

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE PARK ON EGRET BAY SUBDIVISION

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ["DECLARATION"] is made on the date hereafter set forth by Egret Bay Development, a Texas Corporation, as its interest appears, (hereinafter referred to as "Declarant") and Richard M. Davis, Jr. and Ann Elizabeth Davis as owners of a portion of the property.

W I T N E S S E T H :

WHEREAS, Egret Bay Development, Inc. (hereinafter "Declarant" or "Developer"), is the owner of that certain real property known as The Park on Egret Bay Subdivision, save and except for Lot One which is owned by Richard M. Davis, Jr. and Ann Elizabeth Davis (hereinafter "Davises"), as shown on the plat recorded under clerk's file number \_\_\_\_\_ in the Official Public Records of Real Property of Galveston County and more particularly described in Exhibit A attached hereto.

WHEREAS, It is the desire of Declarant and Davises to provide for the preservation of the values and amenities in such subdivision, provide for a uniform plan to develop the subdivision, and provide for the maintenance of same, including the Community Properties located therein as hereafter defined; and for such purposes, to subject the subdivision, including Lots therein, to the covenants, conditions and restrictions set forth below, hereafter called the "Declaration", for the benefit, use and convenience of each and every Owner of property within The Park on Egret Bay Subdivision;

NOW, THEREFORE, Declarant and Davises hereby declare that the above described properties shall be developed, held, transferred, improved, sold, conveyed and occupied subject to the easements, conditions, restrictions, and covenants hereinafter set forth; binding upon and inure to the benefit of all parties having or acquiring any right, title or interest therein or any part thereof, their heirs, personal representatives, successors and assigns.

ARTICLE I.  
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1.01. "ARCHITECTURAL CONTROL COMMITTEE" or "COMMITTEE" shall mean the "Committee" established to enforce and maintain the Architectural Control Standards, as hereafter described.

SECTION 1.02. "ASSOCIATION" shall refer to as The Park on Egret Bay Homeowners Association, Inc. a Texas non-profit corporation, its successors and assigns.

SECTION 1.03. "BUILDER" shall mean and refer to the record owner, whether a person or entity, of a fee simple title to any Lot which is a part of the Properties, who constructs a

residence thereon for sale to the public and who offers the Lot and its improvements for sale to the public.

SECTION 1.04. "COMMON AREA" shall refer to the area designated on the final plat as the Common Area Park, Paths, and any property which is owned by or leased to the Association.

SECTION 1.05. "COMMON EXPENSES" shall mean and include the actual and estimated expenses of operating the Association, including any reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws and the Articles of Incorporation.

SECTION 1.06. "CORNER LOT" shall refer to a lot which abuts on more than one street.

SECTION 1.07. "DECLARANT" or "DEVELOPER" shall refer to Egret Bay Development, Inc., a Texas Corporation, and its successors and assigns.

SECTION 1.08. "DESIGN PLAN" shall refer to the construction plans submitted to the Committee for approval.

SECTION 1.09. "EASEMENT" shall mean a right granted for the purpose of limited public or semi-public use across, over or under private land.

SECTION 1.10. "FENCE" shall be defined as a structure built for the purpose of separating or enclosing Lots or parcels of land for reason of security, privacy, ornamentation, or other reason. A "fence" denotes a structure which may serve as a visual screen or as a barrier.

SECTION 1.11. "HEDGEROW" shall be defined as an unbroken row of shrubs or trees which are planted and maintained to serve a function similar to that of a fence or wall.

SECTION 1.12. "IMPROVEMENTS" shall mean all structures or other improvements to any portion of the properties of any kind whatsoever, whether above or below grade, including, but not limited to structures, buildings, utility installations, storage, loading and parking facilities, walkways, driveways, landscaping, signs, site lighting, site grading, and earth movement, and any exterior additions, changes or alterations thereto.

SECTION 1.13. "LEGAL REQUIREMENTS" shall mean all applicable Federal, State and Local regulations and standards relating to the construction or placement on the ground of any Improvement.

SECTION 1.14. "LOT" shall refer to the Lots as shown on the Plat of The Park on Egret Bay Subdivision Section 1.

SECTION 1.15. "MEMBER" shall refer to the person or entity owning a Lot in the subdivision.

SECTION 1.16. "OCCUPANT" shall mean any person legally entitled to occupancy and use of all or a portion of the properties.

SECTION 1.17. "OWNER" shall refer to the Owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not refer to anyone holding a lien, easement, mineral interest or royalty interest burdening the title thereto.

SECTION 1.18. "PROPERTY" OR "PROPERTIES" shall mean any land or water area within the recorded final Plat of The Park on Egret Bay Subdivision Section 1.

SECTION 1.19. "RESTRICTED RESERVE" shall mean that area designated on the recorded Plat as Restricted Reserve or similar designation whose use is limited by the terms of this Declaration, and referred to herein as "Reserve" or "Restricted Reserve".

SECTION 1.20. "RESIDENCE" shall be defined as a detached dwelling for occupation by a single family, as well as by any servant(s) whom the family may retain.

SECTION 1.21. "SCREEN" shall mean any approved shrub, hedgerow, fence or other device or improvement which blocks an area from view from another area.

SECTION 1.22. "STREET" shall refer to any street, drive, road, alley, lane, cul de sac, or avenue located in the Subdivision as shown on the Subdivision Plat of The Park on Egret Bay Subdivision, Section 1.

SECTION 1.23. "SUBDIVISION" shall refer to The Park on Egret Bay Subdivision, Section 1, of the Plat of The Park on Egret Bay Subdivision as more fully described by metes and bounds on the attached Exhibit A and as delineated on the Subdivision Plat attached as Exhibit B hereto, both such exhibits being incorporated herein by reference for all purposes as if set out in full.

SECTION 1.24. "SUBDIVISION PLAT" shall refer to the Plat or map of The Park on Egret Bay Subdivision, Section 1 filed by The Park on Egret Bay Development, Inc., in the map or plat records of Galveston County, Texas and any replats that are subsequently filed for record in Galveston County.

ARTICLE II.  
ARCHITECTURAL CONTROL COMMITTEE

SECTION 2.01. CREATION. PURPOSE AND DUTIES. There is hereby created an Architectural Control Committee (hereinafter Committee). The Committee shall have the responsibility and all necessary power and authority to approve and disapprove, in its sole discretion, the color, the external design, size, quality and type of building material, location on the building site and finish grade elevation of any structure to be erected or altered in the subdivision. The Committee is vested with the authority and responsibility to maintain architectural harmony within the subdivision, to maintain suitable standards of construction consistent with the Declarant's intent to create an exclusive residential subdivision and to insure construction is completed in accordance with the Declaration.

SECTION 2.02. MEMBERSHIP OF COMMITTEE. The Committee shall be composed of two(2) members. The initial members shall be Ann Elizabeth Davis and Richard McGuire Davis, Jr., who shall serve (i) until their resignation or removal in accordance with the terms hereof; or (ii) until all Lots within the subdivision have been completed with a single-family residential dwelling erected in accordance with the terms hereof, whichever is first to occur.

So long as Declarant owns any lots in the Subdivision, or until all lots in the Subdivision have been improved with a single family detached residence in compliance with the architectural restrictions of Article VII hereof, whichever occurs first, no member of the Committee may be removed, except with the consent of the Declarant. Upon removal, resignation or death of any Committee member, the remaining Committee member shall, within ninety (90) days after such removal, resignation or death, designate a person to fill the vacancy. Provided, however, until the vacancy or vacancies shall have been filled, the remaining member of the Committee shall have full authority to act and perform all the duties of the Committee.

