WATERFRONT LOTS

Section 1. Bulkhead Construction. No bulkhead or any portion thereof shall be removed or replaced and no indentations shall be made therein without written approval of the Committee.

Section 2. Lakefront Construction. All plans for buildings and improvements on Waterfront Lots must satisfy the requirements of and be approved in writing in the form of a permit by the Trinity River Authority, and no such building or improvement shall be erected or permitted on any such Lot unless same strictly complies with the plans and specifications which have been approved by the Committee. Any cover of a boat slip or dock shall be a low profile canopy/cover allowing maximum vision of Lake Livingston and shall be only in a color approved by the Committee.

Section 3. Non-liability for Declarant. The Declarant shall not be liable for any loss, damage, or injury arising out of or in any way connected with the use by any Owner, tenant, guests, or invitees of any Owner and each, as applicable, acknowledges that the Declarant has given sufficient warnings regarding the potential dangers associated with the occupancy of any Waterfront Lots and the use of any bulkhead, boat slips, and docks, or any Common Area, for access to the waters of Lake Livingston or any of the canals excavated by Declarant in connection with the development of the Property. Each Owner and occupant of any Lot and each tenant, guest, invitee of any Owner assumes all risks for loss or damage to persons or property in connection with their access to the waters of Lake Livingston and the canals within the Property, and further acknowledges that the Declarant has made any representations or warranties nor has any owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relating to their access to the waters of Lake Livingston.

ARTICLE V ARCHITECTURAL CONTROL COMMITTEE

Section 1. Approval of Improvement Plan. No improvements shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plot plan showing the location of

the improvements have been approved in writing by the Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such other information as may be deemed pertinent, shall be submitted to the Committee or its designated representative prior to commencement of construction. A form survey prepared by a registered surveyor in the State of Texas shall be submitted to the Committee prior to pouring the foundation of any building or other improvement that is to be erected, placed, or altered on any Lot.

Section 2. Committee Membership. The Declarant, in its sole discretion, shall appoint the members of the Committee which will consist of a minimum of three (3) members, none of whom shall be required to be residents of Beacon Bay Subdivision. Any two (2) of the members of the Committee shall have the full authority and power to act for the Committee. No member of the Committee or its designated representatives shall be entitled to any compensation for services performed pursuant to this Article. A majority of the Committee may designate one or more representatives to act for it and such representatives shall have the full right, authority, and power to carry out the functions of the Committee.

Section 3. Replacement. Any member of the Committee may be removed, with or without cause, by the Declarant. In the event of death or resignation of any member or members of said Committee, the Declarant shall appoint its successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications, and plat plans submitted or to designate a representative with like authority.

Section 4. Minimum Construction Standards. The Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and may be amended from time to time. The purpose of the Committee is to protect the environmental and architectural integrity of the Subdivision. No building, fence, wall, boat slip, or dock or other structure or improvement of any nature shall be placed, constructed, erected, or maintained on any Lot, nor shall any exterior addition to or change or alteration therein be made until the construction plans and specifications for the same shall have been submitted to and approved in writing by the Committee as to (a) conformity and harmony of external design, coloration, and location in relation to surrounding structures and topography; and (b) quality of workmanship and materials. Any plans and specifications to be submitted shall specify, in such form as the Committee may reasonably require, the location upon the Lot where the improvements are to be placed and the dimensions thereof as well as appropriate information concerning the structural, mechanical, electrical, and plumbing details and the nature, kind, shape, height, color scheme, and materials of the proposed improvements or alterations.

Section 5. Committee Approval. Any approval or disapproval by the Committee or its designated representatives on any of the above matters shall be in writing and either conveyed in person or U. S. Mail, postage prepaid. In the event said Committee or its designated representatives fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, then such plans and specifications shall be deemed disapproved. The Committee shall have the right, exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision or the common scheme of the development. If the Committee shall approve a request for variance, the Committee may evidence such approval, grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved and signed by majority of the then members of the Committee. If any such variances are granted, no violation of the provisions hereof shall be deemed to have occurred with respect to the matter for which the variance is granted; however, the granting of a variance shall not operate to waive any of the provisions hereof for any purpose except as to the particular property and particular provisions hereof

covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lots and with the Subdivision Plat. Failure by the Committee to respond within thirty (30) days to a request for a variance shall operate as denial of the variance.