No Committee member, past or present, shall be entitled to compensation for services performed, but shall be entitled to reimbursement for any reasonable and necessary expenses incurred in furtherance of the duties of the Committee. The Committee may employ, as it sees fit, one or more architects, engineers, attorneys, accountants, designers, secretaries or such other person reasonably necessary to assist the Committee in carrying out its duties. Notwithstanding the foregoing, in the event of actual or threatened litigation, administrative hearings, or other advisory proceedings, the Committee members shall be entitled to reasonable compensation for their time expended and to be reimbursed or have paid directly their reasonable and necessary Attorney's fees and other related expenses. All of the foregoing costs and expenses, upon approval of the reasonableness thereof by the Board of Directors, shall be an expense of, and paid by the Association.

SECTION 2.03. INDEMNIFICATION. The Association shall and herewith agrees to protect, indemnify, and save the Committee and Declarant harmless from liability, and reasonable and necessary expenses incurred by the Committee in matters related to the exercise of its

functions hereunder and in the exercise of the broad discretionary power vested in the Committee; save and except for acts of willful fraud or gross negligence.

**SECTION 2.04. NO WARRANTY IMPLIED.** In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an improvement or alteration to any property be deemed approval of the improvement or alteration to the property from the standpoint of fitness or safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

**SECTION 2.05. POWERS OF THE COMMITTEE.** Absolutely no building or other Improvements shall be constructed in the Subdivision, and no exterior alteration of any building or Improvements shall be made until the site plan, the schematic plan for landscaping and lighting, and final working plans and specifications have been submitted to and approved in writing by the Committee. The various aforementioned plans and specifications shall be considered approved by the Committee if it fails to disapprove the same (or subsequent amendments thereto) within thirty (30) days from the date of submission and actual delivery thereof to the Committee the “Submission Date”); provided, however, as a condition precedent to said assumption of approval that the Committee has executed a receipt therefor, which receipt shall state the Submission Date and be signed by a member of the Committee appointed to receive plans.

The Committee shall have full power and authority to reject any plans and specifications that do not comply with this Declaration or that do not meet its minimum construction or architectural design requirements or that might not be compatible with the overall character and aesthetics of the Subdivision.

Any action taken by the Committee shall require a majority vote of the members of the Committee then sitting.

**SECTION 2.06. ARCHITECTURAL CONTROL STANDARDS.** The Committee shall have the right to specify architectural and aesthetic requirements for building sites, minimum setback lines, the location, height and extent of fences or walls, the orientation of structures with respect to streets, walks, paths, and structures on adjacent property, and a limited number of acceptable colors, exterior materials and exterior finishes that may be utilized in construction or repair of improvements.

The Committee may issue supplements to these Deed Restrictions to further guide the Owners and Builders in complying with the intent of the architectural restrictions set forth in these deed restrictions. Such supplements shall be referred to as the “Architectural Control Standards”.

**SECTION 2.07. VARIANCES.** The Committee shall have the right, exercisable at its discretion, to grant or deny a variance to the architectural restrictions in specific instances where the Committee in good faith deems that such variance may or may not adversely affect the architectural and environmental integrity of the Subdivision, without liability on the part of the Committee in the exercise of its discretion.

SECTION 2.08. DESIGN APPROVAL. The design for each structure to be erected in the Subdivision shall be submitted to the Committee as follows:

A. PROCEDURE AND CHARGES FOR SUBMISSION OF PLANS

1. First, a Preliminary architectural design (the “schematic design or drawing”) shall be submitted. This submission shall reflect, on a preliminary basis, the site plan, roof plan, floor plan, and all elevations and shall be drawn (freehand or otherwise) to a generally accepted architectural scale. Permitted, but not required, at this submission are exterior color and building material selections. The action of the Committee at this submission is to be considered advisory only and its approval or disapproval or comment upon the schematic design, color or material selection does not constitute, nor shall it be considered as, automatic approval of the final design, color, material or any other item requiring the approval of the Committee. The Committee shall have thirty (30) days from the submission date of the preliminary architectural design to act upon the same.

2. Second, the final submission for review by the Committee must include two (2) identical sets of construction documents which will include, but not be limited to, the following:

a. Complete detailed sets of architectural plans which shall include, but not be limited to, (i) a site plan reflecting the location and dimensions or boundaries of all easements, lot lines, setback lines, foundations (with elevation thereof), walks, drives, fences, and any other improvements to be located thereon; (ii) foundation plan; (iii) floor plan; (iv) material selection and specifications. In addition, the documents should include a landscape plan, exterior elevation of all sanitary and storm sewer connections and all other utility connections and materials to be used.

b. Samples of exterior building materials, including brick, wood, or other siding and roof material, and paint color charts.

c. Such other items as the Committee may reasonably require to assist in its review.

Construction documents and appropriate material specification and samples shall be submitted to the following address, or such other address as The Committee may direct:

Egret Bay Development, Inc.,  
P.O. Box 580634  
Houston, TX 77258

3. The Committee shall require payment by any party who submits plans for approval of a cash fee to compensate the Committee for the expense of reviewing such plans. The initial fee hereby established for the review of plans is One Hundred Dollars (\$100.00). If the Committee considers that the circumstances so warrant, the Committee may increase or decrease such fee without the joinder or consent of any other party.

B. FINAL DECISION. The Committee will make its final decision based upon the final submission of documents and materials. The Committee requires a maximum of thirty (30) days after final submission for the review of plans and specifications. Approval or rejection of all plans and specifications shall be in writing from the Committee. If plans are rejected, the Committee shall give a reason for the rejection and note the Article and Section of the Declaration on which the rejection is based. If plans and specifications are rejected, Owner or Builder must make necessary architecturally approved corrections and resubmit the same for final approval. If plans and specifications are approved, the Committee shall keep one set of plans and materials on file. The other approved set of plans shall be signed and returned by the Committee. Any changes which the Owner or Builder desire to make after the plans and materials have been approved by the Committee affecting the exterior or roof line of residences must be submitted in writing prior to making any such changes. Owner must wait for a period not to exceed thirty (30) days for the Committee to approve any changes before commencement of any changes. Any deviation from approved construction documents (without written approval of such deviations) constitutes a violation of the Deed Restrictions and is not permitted.

SECTION 2.09. RECORDS. The Committee shall keep records of each submittal, and of each action taken by the Committee with respect to each submittal, made by any Owner or proposed Owner hereunder. The Committee shall retain for such period as the Committee determines to be appropriate one set of the approved plans and materials (if any) for each Improvement and proposed Improvement. No Owner or prospective Owner shall have any right of access to, or any right to inspect or reproduce, any portion of any submittal made by any other Owner or prospective Owner.

SECTION 2.10. TRANSFER OF AUTHORITY TO THE ASSOCIATION. The duties, powers and authority of the Committee may be assigned to the Association by vote of the Committee. After all of the lots in the subdivision have been completed with a single family residential dwelling erected thereon, or in the event of the demise of all members of the Committee, or their disability to such degree as to prevent all of them from performing their duties for thirty (30) consecutive days, the Association's Board of Directors shall have the responsibility, authority and power to perform the functions of the Committee.

### ARTICLE III.

#### The Park on Egret Bay HOMEOWNERS' ASSOCIATION. INC.

SECTION 3.01. ORGANIZATION. Declarant has caused the Association to be incorporated as a non-profit corporation under the laws of the State of Texas. The principal

purpose of the Association shall be to enforce and act in accordance with the maintenance and promotion of the Subdivision and the health and welfare of the residents thereof.

SECTION 3.02. OFFICERS AND BOARD OF DIRECTORS. The Association shall act through its duly elected officers and Board of Directors whose duties and terms of office shall be as set forth in the Articles of Incorporation and by-laws of the Association.

SECTION 3.03. ARTICLES OF INCORPORATION AND BYLAWS. The Articles of Incorporation and Bylaws of the Association, as from time to time amended and restated, are incorporated by this reference into this Declaration with the same force and effect as if they had been recited verbatim herein. Accordingly, the Articles of Incorporation and Bylaws, as from time to time amended and restated, shall have the same force, effect and dignity as the provisions of this Declaration. Every reasonable effort shall be made to construe the Articles of Incorporation, the Bylaws and this Declaration, as from time to time amended, supplemented and restated, consistently. However, if any irreconcilable conflict shall arise among the documents, to the extent permitted by law the provisions of this Declaration shall control.