Section 6. Disclaimer. No approval of plans and specifications and no publication or designation of architectural standards shall ever be construed as representing or implying that such plan specifications will result in a properly designed structure or satisfy any legal requirements. Further, no person exercising any prerogative of approval or disapproval by the Committee shall incur any liability by reason of the good faith exercise thereof.

Section 7. No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Committee or Board of Directors with respect to the construction of any improvements within the Subdivision. Specifically, the approval by the Committee or Board of Directors of any such residential construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar residential construction or any similar proposals, plans, specifications, or other materials submitted with respect to any other residential construction by such person or other Owner.

Section 8. Non-Liability for Committee Action. No member of the Committee, their successors, or assigns, or the Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee. The Committee's approval of any improvement shall not imply approval of the improvement from the standpoint of safety, whether structural or otherwise, or a determination of compliance with building codes or other governmental laws or regulations.

ARTICLE VI GENERAL PROVISIONS

Section 1. Term. These Covenants and Restrictions shall run with the land and shall be binding upon all parties and persons claiming under them for a period of forty (40) years from the date these Covenants are recorded, at which time said Covenants shall be automatically extended for successive periods of ten (10) years each.

Section 2. Amendment. These Covenants and Restrictions may be amended at any time after the expiration of five (5) years from the date hereof by the vote of seventy percent (70%) of the then Owners of the Lots. Such amendment shall be incorporated in an instrument executed and acknowledged by the requisite seventy percent (70%) of the Owners and shall become effective when such instrument is duly filed for record.

Section 3. Enforcement. The Declarant, the Architectural Control Committee, or any Lot Owner is authorized to prosecute proceedings at law or in equity against any person or persons violating or attempting to violate any part of this Declaration and to prevent him or them from doing so and/or to recover damages or other dues for such violations. The Declarant also reserves the right to enforce these restrictions.

Section 4. Severability. Invalidation of any one of these restrictions by judgment or further court order shall in no way affect any of the other provisions.

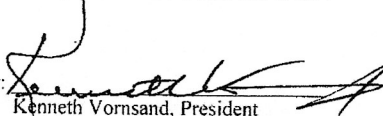
Section 5. Corrected Plats. Until the time a Lot or residential unit within the Properties is transferred by the Declarant to another (other than an affiliate of the Declarant, or a holder of a first mortgage on the entire Property), no Owner of any Lot or residential unit shall have any

rights whatsoever to the continuation of any covenants, conditions, or restrictions on such Properties as contained herein or as may be imposed, expressly or impliedly, by recordation of any plat or as might otherwise be implied or expressed. In furtherance thereof, until the time a Lot or residential unit within the Properties is transferred by the Declarant as aforementioned, the Declarant may revoke or cancel any plat or other instrument which might be deemed, either expressly or impliedly, to impose any covenants, conditions, or restrictions or may take whatsoever steps it deems necessary or desirable to avoid the implication of such existing.

Section 6. Amendment by Declarant. Declarant shall have the right to make amendments, modifications, and charges to these Covenants, Conditions, and Restrictions, without the joinder of any Owner or any other party, for the purpose of correcting any inconsistencies that may be found herein.