SECTION 3.04. MEMBERSHIP. Subject to the provisions of the following Section 3.06, every Owner of a Lot in the Subdivision shall be a Member of the Association, until such ownership ceases. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association and shall automatically pass with the title to any subsequent Owner of the Lot. Furthermore, it shall be the duty of every Owner of a lot to keep the Association informed of the name and street address of each party qualifying as an Owner, and any changes thereto, and other necessary information as may be specified the Association's bylaws.

SECTION 3.05. COMMITTEES. The Association shall have the authority to establish, at any time and on such terms as the Board in its discretion may adopt, such committees as the Board may desire to carry out the purposes of this Declaration. Each committee established by the Board shall have such membership, rights, powers, duties, authorities and limitations, shall perform such functions and services, and shall exist for such period of time, as the Board in its discretion may determine consistent with this Declaration.

SECTION 3.06. VOTING AND MEMBERSHIP LIMITATIONS. The Association shall have two (2) classes of voting membership:

- (a) Class "A" Members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Subdivision Lot owned by such Member; provided, however, when more than one person holds an interest in any Lot, all such persons shall be Members, and the single vote for such Lot shall be exercised by the one (1) natural person named by them as they among themselves determine. In no event shall more than one (1) vote be cast with regard to any Lot.

(b) Class "B" Members shall be allowed ten (10) votes for each Lot in the Subdivision in which the Declarant qualifies as the Owner thereof. Class "B" membership shall cease and be converted to Class "A" Members when all Lots in the Subdivision have been sold to Owners other than Declarant or a Builder or Builders.

No Member, Class "A" or Class "B", shall be entitled to vote at any meeting of the Association unless Member's assessments and other charges, if any, are paid current.

For purposes of this Declaration, a "Member in good standing" shall mean an Owner which has, not less than seven days prior to the date established by the Association for the casting of votes, fully paid all sums due by it to the Association.

SECTION 3.07. TITLE TO COMMON AREAS OR RESERVES. The Declarant may retain title to the Common Areas or Reserves in the Subdivision until such time as improvements have been completed thereon and until such time as, in the judgment of Declarant, the Association is able to operate and maintain the same. Until title to such Common Areas or Reserves has been conveyed to the Association by Declarant, Declarant shall be entitled to exercise all rights and privileges relating to such Common Areas or Reserves granted to the Association in this Declaration.

#### ARTICLE IV. COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 4.01. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot within the Subdivision, hereby conveys, and each Owner of any Lot by acceptance of a Deed therefor, whether or not expressed in the Deed or other evidence of the Conveyance, and however acquired by a subsequent Owner, shall be deemed to convey and agree to pay the Association the following:

- (a) Annual assessments;
- (b) Special assessments; and
- (c) Reimbursement assessments as hereinafter limited.

Such assessments shall be established and collected as hereinafter provided. The annual, special assessments, and reimbursement assessments, together with such interest thereon, costs of collection thereof, late fees and Attorney's fees, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the Lot against which such assessments or charges are made. Each such assessment, together with such interest at the highest rate permitted by law, late fees, costs, and reasonable attorney's fees for collection thereof shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment fell due. Each such

assessment, cost and fees shall be a charge on the Lot and continuing lien upon the Lot against which each such assessment is made, and shall not be affected by any change in ownership thereof.

**SECTION 4.02. PURPOSE OF ASSESSMENTS** The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare and recreation of the residents of the Subdivision and any other purpose authorized or permitted by this Declaration. Without limiting the foregoing, assessments may be used for payment of costs and expenses of the Committee, private streets, utilities, contract security, taxes and insurance premiums on property of the Association, for repairs, maintenance, lighting, and all Common Areas and Reserves, paths, parks, parkways and esplanades in the Subdivision; collecting and disposing of garbage, rubbish and materials of a similar nature; payment of legal fees, police or security services; fogging and furnishing other general insecticide services; providing for the planting and upkeep of trees, grass and shrubbery on esplanades, including recreational facilities, that are or will be operated for the benefit of the Owners and residents; and the establishment of a maintenance reserve. Subject to the provisions of Sections 4.03 & 4.04 of this Article IV, the judgment of the Board of Directors of the Association in establishing annual assessments and special assessments and with respect to the accumulation and expenditure of said funds, shall be final and conclusive unless said judgment is exercised in bad faith.

**SECTION 4.03. BASIS AND MAXIMUM LEVEL OF ANNUAL ASSESSMENTS.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner other than Declarant, the annual assessment shall be FOUR HUNDRED DOLLARS (\$400.00) per lot. Annual assessments for the year in which a Lot is sold by the Declarant to an Owner, as well as the annual assessment due for the next succeeding calendar year of annual assessment, shall be due and payable in advance upon the sale of such Lot. Thereafter, all such annual assessments shall be payable in advance on January 1 of each year. Notwithstanding the foregoing, no bona fide Builder who purchases a Lot from Declarant shall be required to pay any annual or special maintenance fee assessment for the year or partial year in which such Builder purchases the Lot or Lots from Declarant. This exemption applies only to the Builder. After the year of purchase, the Builder shall pay all such annual assessments in advance on January 1 of each year.

**A. INCREASE BY VOTE OF THE BOARD OF DIRECTORS.** From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by the percentage change by which the Consumer Price Index for the immediately preceding calendar year exceeds such Index for the calendar year prior thereto or by fifteen percent (15%), whichever is greater. As used herein, the "Consumer Price Index" shall mean the year end Consumer Price Index for All-Urban Consumers, published by the U.S. Department of Labor (or a generally accepted replacement should such index no longer be published).

**B. INCREASE BY VOTE OF THE MEMBERSHIP.** From and after January 1 of the year immediately following the conveyance of the first Lot, to an Owner the maximum annual assessment may be increased above the rates specified in this Section 4.03, by a

vote of two-thirds (2/3) of each class of Members entitled to vote in person or by proxy, at a meeting duly called for this purpose. Such increase shall become effective, on January 1, of the year immediately following the meeting at which the increase was approved by the Members. Assessments for any year in which a Lot is sold by Declarant shall be prorated to the date of closing, and assessments shall be due from the Owner thereof from that date forward.

**SECTION 4.04. SPECIAL ASSESSMENTS.** In addition to the annual assessments authorized above, the Association may levy, in any year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, re-constructions, or unexpected repair or replacement of a particular capital improvement located upon the Common Areas or Reserves, including the necessary fixtures and personal property related thereto or for any other purpose consistent with the provisions of this Article IV, provided that any such assessment shall have the approval of sixty percent (60%) of all votes cast in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent or delivered to all members not less than ten (10) nor more than fifty (50) days in advance of the meeting, setting forth the purpose of such meeting.

**SECTION 4.05. REIMBURSEMENT ASSESSMENT.** The Board of Directors may, subject to the provisions hereof, levy an assessment against any member if the willful or negligent failure of the member to comply with the restrictions contained in Article VI, and Article VII and any rules or regulations promulgated by the Board of Directors shall have resulted in the expenditure of funds by the Association. Such assessment shall be known as a reimbursement assessment and shall be levied only after the member has been given notice and an opportunity to be heard. The amount of the reimbursement assessment shall be due and payable to the Association thirty (30) days after notice to the member of the decision of the Board of Directors that the reimbursement assessment is owing.

**SECTION 4.06. RATES OF ASSESSMENT - EXEMPTION FOR DECLARANT.** Both annual and special assessments on all lots shall be fixed at uniform rates (i.e., the same rate for each lot); provided, however, that such assessments shall not commence with regard to any lot until such lot is conveyed to an Owner other than the Declarant. Notwithstanding any provision contained in this Declaration to the contrary, the Declarant shall have no obligation to pay annual and special assessments on any lot owned by Declarant.