EXECUTED THIS 20th day of July, 2004

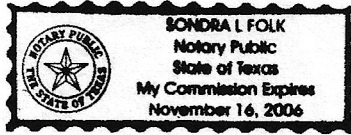
BEACON HOLDINGS CORPORATION

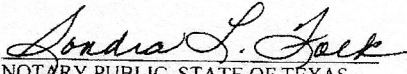
By: 
Kenneth Vornsand, President

THE STATE OF TEXAS

COUNTY OF POLK

BEFORE ME, the undersigned authority, on this day personally appeared KENNETH VORNSAND, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was signed by him as President of BEACON HOLDINGS CORPORATION, a Texas corporation, and that he executed the same as the act of such corporation for the purposes and considerations therein expressed, and in the capacity therein stated.



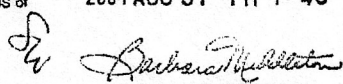

NOTARY PUBLIC, STATE OF TEXAS
7/20/04

State of Texas }
County of Polk }
I, BARBARA MIDDLETON hereby certify that this instrument was FILED in the file number sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records in Volume and Page of the named RECORDS of Polk County, Texas as stamped hereon by me.

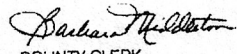
FILED FOR RECORD

2004 AUG 31 PM 1:43

AUG 31 2004


BARBARA MIDDLETON
POLK COUNTY CLERK




COUNTY CLERK
POLK COUNTY, TEXAS

CORRECT DESCRIPTION OF PROPERTY:

Lot * (*), Section Two (2) of BEACON BAY, a subdivision in Polk County, Texas as shown by the map or plat thereof recorded in Volume 11, Page 42 of the Plat Records, Polk County, Texas.

SUBJECT TO:

Restrictions:

Volume 1409, Page 556 et seq., Official Records, Polk County, Texas, BUT DELETING ANY COVENANT, CONDITION OR RESTRICTION INDICATING A PREFERENCE, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS.

SCHEDULE B EXCEPTIONS:

Any visible and apparent easements or roadways on, over or across the subject property, the existence of which does not appear of record, including but not limited to any public utility easements above or below the surface of the herein described property, possessed by any private or public companies or municipalities.

All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.

All streets, easements, rights of way, roadways, water lines, sewage lines, building lines and utility lines as shown by Plat duly recorded in Volume 11, Page 42, of the Plat Records of Polk County, Texas.

Twenty (20') foot building set back line and ten (10') foot utility easement along the east line of lot as shown on plat recorded in Volume 11, Page 42 of the Plat Records of Polk County, Texas. **(CHECK PLAT FOR YOUR LOT)**

Ten (10') foot utility and access easement line and TRA flowage easement as shown on plat recorded in Volume 11, Page 42 of the Plat Records of Polk County, Texas. **(CHECK PLAT FOR YOUR LOT)**

Eight (8') foot building set back line along north line of lot as shown on plat recorded in Volume 11, Page 42 of the Plat Records of Polk County, Texas. **(CHECK PLAT FOR YOUR LOT)**

Restrictions, covenants, reservations and easements as set out in instrument recorded in Volume 1409, Page 556 et seq., Official Records, Polk County, Texas, including but not limited to the following: A. Building lines. B. Building requirements. C. Utility easements. D. Drainage easements. E. Maintenance fees. BUT OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSON.

Thirty five (35) foot residential dwelling height restriction as set forth in the restrictions recorded in Volume 1409, Page 556 et seq., Official Records of Polk County, Texas.

Five (5) foot wide Sam Houston Cooperative utility easement extending from the surface of the ground downward and being 2 1/2' feet on each side of underground electric service line as set forth in the restrictions recorded in Volume 1409, Page 556 et seq., Official Records of Polk County, Texas.

Reservation by Developer, Beacon Holdings Corporation by Restrictive Covenants recorded in Volume 1409, Page 556 et seq., of the Official Records of Polk County, Texas, to grant an easement along the front and rear of each lot to a width of two (2) feet.

All minerals conveyed, the royalties, bonuses and rentals as set out in instrument dated January 11, 1961 from Barney Wiggins, to L. L. Williams as recorded in Volume 188, Page 229 et seq., Deed Records of Polk County, Texas, together with all rights, expressed or implied, in and to the property covered by this policy arising out of or connected