**SECTION 4.07. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION.** Any assessments which are not paid when due shall be delinquent and bear interest at the highest non-usurious rate permitted by law, or if no such limitation is imposed, then at the rate of eighteen percent (18%) per annum from thirty (30) days after the due date until paid. If any assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the Vendor's Lien herein retained against the Lot. Interest, costs of collection, late fees and reasonable Attorney's fees (when placed with an attorney for collection, whether with or without suit) incurred in any such action shall be added to the amount of such assessment or charge. Each such

Owner, by his acceptance of a Deed to a Lot, hereby expressly vests in the Association or its representative the right and power to institute and maintain an action against such Owner personally for the collection of such assessments and charges as a debt and to enforce the Vendor's Lien by any methods available for the enforcement of such liens at law and in equity, including, without limitation, foreclosure by non-judicial action as provided for in Section 51.002 of the Texas Property Code, and such Owner expressly grants to the Association, the power of sale and non-judicial foreclosure in connection with the Vendor's Lien.

SECTION 4.08. OBLIGATION TO PAY ASSESSMENTS. No Owner may waive or otherwise escape said Vendor's Lien and liability for the assessments provided for herein by non-use of the Common Areas or Reserves, or abandonment or divestiture of Ownership of a Lot for any annual or special assessment which became due and payable during the time when such Owner owned the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any other directive of any municipal or other governmental authority.

SECTION 4.09. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage existing at any time upon the particular Lot involved. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise), shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

SECTION 4.10. EXEMPT PROPERTY. All properties dedicated to, and accepted by, a local public authority exempt from taxation by the laws of the State of Texas, and all Common Areas and Reserves, shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges and the Vendor's Lien herein securing payment thereof.

#### ARTICLE V. PROPERTY RIGHTS IN THE COMMON AREAS

SECTION 5.01. OWNER'S EASEMENT FOR ACCESS AND ENJOYMENT. Every Member shall have a right and easement of enjoyment in and to the Common Areas and Reserves and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

(a) The right of the Association to borrow money and to mortgage the Common Areas and Reserves from time to time and upon such terms and conditions as recommended by its Board, upon approval by two-thirds (2/3) of the votes cast by all Members at a meeting of Members called for that purpose.

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas and Reserves against foreclosure of any mortgage or security interest.

(c) The right of the Association to suspend the rights of any Member to use the Common Areas for any period during which any assessment or other amount owed by such Member to the Association remains delinquent.

(d) The right of the Association to establish reasonable rules and regulations governing the Members' use of the Common Areas and to suspend the rights of any Member to use the Common Areas for any period not to exceed sixty (60) days for any infraction of such rules and regulations.

(e) Upon approval by two-thirds (2/3) of the votes cast by all Members, the Association shall have the right to transfer, assign, or convey all or any part of the Common Areas or transfer title to any public authority for such purposes and subject to such conditions as may be approved by said two-thirds (2/3) of all Members at a meeting called for that purpose; provided, however, this provision shall not be construed to limit the right of the Declarant or the Association to grant or dedicate public or private utility easements in portions of the Common Areas or transfer title to any storm sewer line, sanitary facility or other equipment situated on any part of the Common Areas owned by the Association, to any public or political authority or agency, or to any utility company rendering or to render service to the Subdivision or any part thereof.

**SECTION 5.02. USE OF RESTRICTED RESERVE A - PARK AREA.** Only Owners who are Members in good standing of the Association, and any guest accompanied by said Owner may use Restricted Reserve A - Park/Pond Area within The Park on Egret Bay Subdivision. Use of the Pond Area and Park Area shall be subject to such rules and regulations as may be promulgated by the Board of Directors of the Association from time to time.

**SECTION 5.03. PARKING.** No overnight parking of vehicles or boats is allowed on or in the Park, private streets or any Common Areas at anytime. These vehicles will be towed at Owner's expense at no liability to the Association whatsoever and this restriction shall be strictly enforced against Owners, Owners' families, guests or tenants.

**SECTION 5.04. DELEGATION OF USE.** Members, Members' families and tenants, shall have the non-exclusive right of enjoyment to Common Areas. Visitors shall be accompanied by a Member In the Common Areas.

SECTION 5.05. INDEMNIFICATION. Each user of Common Areas, regardless of whether or not the use thereof by such person is permitted, agrees to indemnify and hold Declarant, the Association, the Committee, and all other persons acting by, through or under them, such as the officers and committees of the Association, as well as all other Owners in the Subdivision, harmless and free from any and all damages to persons or property, claims, causes of action, or liability resulting from the use by such Owner, Members of the Owner's family, guests, and invitees of such Owner, of any of the Common Areas. There are no lifeguards or other persons safeguarding property or persons using any of the Common Areas, and it is the responsibility of each user of any Common Areas to provide for his or her own safety.

## ARTICLE VI. USE RESTRICTIONS

SECTION 6.01. RESIDENTIAL USE. Each and every Lot is hereby restricted to a residential dwelling for single family residential use only, hereinafter referred to as "Residential Use". No business, professional, commercial or manufacturing use, nor any other use except said Residential Use shall be made of any of said Lots (even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises for Residential Use), unless a written variance has been obtained by the Owner of such Lot from the Association permitting such business, professional, commercial or manufacturing use which shall be subordinate or incident to use of the Lot for Residential Use by the Owner thereof, such variance to be on terms and conditions acceptable to the Association. Any such variance granted by the Association shall apply only to the individual Owner seeking such variance, and shall terminate and be of no further force and effect upon the transfer of possession and/or title to the Lot, whichever occurs first. No structure other than one (1) single family residence and one (1) garage shall be constructed or placed upon any Lot as used herein. The term "Residential Use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments or apartment houses for rental purposes.

SECTION 6.02. ANIMALS AND LIVESTOCK. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot in the Subdivision except that two dogs, cats or other common household pets may be kept on Lots. No animals shall be allowed to run loose in the Subdivision. Dog waste must be bagged and removed by the person walking the dog. Dog houses and runs must not be visible from the street and they must be maintained in a clean, neat and sanitary condition.

SECTION 6.03. NUISANCES. No noxious or offensive trade or activity including, but not limited to, any trailer houses and trailer parks, junk or scrap metal yard, waste material business, any dumping, disposal, incineration or reduction of garbage or refuse, and any fire, bankruptcy or auction sale or garage sale operation shall be carried out upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision. The Committee or the Board of Directors of the association is hereby authorized to determine what constitutes a nuisance.

**SECTION 6.04. STORAGE AND REPAIR OF VEHICLES.** No vehicle, aircraft, boat, mobile home, tractor, trailer, motor home, marine craft, recreational vehicle, camping unit, boat rigging, truck larger than a three-quarter (3/4) ton pickup, bus, unused or inoperable automobile, towable or self-propelled machinery or equipment, or any offensive object shall be parked or kept in the street in front of, on the side of, or otherwise on any Lot, unless such vehicle is stored within a garage or totally screened, but in any event, completely out of sight from the streets and all residences. No Owner of any Lot in the Subdivision or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a temporary nature. All parking other than "temporary" parking shall be within the building lines shown on the recorded Plat, and screened from any streets, and other residences.

Boats and recreational vehicle parking must be a minimum of 80' from the front property line and must be screened so as not to be visible from any street. Said vehicles must be maintained in good repair and working order.

Parking incidental to construction or repair of a house or houses in the immediate vicinity, or for the servicing of or delivery of goods or merchandise to such house or houses is allowed when necessary.

It is the intent of these restrictions that all residences have garages, that the garages be used for the parking of vehicles and that all vehicles be parked out of public view.

**SECTION 6.05. PERMITTED HOURS FOR CONSTRUCTION.** Except in an emergency or when other unusual circumstances exist, as determined by the Committee, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 a.m. and 7:00 p.m.

**SECTION 6.06. DISPOSAL OF TRASH.** No trash, rubbish, garbage, manure, debris or offensive material of any kind including, but not limited to, grass cuttings and tree limbs, shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials, nor shall any such material be placed or dumped into the storm sewer system. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight-fitting covers or lids and placed in an area adequately screened, by planting or fencing, from the streets, other residences, the Common Areas and Reserves. No storage area shall be permitted between any residence or building on a Lot and the street. In a manner consistent with good housekeeping, as determined solely by the Association, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals, at his expense. No burning of rubbish or trash shall be permitted at any time.

Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any Federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal.

Compost piles, for use as fertilizer, may be maintained provided they are kept in a sanitary manner and properly screened and located so that they are not visible from any street, the waterfront, or other residences within the subdivision.

**SECTION 6.07. CONSTRUCTION USE.** No building or other structure, except when incidental to construction, shall be moved onto any Lot without written permission from the Committee, and any temporary building or structure moved onto any Lot incident to construction shall be promptly removed upon completion of construction work. No stumps, trees, underbrush or any refuse of any kind or scrap material from improvements being erected on any Lot or building site shall be placed on any streets or easements or on any other Lots or building sites. All such material, if not disposed of immediately, shall be removed from the property and disposed of immediately upon completion of said improvements. Temporary structures used as building offices or for other related purposes during the construction period must be inconspicuous and sightly. Each Lot shall be maintained in a neat, clean and orderly condition by the Builder during construction until the sale of the house is closed. No portion of construction of one Lot shall encroach upon another Lot.

**SECTION 6.08. BUILDING MATERIALS.** No Lot shall be used for the storage of any building materials whatsoever, except that material to be used in the construction of improvements erected upon a Lot may be placed upon such Lot at the time construction is commenced, and then such material shall be placed within property lines of the Lot or building site upon which Improvements are to be erected. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time such materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the street, or placed between the pavement and property line.

**SECTION 6.09. MINERAL PRODUCTION.** No drilling, developing operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil and gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structures designed for use in boring for oil or natural gas shall be permitted upon any Lot. Declarant waives its right to use the surface of the Subdivision for the exploration, development or production of oil, gas or other minerals from the mineral estate, if any, owned and retained by Declarant.

**SECTION 6.10. INDUSTRIAL USE.** Industrial use of the properties is prohibited. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution, or which is hazardous by reason of excessive danger of fire or explosion.

**SECTION 6.11. EXCAVATIONS.** No excavations shall be made and no sand, gravel or soil shall be removed from the properties except in connection with a grading and/or building plan (as approved by the Architectural Control Committee). Declarant may designate fill areas into which materials specified by Declarant may be placed with approval of the Committee.

SECTION 6.12. TREES. No live tree shall be cut or felled, except as required for construction work with approval of the Committee. Should any tree be removed for any reason (except as allowed above), another approved tree shall be planted to replace such loss, at the expense of the Owner. Thinning or clearing for landscaping purposes may be allowed, but only with written approval of the Architectural Control Committee. Such approval shall not be unreasonably withheld.

SECTION 6.13. ANTENNA USE - RESIDENTIAL OR COMMERCIAL ANTENNA. No satellite dish over one meter in diameter shall be erected, constructed, placed, or permitted on or to remain on any Lot or any of the residences, buildings, structures or other Improvements constructed on any Lot in the Subdivision unless and until the same shall have been approved in writing by the Committee. Exterior television, radio or other receiving antennas or devices or satellite dishes under one meter in diameter should be placed to comply with the Association guidelines.

SECTION 6.14. LANDSCAPE USE. Before and after construction, all Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut. Dead or damaged trees or shrubs on each Lot shall be promptly removed or repaired by the Owner thereof upon written request from the Association. Lawns must be mowed and edged on a regular basis and flower beds must be kept free of weeds and dead plants.

SECTION 6.15. STORAGE. No Lot shall be used for the storage of commercial products, liquid, solid or otherwise, except the "Building Materials, as described in Section 6.08 of this Article VI. Equipment, including but not limited to lawn, gardening, and cooking equipment, must not be left or stored in public view.

SECTION 6.16. COMMON AREAS. The Common Areas shall be used only for recreational and related purposes as shall more particularly be set forth in this Declaration or amendments hereto, or for such purposes as may be established by the Association. The Association, acting through the Board of Directors shall have the right and power to enforce use restrictions.

SECTION 6.17. CLOTHESLINES. Outside clotheslines shall not be visible from neighboring lots.

SECTION 6.18. WINDOW AIR CONDITIONERS OR HEATERS. No window or wall type air conditioners or heaters shall be permitted to be used, erected or maintained on or in any building in any part of the Lot, except that the Committee may, at its discretion, permit window or wall type air conditioners or heaters to be installed if such units, when installed, shall not be visible from public view, such permission to be granted in writing.

SECTION 6.19. LOT USE. Lots in the Subdivision may not be re-subdivided into building sites. Whole Lots may be combined so as to create a single residential Lot or home site, and the entire area resulting from any such combination shall be treated as a single residential Lot, as if originally platted as such on said map or plat of this Subdivision, and in such cases, the side Lot lines between the Lots combined shall not be deemed to be side Lot lines for building setback purposes, such combination being permissible only if whole Lots are combined with adjoining or contiguous whole Lots.

SECTION 6.20. FIREARMS. No Owner shall use any portion of the Subdivision or permit its Lot to be used, for hunting purposes, or discharge from any portion of the Subdivision, or permit to be discharged from its Lot, any rifle, shotgun, pistol or other firearm.

SECTION 6.21. OPEN FIRES. No Owner shall build in the Subdivision, or permit to be built on its Lot, any open fire; provided, however, that this Section 6.21 shall not prohibit the use by any Owner or Occupant of a residence of an interior fireplace or of a small and safe outdoor cooking facility, but only (i) within the Owner's or Occupant's Lot or such areas as may, from time to time, be designated for such purpose by the Association, and (ii) in strict compliance with the instructions as may be provided in the manufacturer's or vendor's manuals for such cooking facilities.

SECTION 6.22. EXTERIOR MAINTENANCE. It shall be the duty of any owner of any Lot or the occupant of any building on any Lot to improve and maintain the Lots and all improvements thereon, in proper condition. It is the intent of this section to insure that the residences, fences, mailboxes and outbuildings in The Park on Egret Bay Subdivision are appropriately and attractively maintained, painted when necessary and kept in good condition. All exterior surfaces must be maintained so that mold, mildew, soil or other discoloration are avoided. The Board of Directors shall, from time to time, adopt rules and regulations regarding the use and appearance of the Lots, improvements, residences and outbuildings. Failure to abide by such rules shall be deemed to be a violation of these restrictions.

SECTION 6.23. ENFORCEMENT OF USE RESTRICTIONS. It is the intent of these restrictions that all properties in the subdivision including vacant Lots and unoccupied residences be maintained in a reasonable condition. Therefore, the Declarant or the Association or its designated agents may, in its sole discretion and without liability to the Owner, Builder or any former occupants of the Lot in trespass or otherwise, enter upon (and/or authorize one or more others to enter upon) the unkempt Lot of an unoccupied residence or any Lot that is vacant and unkept by the owner, after reasonable notice to the owner, to cut, or cause to be cut, weeds and grass and remove, or cause to be removed, garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner, Builder or former occupant of such Lot for the cost of such work and associated materials, plus a fee of \$50.00 per month for each instance. Payment shall be collectable as a Reimbursement Assessment and shall be payable on the first day of the next calendar month. This remedy shall be in addition to any and all remedies, either at law or in equity, available for the enforcement of these restrictions.

ARTICLE VII.  
ARCHITECTURAL RESTRICTIONS

All architecture shall be harmonious with the design of the Subdivision. All architectural controls set forth in this Declaration or created by the Committee in Architectural Control Standards shall be enforced.

SECTION 7.01. TYPE OF RESIDENCE. Only one detached single family residence, which is one (1) or more stories but no more than two (2) stories above the flood plain elevation according to the Federal Flood Plain F.I.R.M. (Flood Insurance Rate Map) in existence at the time construction of such building commences, shall be constructed on each Lot. Nothing herein shall be construed to prohibit the use of the attic space in any residence for additional living area, if such use is permitted by the City of League City. All residences must have one and no more than one garage for storage of equipment and for parking of at least two (2) cars. Garages should only be minimally visible or not visible at all from the road. Carports on Lots are prohibited unless approved in writing by the Committee in conjunction with an aforementioned garage.

SECTION 7.02. OUTBUILDINGS. In addition to the main residence house, out-buildings for the use and enjoyment of the property may be built on the Lots, but not more than one (1) out-building in addition to a “detached garage” may be built or placed on any Lot, and no out-building of any type shall be used or occupied as living quarters. Outbuildings other than garages may not exceed nine feet in height and 100 square feet in area. No garage or other out-building shall be built or placed on any Lot unless the same is done at the same time or after the construction of the main residence.

SECTION 7.03. LIVING AREA REQUIREMENTS. The interior living area of the residential structure (exclusive of porches, decking, terraces, patios, driveways or living quarters for bona fide domestic servants and garages) shall contain at least 2,100 square feet of interior living area. Building Area, exclusive of outdoor swimming pool and outdoor tennis courts, shall not exceed twenty-five percent (25%) of the Lot area. Any area on the ground level of the residential structure shall be constructed in compliance with all federal, state and local regulations and standards. No area below the minimum elevation requirements may be used or occupied for habitable purposes.

SECTION 7.04. ELEVATION. The building placed or erected on any Lot for use and occupancy as a dwelling shall be constructed in compliance with all Legal Requirements, and satisfy all mandatory minimum elevation requirements as to the interior living area of the residential structure. Provided, however, in no event shall the elevation of the interior living area of the residential structure (exclusive of porches and decking), measured to the top of the lowest interior living area floor, be less than 13' above sea level, or such other height as may be established by the City of League City, Texas, and other applicable governmental authorities, whichever is higher. All fill plans must be approved by the City of League City, Texas and other applicable governmental authorities.

SECTION 7.05. LOCATION OF RESIDENCE. All setback lines and easements are recorded on the final plat. The Committee has the authority to require that all Improvements on Lots be staked out and that such siting be approved by the Committee before any tree cutting is done or any construction site work is begun. Unless otherwise approved by the Committee in writing, all residences, especially those on corner Lots, shall face the street on which they front. Garages must be a minimum of thirty-five feet (35') behind the front line of any residence. On corner lots with garages, overhead doors must not face any street unless they are a minimum of fifty feet from the side lot line or unless they are screened by hedges so as to not be visible from the street.

SECTION 7.06. TYPE OF CONSTRUCTION. Unless otherwise approved by the Committee, the exterior wall area of all residences, must be of masonry or wood construction. "Masonry", as used herein, shall include brick, stone, glass, concrete, weather-proofed plaster, or other masonry type construction, or combination thereof. "Wood," as used herein, shall include wood shake, or wood siding, Stucco and brick veneer may be used with approval of the Committee. The Committee has the right to require that the stucco be painted. No garage shall exceed in height the dwelling to which it is appurtenant without the written consent of the Committee. Every garage and permitted accessory building (except a greenhouse) shall correspond in style and architecture with the dwelling to which it is appurtenant. Greenhouses must be approved by the Committee. No structure of any kind or character which incorporates wood construction on the exterior shall be erected on any Lot unless the structure receives at least two (2) coats of paint, stain or finish at the time of construction (and is thereafter maintained), unless the exterior is of redwood, cedar or other material, which also may require treatment, approved by the Committee in writing. All window frames must be of either steel or wood construction, unless otherwise approved by the Committee. At least twenty percent (20%) of the overall exterior wall surface area must be comprised of glass windows or doors.

SECTION 7.07. DRIVEWAYS AND PARKING AREAS. On each Lot, the Builder shall construct, during the construction of the slab, and Owner shall maintain at Owner's expense, the driveway from the garage to the abutting street, which may be the street on which the residence fronts or the side street, including the portion of the driveway in the street easement, and the Builder or Owner shall repair at their own expense any damage occasioned by connecting the driveway to the street. Shared driveways to minimize impacts to the trees in the sub-development are encouraged. All driveways and parking areas are to be designed to minimally impact all existing trees. All driveways and parking areas shall be reinforced aggregate concrete, asphalt or an optional but acceptable surfacing (brick, texture, or Bomanite). Parking areas for boats and recreational vehicles must be 80' from the front property line and must be screened so that the boat or recreational vehicle will not be visible from any street.

SECTION 7.08. ROOF MATERIAL. Roofs may take a variety of forms; gabled and hipped roofs are preferable. Mansard roofs and other types of "exotic" roof forms may not be used unless by special written consent of the Committee. Roof materials may be standing seam (factory finished steel, minimum 26 ga. tarne metal or copper), metal shingles, marble, clay tile, slate, or a

minimum 25 -year warranty composition, fiberglass or asphalt shingles in an earthtone color range. Any fiberglass or asphalt shingle roof: should have a covered valley, unless an uncovered valley is approved by the Committee. Wood shingles, unless fire-retardant treated, are not allowable. The minimum allowable roof pitch shall be 6 in 12, or flat, unless a variance is approved in writing by the Committee. That portion of a structure covered by a flat roof shall not exceed one third of the total roof area as measured in the plan. Build-up tar and crushed rock may be used on flat roofs; provided, however, that i) prior to the installation of any built-up tar and crushed rock materials, the color, size and type of rock to be used on the roof surfaces must first be approved by the Committee and ii) the crushed rock must be uniform in size.

Shed type roofs are prohibited.

**SECTION 7.09. FENCES.** To preserve the views of the water and forest, which are essential to the overall character of the Subdivision, the use of fencing shall be minimized.

a. Fences on Lots shall be of either a wood picket or wrought iron type construction. Alternative fences constructions are possible, but must be approved in writing by the Committee. The height of fencing, with the exception of the Subdivision perimeter fence, shall not exceed four (4) feet, unless approved in writing by the Committee. Fence plans must be harmonious with the overall character of the Subdivision, as determined by the Committee. All fences must be approved by the Committee.

b. The Subdivision perimeter fence will be built by the Declarant. Said fence will then be maintained by the Association in a good condition, as determined by the Association. All lots must be fenced where they abut the exterior perimeter of the residential Subdivision, except along Landrum and 7<sup>th</sup> Streets.

**SECTION 7.10. LANDSCAPING.** All landscaping plans shall be submitted to the Committee for approval. All landscaping shall compliment the architectural design of the subdivision, and shall make use of indigenous plants. Landscaping shall be completed within three (3) months after construction of residence on Lot is completed, unless special exception is given by the committee in writing. The Owner of each Lot as a part of construction thereon shall sod, spot sod or sprig, with Hybrid St. Augustine (Raleigh Variety), Bermuda or other approved grass, the area between the front of the residence (and also the side of the residence if a corner Lot) and the curb line of the abutting street(s) unless otherwise approved by the Committee. The Committee may require plants or other screening devices around boxes, transformers and other above-ground utility equipment. The Owners of Lots 2 and 3 shall plant at least four (4) Quercus Virginiana (live oak) of at least four inches in diameter on their respective Lots. Declarant may designate fill areas into which materials specified by Declarant may be placed with approval of the Committee. The Association shall maintain any landscaping placed on any public right-of-way adjacent to the Subdivision by Declarant or the Association.

SECTION 7.11. SIGNS. No signs whatsoever, including but without limitation, commercial, political or similar signs, visible from neighboring property, shall be erected or maintained upon any private area, except the following:

- (1) such signs as may be required by legal proceeding;
- (2) signs indicating the presence of security systems;
- (3) during the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors, subcontractors, and tradesmen; and
- (4) not more than one “for sale” or “for rent” sign having a maximum face area of three (3) square feet.

SECTION 7.12. PATHS. Paths shall be constructed where indicated in the final plat for The Park on Egret Bay Subdivision at the Owner’s or Builder’s expense at the same time the residence is constructed, or prior to the completion of the residence. Where paths are shared by two lots, the cost of said path (henceforth referred to as “shared path”) will be shared equally by the Owners of the two lots. The shared path shall be built and fully paid for by the first Owner to purchase the lot abutting the shared path. Said shared path shall be completed as soon as possible after purchase of the lot. The Owner of the second lot sharing the path will reimburse the Owner of the first lot for one half of the costs of the shared path at the closing of sale of said second lot. Paths shall be built to the specifications outlined in Exhibit C of this document. The Association shall maintain the paths.

SECTION 7.13. MAILBOXES AND ADDRESS NUMBERS. Mailboxes and similar installations in the Subdivision must be harmonious with its overall character and aesthetics, and must conform to the guidelines of the Committee. Address numbers shall be displayed in a standard design created by the Committee

SECTION 7.14. PRIVATE UTILITY LINES. All electrical, telephone and other utility lines and facilities which are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

SECTION 7.15. CHIMNEYS. All fireplace chimneys shall be of brick, stone or stucco, of traditional design.

SECTION 7.16. POOLS. Placement and construction of pools require Committee approval prior to construction. Pools must be placed so that they are minimally visible from any street in or around the subdivision unless authorized in writing by the Committee.

SECTION 7.17. LAWN SPRINKLER SYSTEMS. Lawn sprinkler systems are recommended, but design must be submitted for approval by the Committee. Lawn sprinkler systems must be installed in such a manner that they do not destroy the root systems of a major tree and must be installed by an irrigator licensed by the State of Texas.

SECTION 7.18. SOLAR INSTALLATIONS. Solar collectors are considered improvements requiring Committee approval. Their location, shape and detailing must be a part of the design submittal. Unless waived in writing by the Committee, the system shall be located on grade and screened so it is not visible from the neighboring property or the general public.

SECTION 7.19. HOT TUBS. Hot tubs and spas are improvements which require Committee approval prior to installation. They must be located in such a way that their use poses no intrusion on neighboring property, commons areas, or public use areas. The hot tub or spa as well as mechanical apparatus must be screened from view.

SECTION 7.20. EXTERIOR ORNAMENTATION AND DECORATIVE ITEMS. Exterior "ornamentation" (such as weather vanes, planters, signs, numbers, ornamental gates, etc.) will not be allowed unless specifically approved in writing by the Committee. There shall be no decorative appurtenances placed on front lawns or wherever visible from the street including, but not limited to, sculptures, bird baths, birdhouses, fountains or other decorative embellishments, unless such specific items have been approved in writing by the Committee.

SECTION 7.21. TEMPORARY BUILDINGS. Temporary buildings or structures shall not be permitted on any Lot, with the following exceptions: 1) Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used in connection with the construction and sale of residences. 2) Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes within the Subdivision. At the time of the sale of the residence by a Builder, any garage appurtenant to such residence used for sales purposed must have been reconverted to a garage.

SECTION 7.22. TRAFFIC SIGHT AREAS. No fences, shrubs, or other obstructions shall be allowed on corner Lots to impair proper safety or sight.

SECTION 7.23. MISCELLANEOUS.

A. SEWAGE. No privy, cesspool or septic tank shall be placed or maintained in the Subdivision. Whenever a residence is established on any Lot, all toilets and other sewerage outlets shall be connected with the provided central sewer service.

B. DISPOSAL. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

SECTION 7.24. CONSTRUCTION COMPLETION. New construction must be completed within one year from the time that ground is broken. Alterations must be completed within six months of the date they were started.

ARTICLE VIII.  
EASEMENTS

SECTION 8.01. EXISTING EASEMENTS. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and the subdivision Plat also establishes dedications, limitations, reservations and restrictions applicable to the Lots. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat and all grants and dedications of easements and related rights heretofore made by Declarant and Declarant's predecessors in title affecting the Lots are incorporated herein by reference and made a part of this Declaration for all purposes, as fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant and each Owner conveying any part of the Lots.

SECTION 8.02. CHANGES AND ADDITIONS. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public utility purposes (including, without limitation, gas, electricity, telephone, cable television, security and drainage) in favor of any person or entity furnishing or contracting to furnish utility services to any of the Lots or the Subdivision as a whole, along and on either or both sides of any side Lot line, as well as along the back Lot line, which such easements shall have maximum width as set out in the plat or in the document granting the easement.

SECTION 8.03. INSTALLATION AND MAINTENANCE. There is hereby created a blanket easement upon, across, over and under all of the property within the Subdivision for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities including, but not limited to, water, storm and sanitary sewer, telephone, electricity, cable television, security, gas and appurtenances thereto. Also, there is hereby created a blanket easement upon, across, over and under all of the property within the Subdivision for ingress and

gress for the purpose of maintaining landscaping, shrubs and grass. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install, affix, and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on above, across, and under the Lots within the utility easements from time to time existing and from service lines situated within such easements to the point of service to any structure. Notwithstanding the provisions in this paragraph, no sewer, electrical lines, water lines, or other utilities or appurtenances thereto may be installed or relocated on the Lots until approved by Committee or the Association's Board of Directors. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Subdivision Plat or herein granted, and to trim overhanging trees and shrubs located on portions of the Lot abutting such easement. No easement may be utilized by any person, entity or company to provide service to any area outside of the Subdivision.

SECTION 8.04. EMERGENCY AND SERVICE VEHICLES. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection in the performance of their duties. Further, an easement is hereby granted to Declarant, the Committee and the Association, and their respective officers, agents, employees and management personnel to enter the Lots to inspect and render any lawful service.

SECTION 8.05. PATHS. Easements for paths, as shown on the Plat, are reserved for the use of all Owners, their families, guests, tenants and invitees.

#### ARTICLE IX. GENERAL PROVISIONS

SECTION 9.01. NO WAIVER. The Declarant, Association, Committee and any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions and restrictions contained herein. Failure by any such party to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 9.02. DURATION. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a two-thirds (2/3) majority of the then Owners of the Lots has been recorded, agreeing to change or terminate the covenants herein, in whole or in part, prior to the respective renewal period and filed for record in the Office of the County Clerk of Galveston County, Texas.

SECTION 9.03. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no way affect any other provisions, which shall remain in full force and effect, except as to any terms and provisions which are invalidated.

SECTION 9.04. GENDER AND GRAMMAR. The singular, wherever used herein, shall be construed to mean or include the plural when applicable, and the necessary grammatical

changes required to the provisions hereof apply either to corporation (or other entities) or individuals, male or female, and shall in all cases be assumed as though in each case fully expressed.

SECTION 9.05. TITLES. The titles of this Declaration contained herein are for convenience only and shall not be used to construe, interpret or limit the meaning of any term or provision contained in this Declaration.

SECTION 9.06. AMENDMENT. This Declaration may be amended at any time provided that such amendment shall have the approval of sixty percent (60%) of the votes cast in person or by proxy by each class of Members at a meeting duly called by such purpose. Provided, however, that until there are completed dwellings on all of the Lots in the subdivision Article II may not be amended without the written consent of the Declarant.

SECTION 9.07. ENFORCEMENT. The terms and provisions of this Declaration shall run with and bind the land in The Park on Egret Bay Subdivision, Section 1, and shall inure to the benefit of and be enforceable by Declarant, the Association, the Committee, and the Owner of any Lot, and by their respective legal representatives, heirs, successors and assigns. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any provision hereof, to enjoin or restrain violation or to recover damages, and against the property to enforce any lien created by this Declaration, and failure of Declarant, the Association, and Committee or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

SECTION 9.08. INCORPORATION. The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed or conveyance hereafter executed by Declarant conveying all or any part of the land in the Subdivision, whether or not referred to herein, and all estates conveyed therein and warranties of title contained therein shall be subject to the terms and provisions of this Declaration.

SECTION 9.09. INSURANCE. The Association shall have the right, power and authority to obtain and maintain policies of insurance covering such risks, issued by such companies, upon such terms and with such deductibles as the Board may from time to time determine. Such insurance may include, but shall not be limited to, general liability insurance for bodily injury and property damage, contractual liability, host liquor liability and other coverage found in broad form liability endorsements, fidelity insurance, non-owned automobile insurance and officers and directors liability insurance. The Association shall also have the right, power and authority to obtain and maintain fidelity bonds covering those Persons who have access to the funds of the Association. The Association shall have the right, power and authority to adjust and settle any claim insured against under, and to receive and disburse any insurance proceeds payable pursuant to, any policy obtained by the Association in such manner as the Board may determine.

SECTION 9.10. LIABILITY. Notwithstanding anything to the contrary, neither Declarant, the Committee nor the Association, or any person acting on their behalf with regard to

the matters set forth in this instrument including, but not limited to, the Board of Directors of the Association, any of their Committee members or any person engaged by them to act hereunder, as well as their successors and assigns, shall have any liability hereunder to any third party, including the Owners, with respect to any act of commission or omission except for gross negligence or willful fraud.

SECTION 9.11. NOTICES. Any notice to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly given when hand delivered or mailed, postpaid to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such notice.

SECTION 9.12. INTERPRETATION. If any disagreement shall arise between Members as to the interpretation or application of this Declaration or any other Documents relating thereto, the disagreement shall be resolved by the Board and the determination of the Board shall be final and binding upon all Members unless the determination was fraudulently induced or arbitrarily or capriciously rendered.

SECTION 9.13. OMISSIONS. If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence, or provision shall be supplied by inference.

SECTION 9.14. AMENDMENTS BY DECLARANT. The Declarant shall have, and reserves the right at any time prior to turning over control of the Association to the Owners without the joinder by or consent of any other party, to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record only for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or affect the vested property or other rights of any Owner or such Owner's mortgagee.

Declarant, further reserves the right to amend this Declaration in any manner during the first five years following the recording of these restrictions in the Official Public Records of Real Property of Galveston County. The amendment shall be evidenced by an instrument in writing duly signed, acknowledged and filed of record. Notice of recordation shall be given to the Owners upon filing of the amendment. The Owners may overrule such an amendment by an instrument in writing signed and acknowledged by owners of two thirds (2/3rds) of the Lots in the Property and duly recorded, if such document is recorded within six months of the date of recording of the amendment to be overruled.

SECTION 9.15. DECLARANT'S USES. Declarant may, and hereby reserves the right to, conduct its administrative activities and marketing program for the Subdivision from any location within the Subdivision, whether from a permanent or a temporary facility.

SECTION 9.16. VARIANCES. Declarant at its sole discretion, is hereby permitted to approve at the request of the Committee, deviations in all use and architectural restrictions concerning building area, location of improvements on the Lots, and building materials used in construction of improvements on the Lots, in instances where in Declarant's sole judgement and discretion, such deviation will result in a more common beneficial use. Such approvals must be granted in writing by Declarant and when granted will automatically amend such restrictions, only insofar as the restrictions apply to the Lot for which the variance was requested. Declarant is under no obligation to consider or grant variances. However, all variances shall comply with legal requirements.

Upon request by a Lot Owner, the Committee shall, in writing, request a variance from Declarant. Declarant shall have thirty (30) days to consider such request and if Declarant does not respond within thirty (30) days of receipt of such written request, Declarant shall be deemed to have denied the request.

#### ARTICLE X. ANNEXATION AND ADDITIONS.

SECTION 10.01. ANNEXATION WITHOUT CONSENT OF CLASS "A" MEMBERSHIP. As the owner of any property adjacent to the Subdivision, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time until thirty (30) years from the date this Declaration is recorded in Galveston County, Texas, to subject such property to the provisions of this Declaration and the jurisdiction of the Association by filing in the Galveston County Real Property Records, a supplemental amendment annexing such property. Such supplemental amendment to this Declaration shall not require the vote of the Members or approval by any person. Any such annexation shall be effective upon the filing for record of such supplemental amendment, unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the owner and developer of at least a portion of said real property. Any annexation by the Declarant during the above described thirty (30) year period may contain such additions and modifications of the provisions contained in this Declaration as may be necessary, as determined by the Declarant in its sole discretion.

SECTION 10.02. ANNEXATION WITH APPROVAL OF CLASS "A" MEMBERSHIP. Subject to the written consent of the owner thereof, and affirmative vote of a majority of the number of the Class "A" votes of the Association present or represented by proxy at a meeting duly called for such purpose, the Association may annex real property adjacent to the Subdivision, following the expiration of the right in Section 1 hereof, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Galveston County Real Property Records, a supplemental amendment in respect to the property being annexed. Any such supplemental amendment shall be signed by the President and the Secretary of the Association, and

any such annexation shall be effective upon filing, unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Class "A" Members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the bylaws of the Association for regular or special meetings, as the case may be.

SECTION 10.03. MERGERS. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the other associations as one scheme. No such merger or consolidation, however, shall affect any revocation, change or additions to the covenants established by this Declaration or any Supplemental Declaration.

SECTION 10.04. OTHER ASSOCIATION PRIVILEGES. The Declarant or the Board of Directors of the Association may negotiate and contract in the name of The Park on Egret Bay Homeowners Association, Inc. for the use of properties or facilities of other Associations or Subdivisions including, but not limited to, swimming pools and tennis courts. All members shall abide by any such contract, and the rules and regulations of that association or subdivision as they relate to the properties or facilities to be used. Said contract shall not affect any revocation, change, or addition to the covenants established by this Declaration or any Supplemental Declaration.

IN WITNESS WHEREOF, the undersigned, being Developer and Lienholder, have set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

DEVELOPER:

EGRET BAY DEVELOPMENT, INC.

By: \_\_\_\_\_  
RICHARD M. DAVIS, JR., President

\_\_\_\_\_  
RICHARD M. DAVIS, JR., Owner of Lot One

\_\_\_\_\_  
ANN ELIZABETH DAVIS, Owner of Lot One

LIENHOLDER:

UNION PLANTERS BANK, N.A.

BY: \_\_\_\_\_

\_\_\_\_\_  
(Print Name and Title)

LIENHOLDER:

FIRST PROSPERITY BANK - 26

BY: \_\_\_\_\_

\_\_\_\_\_  
(Print Name and Title)

LIENHOLDER:

MORAND, INC.

BY: \_\_\_\_\_

\_\_\_\_\_  
(Print Name and Title)

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

This instrument was acknowledged before me, on the \_\_\_\_\_ day of \_\_\_\_\_, 2002, by RICHARD M. DAVIS, JR., President of EGRET BAY DEVELOPMENT, INC.

\_\_\_\_\_  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

This instrument was acknowledged before me, on the \_\_\_\_\_ day of \_\_\_\_\_, 2002, by RICHARD M. DAVIS and ANN ELIZABETH DAVIS, owners of Lot One.

\_\_\_\_\_  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

This instrument was acknowledged before me, on the \_\_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, \_\_\_\_\_ of UNION PLANTERS BANK, N.A., on behalf of said bank and in the capacity stated.

\_\_\_\_\_  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

      This instrument was acknowledged before me, on the \_\_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, \_\_\_\_\_ of FIRST PROSPERITY BANK - 26, on behalf of said bank and in the capacity stated.

\_\_\_\_\_  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

      This instrument was acknowledged before me, on the \_\_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, \_\_\_\_\_ of MORAND, INC. on behalf of said corporation and in the capacity stated.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS