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RESTRICTIONS, COVENANTS  
AND CONDITIONS  
Laffite's Cove at Pirates Beach

THE STATE OF TEXAS §  
COUNTY OF GALVESTON §

WHEREAS, THE WOODLANDS CORPORATION, formerly doing business under the name MITCHELL/SOUTHWEST, ("Developer"), a Delaware Corporation, is the owner of the following described property situated in Galveston County, Texas, to-wit:

All numbered lots in Pirates Cove, Section Six, a subdivision in Galveston County, Texas, according to the Plat thereof recorded in Book 18, Pages 277-281, of the Map Records of Galveston County, Texas, as amended by Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 326-333, and Partial Replat of Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 366 - 367 of the Map Records in the Office of the County Clerk of Galveston County, Texas, commonly known as Laffite's Cove at Pirates Beach

all of the hereinabove described property, being hereinafter sometimes referred to as "Said Lots", "the Property", or "the Subdivision"; and,

WHEREAS, it is the desire of the Developer to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of Developer as well as future owners of the Property:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT The Woodlands Corporation, a Delaware corporation, with offices and principle place of business in The Woodlands, Montgomery County, Texas, acting herein by and through its duly authorized officers, does hereby adopt, establish and impose the following reservations, restrictions, covenants and conditions upon the Property, which shall constitute covenants running with the title to the land and shall inure to the benefit of Developer, its successors and assigns and to each and every purchaser of one or more lots in the Subdivision, their successors and assigns, and any one of said beneficiaries shall have the right to enforce these restrictions by any available legal process.

RESTRICTIONS, COVENANTS AND CONDITIONS

1. Land Use and Building Type. The Property shall be used for residential purposes only, and only one (1) detached, single-family dwelling shall be erected on any one lot. No commercial activity shall be conducted on or from any of Said Lots, except that a lot owner may from time to time rent his or her home to another for residential purposes. Notwithstanding anything contained herein to the Contrary, until Developer, its successors or assigns has sold all the Property, any unsold lots may be used by Developer for the location and operation of a sales office.

2. Resubdivision. No lot may be resubdivided except between or among the owners of abutting lots and thereafter each owner's resulting oversize tract shall be considered as one lot. Nothing herein contained shall prohibit the construction of a single residence on portions of two (2) lots, in which case both such lots shall be considered as one lot for building purposes. Irrespective of the foregoing provisions of this paragraph, the annual maintenance charge hereinafter set forth shall be and remain applicable

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to all lots as originally shown on the recorded plat of the subdivision, recorded in the Office of the County Clerk of Galveston County, Texas ("Plat").

3. Architectural Control and Construction Time. No structure or improvement ("Improvement"), including, but not limited to, buildings, fences, walls, piers, docks, trash enclosures, driveways, curb cuts, culverts, decks, porches, patios, aerial antenna, satellite dish, swimming pools, playground equipment, and outdoor cooking or eating facility of a permanent nature, and any change in the grade of any lot of more than 6 inches shall be commenced, erected, or maintained upon any lot in the Subdivision, nor shall any exterior addition or change or alteration of the exterior be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee ("the Committee") composed of three (3) or more representatives from time to time appointed by Developer. The persons serving from time to time on the Committee may be removed, with or without cause, by Developer at such times and for such reasons as Developer may determine in the exercise of its sole discretion. In the event of the removal or resignation of one or more members of the Committee, the Developer shall promptly designate other persons to replace those who are removed.

Approval by the Committee shall be granted or withheld based upon conformity of the Improvement to both the general and specific intent of this instrument, adequacy of site dimensions, structural design, quality of materials, conformity and harmony of external design and location with neighboring structures and sites and relation of finished grades and elevations to neighboring sites, and such other relevant considerations as the Committee may, in the exercise of its sole discretion, determine to be of significance in such determination ("Committee Considerations"). Special dock design considerations will be required for the following lots: Block 1, Lots 40-42; Block 2, Lots 8, 9, 38-42, 58, 59, 66, 67 and 68; Block 6, Lots 5-10; and Block 10, Lot 35.

Each application made for architectural control approval shall be accompanied by the fee established by the Committee to defray expenses of the Committee and by complete plans and specifications of all proposed Improvements. The plans and specifications to be so submitted and approved shall include the following:

- a) A topographical plat showing existing contour grades and showing the location of all proposed Improvements. Existing and finished grades shall be shown at lot corners. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the lot contours of more than six (6) inches is contemplated.
- b) Exterior elevations.
- c) Exterior materials and colors.
- d) Structural design.
- e) Landscaping plan, including walkways, fences and walls (if permitted), elevation changes, watering systems, lighting, vegetation and ground cover.
- f) Parking area and driveway plan.
- g) Screening, including size, location and method.
- h) Utility connections

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- i) Exterior illumination, if any, including location and method.
- j) Design and materials for construction of interconnect (including any culvert (size and type) or related facility) between driveways and any walkway, and the street or roadway.

If the plans and specifications are approved by the Committee, an approved application shall be issued authorizing construction of the proposed Improvements in accordance with the plans and specifications so approved. In the event the Committee fails to approve or disapprove the plans within forty-five (45) days after same have been submitted to it, approval will be presumed and this paragraph will be deemed to have been fully complied with.

Following approval of the plans and specifications and prior to commencement of construction, owner shall obtain a licensed land surveyor or professional engineer to survey the lot and mark the lot corners and the location of the proposed structure on the ground to insure it conforms to the site plan as approved. The Committee must approve the survey in writing prior to commencement of construction.

After the commencement of construction, the lot owner shall have a maximum of six (6) months to complete or cause to be completed the exterior construction unless the Committee approves a written request from the owner for an extension of such time limit. Exterior construction shall be deemed complete when the structure or structures have been completed in accordance with the approved plans, and when all construction materials and debris have been cleaned up and removed from the site.

Approval by the Committee shall not relieve the owner from the responsibility of complying with applicable public ordinances or regulations, and the approval is not, nor is it intended to be, an indication of compliance with any such ordinances or regulations.

Neither the Developer, the Committee nor any of the members of such Committee shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by these restrictions, covenants and conditions, by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

The Committee shall have the right to promulgate and adopt rules and regulations necessary to implement these restrictions, covenants, and conditions, including but not limited to, an outline of minimum, acceptable construction standards and specifications. These rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted with any application, payment of reasonable fees for processing or reviewing the application, it may also include guidelines governing the development of each lot, and building inspection procedures.

A member or agent of the Committee may enter on and inspect any lot and any Improvement thereon during regular business hours and following reasonable notice for the purpose of ascertaining whether such lot and the Improvements thereon are in compliance with these restrictions, covenants, and conditions. Neither the Developer, the Committee, nor the agent of any of them shall be deemed to have committed a trespass by reason of such entry for inspection, provided such inspection is carried out in accordance with the terms of this paragraph.

It shall be the responsibility of the lot owner during construction to remove in a timely manner all trash, lumber, and debris of any other description associated with such construction

so as to preserve a neat and orderly appearance to his or her lot, and, upon completion of construction, to completely remove all remaining construction debris from his or her lot. If, in the opinion of the Committee, a lot owner fails to remove such construction debris in a timely manner, the Committee shall have the option to cause such debris to be removed from the lot, and the cost of such work shall be charged to the lot owner and shall be payable to the Committee upon demand. Any amounts owing to the Committee hereunder shall be secured by the lien hereinafter mentioned in paragraph 24.

No exterior aerial antenna, satellite dish, flag pole, or other structure of any kind (except a chimney) shall project above the uppermost roof line of any structure on any lot in the Property.

The Committee shall have the power and the authority, to be exercised in its sole discretion, to authorize variances and exemptions from the terms and provisions of any of the restrictions, covenants, and requirements set forth in this paragraph as to any one or more lots. The rights, powers and duties reserved to Developer by this instrument and by this paragraph 3, shall remain in force and effect so long as the restrictions, covenants, and conditions, set forth herein shall be and remain in force and effect. The terms and provisions of this paragraph 3. may be enforced in the same manner as the other terms and provisions hereof are enforced pursuant to paragraph 31 hereof.

4. Dwelling Size. Only one (1) detached single-family dwelling may be erected on any lot in the Property and each such dwelling shall contain not less than 1600 square feet of living area; not less than 300 square feet of deck area; and not less than 100 square feet of garage or enclosed storage area.

5. Type of Construction, Materials and Landscape.

(a) Every structure, building or addition thereto shall be affixed to the ground in a permanent manner.

(b) All elevated structures shall be built on pilings or other type of elevated foundation designed so that the foundation will aesthetically conform to standards set by the Committee.

(c) No round pilings shall be permitted, unless the pilings are concrete.

(d) No angle bracing from pilings to floor stringers will be permitted. Elevated structures may be cross braced against the floor joists to prevent racking of structures, and floor joist stringers must be of adequate size to carry floor joists without angle bracing from the pilings to the stringers.

(e) All houses and other structures must be kept in good repair, and painted or stained when necessary to preserve the attractiveness thereof.

(f) No house, building or structure shall be more than two (2) stories of living area in height. Open decking will be permitted above the second level provided it is no more than forty (40) feet above mean sea level and accessed by less than one hundred fifty (150) square feet of enclosed space. The open decking should also be less than forty percent (40%) of the square feet of the floor below. Notwithstanding anything contained herein, to the contrary, a house, building, or structure may be disapproved by the Committee because of excessive height, due to Committee Considerations described in paragraph 3. above.

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(g) The minimum first floor elevation of a house must be at least in accordance with the requirements for insurance against storms and as required by the City of Galveston and County of Galveston, and any other governmental entity having jurisdiction.

(h) Toilet facilities of all houses shall be installed inside each house, and shall be connected before use with a sewage disposal system approved by the City of Galveston and the Galveston County Health Department. No other sewage disposal system will be permitted in the subdivision other than a central sewage system serving the subdivision. No septic tank or privy shall be installed, erected or maintained on the premises. Nothing herein contained to the contrary or seemingly to the contrary shall prevent the installation and use of sanitary sewer facilities by a water district or other governmental authority in the subdivision. Each lot owner will, at his or her expense, extend his residence connection line to an outside perimeter of the lot as designated by Developer or a utility district, as the case may be.

(i) All pilings must be sunk to a depth of a least ten (10') feet.

(j) Walls attached to structural or vertical pilings below the living area of the house must be of a break away nature and may not be permanently or structurally affixed to the pilings.

(k) Upon completion of a house each lot owner shall plant, and continually maintain on his or her lot at least four (4) healthy trees, two (2) of which ("Specific Trees") must be of the type, size, and at the locations set forth below. The Specified Trees must be planted at the two (2) corners of each lot adjacent to the street right-of-way, located one (1) foot inside the front lot line and eight (8) feet inside each side lot line. The particular type and size of the Specific Trees depends upon what street right-of-way the lot faces on to, and shall be as follows:

<u>Street Name</u>	<u>Type of Tree</u>	<u>Size</u>
Foremast Dr.	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Cutwater Place	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Eckert Drive	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Jibstay Court	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Mayenne Place	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Lanyard Place	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Windlass Circle	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Windlass Court	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Binnacle Way	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Vinnacle Court	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon

Cove Lane

Live Oak  
(Quercus Virginiana)2½ to 3 inch diameter  
30 gallon

The other two (2) required trees must be a type of palm tree with a minimum height of ten (10) feet at the time of planting and may be located on the lot as determined by the lot owner. Any tree which is damaged or dies must be replaced in a timely manner with a new tree meeting the requirements of this paragraph 5.(k). Each lot owner also must install a concrete driveway extending to the street pavement.

(1) All construction must be in compliance with all laws, ordinances, rules and regulations of all government and municipal agencies having jurisdiction over construction of improvements on lots.

6. Location of Improvements. No portion of a building, including porch or roof overhang, stairs, and air conditioning units, shall be located closer to the front, side and rear lot lines than the building lines as shown on the Plat and if no rear or side building lines are indicated on the Plat, then no closer than twenty (20) feet to the bulkhead on the inland side; provided that cantilevered or overhanging improvements may be constructed to within fifteen (15) feet of said bulkhead so long as there are no peers, supports, or other ground level improvements within twenty (20) feet of the bulkhead, and six (6) feet to any side lot line. Above ground propane tanks, air conditioning units, and all other unsightly structures, facilities, or equipment must be screened from public view by planting or decorative fencing. Corner lots shall be deemed to front on the street along which such lot has the least amount of frontage, except houses on the bay or those houses which have been excepted by the Committee by reason of outstanding or unusual design. No fence shall be erected in the front building setback line and no rear yard fencing shall be higher than four (4) feet.

7. Electrical Distribution System. An electric distribution system will be installed in that part of the Subdivision, designated herein as -Underground Residential Subdivision, which -underground service area embraces all of the lots which are platted in the Subdivision. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the -Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the dwelling units involved. The owner of each lot containing a single dwelling unit or, in the case of a multiple dwelling unit structure, the owner/developer, shall, at his or her own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Developer has either by designation on the Plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned, and installed service wires. In addition, the owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure the owner/developer, shall at his or its own cost, furnish, install,

own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed or will install the underground electric distribution system in the Underground Residential Subdivision at no cost to Developer (except for certain conduits, where applicable, and except as hereinafter provided) upon Developer's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and if permitted by the restrictions applicable to such subdivision, townhouses, duplexes and apartment structures, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each dwelling unit. Should the plans of the Developer or the lot owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, the electric company shall not be obligated to provide electric service to any such mobile home unless (a) Developer has paid to the electric company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision or (b) the owner of each affected lot, or the applicant for service to any mobile home, shall pay to the electric company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot or dwelling unit over the cost of equivalent overhead facilities to serve such lot or dwelling unit, plus (2) the cost of rearranging, and adding any electric facilities serving such lot, which arrangement and/or addition is determined by the electric company to be necessary.

8. Easements. Easements for the installation and maintenance of utilities, drainage facilities, roads and streets are granted and reserved as shown on the Plat. No utility company, water district or other authorized entity or political subdivision using the easements herein referred to shall be liable for any damage done by themselves, their successors, assigns, agents, employees, or servants, to shrubbery, trees or flowers or other property of the owner situated on the land covered by said easements. Developer reserves the right to grant (without the consent of any lot owner) such additional easements as may, in the opinion of Developer, be necessary to properly serve the Subdivision's requirements.

9. Annoyances or Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood or to a person of reasonable sensibilities.

10. Animals. Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be kept, raised or bred on any lot in the Subdivision. Not more than two (2) dogs and/or cats may be kept on a lot, provided they are kept only for the use and pleasure of the owner and are not kept, bred or maintained for commercial purposes.

11. Drainage Structures. Drainage structures under private driveways shall be either of two types: (1) where the drainage ditch is of sufficient size to accommodate the culvert as described herein without causing the driveway to be elevated above the street level, drainage structures shall be buried underneath the private driveway, and shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater, and shall

be a minimum of 1 3/4 square feet (18-inch diameter pipe culvert); (2) where the drainage ditch is of insufficient size to accommodate the culvert above described, the drainage structure may be a dip in the private driveway that will allow the free flow of water over the driveway.

12. Condition of the Lot Surface. The cutting of grass and weeds, and the collection of garbage, trash and rubbish shall be the responsibility of each lot owner, and may be handled by a third party or parties on an individual contract basis. The owner or occupant of each lot shall at all times maintain his or her lot in a sanitary, healthful and attractive manner. No owner or occupant of any lot shall in any event use his or her lot or any part thereof for the storage of materials or equipment except such materials and equipment as may be needed for normal, immediate residential building requirements, nor shall they permit the accumulation of garbage, trash, rubbish, or refuse of any kind thereon. In the event of default on the part of the owner or occupant of any lot in observing any of the above requirements, or in the event any garbage, trash, rubbish or refuse is allowed to remain on the individual owner's premises for a longer period of time than one (1) week, with the exception that a maximum of thirty (30) days is granted to clear debris and repair damage due to hurricanes or other acts of God, Developer, (and the successors and assigns of Developer in a like capacity), without liability to such owner or occupant in trespass or otherwise, may enter upon such lot and cut or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash, rubbish or debris so as to place such lot in a neat, attractive, healthful and sanitary condition, in which case Developer shall bill the owner or occupant for such work. The owner or occupant, as the case may be, agrees by purchase or occupancy of any lot in the Subdivision, to pay such statement within fifteen (15) days of receipt thereof.

13. Temporary Structures. No structure of a temporary character, including, but not limited to, trailers, tents, shacks, mobile homes, boats or motor vehicles of any type, shall ever be maintained or used on any lot at any time as a residence, either temporarily or permanently. Parking of automotive vehicles on road shoulders adjacent to lots is prohibited.

14. Excavation or Filling. The excavation or the removal of any soil from any lot is prohibited except where necessary in conjunction with landscaping or construction being done on such lot. No filling material which will have the effect of changing the grade level of any lot shall be placed on such lot without the prior approval in writing of the Committee, the City of Galveston, and any other governmental agencies having jurisdiction thereof, if any.

15. Signs and Billboards. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any lot without the prior consent in writing of the Committee. Developer or the Committee shall have the right to remove any such signs, advertisements, billboards or structures placed on any lot within the Subdivision without such consent, and in so doing shall not be liable for trespass or any damages in connection therewith or arising from such removal. Notwithstanding anything contained herein to the contrary, Developer reserves the right to construct and maintain such signs and advertising devices on the Property as is customary in connection with the general sale of property in the Subdivision.

16. Hunting. No hunting nor the discharge of firearms shall be permitted in, on, or from, any part of the Subdivision.

17. Treasures or Artifacts. Developer reserves a one-half (1/2) interest in all treasures and artifacts found on any lot within the Subdivision.

18. Docking and Mooring Facilities. No piers, docks or mooring facilities shall be installed, erected or maintained unless and until the plans and specifications for the same have been



approved in writing by the Committee. Furthermore, all boats operated, anchored or docked in any manner in any of said canals must be approved by the Committee as to appearance, size and the extent of motor noise in order that no unsightly, oversized or unusually loud boats will be allowed in any of said canals. No pier, dock or mooring facility may be installed, erected, or maintained on or adjacent to Lot 33, Block 10.

19. Covenants for Maintenance Charges. Each purchaser of any lot within the Property by acceptance of a deed or other instrument of conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance shall be deemed to covenant, and agree as a covenant running with the land, to pay to the Developer, its successors or assigns: a) the Regular Maintenance Charge (as specified in Paragraph 20 hereof and b) the Special Laffite's Cove Maintenance Charge (as specified in paragraph 22 hereof), both such maintenance charges to be fixed, established and collected as hereinafter provided. Each of the maintenance charges herein provided for shall be a charge and a continuing lien upon each lot, together with all improvements thereon, as hereinafter more particularly stated. Each maintenance charge, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of the lot at the time payment of the maintenance charge fell due, but no lot owner shall be personally liable for the payment of any maintenance charge made or becoming due and payable after his or her ownership ceases.

20. Regular Maintenance Charge. The owner of each lot within the Property, except as hereinafter provided, shall pay a minimum annual maintenance charge ("Regular Maintenance Charge") of \$60.00 per year for the purpose of creating a fund to be known as the "Maintenance Fund". Said Regular Maintenance Charge may be increased from time to time by the Committee in an annual amount not to exceed 10% of the Regular Maintenance Charge for the previous year, up to a maximum charge of \$72.00 a lot per year, if in the sole discretion of the Committee, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 21 below. After said maximum charge of \$72.00 per lot has been reached, thereafter the Committee shall have the right, in its sole discretion, to increase the Regular Maintenance Charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Statistics cease to publish the Consumer Price Index - All Items, 1967 equals 100, the Committee shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items, 1967 equals 100. Said Regular Maintenance Charge shall be due and payable annually in advance on or before the first day of July of each year to the Committee at its offices in The Woodlands, Texas. The Regular Maintenance Charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of said ensuing year bears to a whole year. The Regular Maintenance Charges referred to herein, together with the lien securing payment of the same, is hereby transferred, assigned and conveyed to the Committee. It is expressly agreed that all unsold lots owned by Developer and its successors and assigns, shall be excluded from payment of the Regular Maintenance Charge. The sole and only obligation of Developer in connection with the purposes for which said Maintenance Fund has been created is to keep the grass and weeds mowed on all unsold lots. Notwithstanding the foregoing, Developer may, at its sole option, assume and agree to pay other expenditures for the benefit of owners or occupants of lots in the Subdivision.

Notwithstanding anything contained herein to the contrary, in the event either the public and/or private roads and/or streets in sections of Pirates Beach and Pirates Cove Subdivision (including, but not limited to, access roads) are damaged by hurricane, flood,

storm or other act of nature, and the City or County of Galveston does not satisfactorily repair such roads, the Regular Maintenance Charge may be increased annually during the next ensuing collection period or periods by an amount not to exceed one-half (1/2) of the then current Regular Maintenance Charge in order to raise sufficient funds to pay the cost of restoring such roads or streets to their former condition and the funds collected by reason of such increase may be used to repair such damage and/or to reimburse Developer, its successors or assigns, for any expense, including interest, if any, which it may have incurred in connection with the repair of such damage. After the total cost of such repairs, including interest, if any, has been paid, the Regular Maintenance Charge shall revert to such amount as may have been collected annually prior to such increase, subject to the right of the Committee, its successors or assigns, to increase the Regular Maintenance Charge as herein provided.

21. Purpose of the Maintenance Fund. All sums accruing to such Maintenance Fund shall be applied, so far as sufficient, towards the payment of maintenance expenses, of all sections of Pirates Beach and Pirates Cove Subdivision, including, but not limited to, the following: lighting, sidewalks and dunes and dune crossover walkways, if any, paths, public and/or private roads and/or streets (including, but not limited to, access roads), public canals, boat launching facilities, parks, security, playgrounds, Gulf and Bay lot owner facilities, esplanades, collecting and disposing of garbage, trash, and rubbish from common areas, and doing other things necessary or desirable in the opinion of the Committee to keep the Property neat and in good order, or which the Committee considers of a general benefit to the owners or occupants of lots in the Sections of Pirates Beach and Pirates Cove Subdivision. In this connection, it is understood that the judgment of the Committee in the expenditures of the Maintenance Fund shall be final so long as such judgment is exercised in good faith. It is further understood and agreed that the Committee shall have the right to commingle the sums comprising the Maintenance Fund with sums comprising other Maintenance Funds in other Sections of the Pirates Beach and Pirates Cove Subdivision and to expend portions of the Maintenance Fund for the purposes herein specified for the benefit of other Sections of the Pirates Beach and Pirates Cove Subdivision.

22. Special Laffite's Cove Maintenance Charge. The owner of each lot within the Property shall pay to the Developer a minimum annual maintenance charge ("Special Laffite's Cove Maintenance Charge"), of \$250.00 per year for the purpose of creating a fund to be known as a "Special Laffite's Cove Fund". Said Special Laffite's Cove Maintenance Charge may be increased from time to time by the Developer if in the sole discretion of the Developer, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 23 below. Said Special Laffite's Cove Maintenance Charge shall be due and payable annually in advance on or before the first day of July of each year to the Developer at its offices in The Woodlands, Texas. The Special Laffite's Cove Maintenance Charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of said ensuing year bears to a whole year.

23. Purpose of Special Laffite's Cove Fund. All sums accruing to the Special Laffite's Cove Fund shall be used for the purposes of landscaping the common areas within the Property and doing other things necessary or desirable in the opinion of the Developer to keep the Property neat and in good order, or which the Developer considers of a general benefit to the owners or occupants of lots in the Property, including, but not limited to security specifically designed for the Property. In this connection, it is understood that the judgment of the Developer in the expenditures of the Special Laffite's Cove Fund shall be final so long as such judgment is exercised in good faith. It is further understood and agreed that this fund shall not be commingled with the sums comprising the Maintenance Fund.

24. Liens to Secure Maintenance Charges. The Regular Maintenance Charge and the Special Laffite's Cove Maintenance Charge as hereinabove provided for, shall each constitute and be secured by a separate and valid and subsisting lien, hereby created and fixed, and which shall exist upon and against each lot and all improvements thereon, for the benefit of the Developer, its successors or assigns, and all lot owners, such liens to be enforceable by such beneficiary through the appropriate means at law.

25. Subordination of Liens. All liens established by this instrument are hereby specifically made subordinate and inferior to all liens, presently or in the future, given, granted and created at the instance or request of the owner of any such lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such lot, and it is hereby further provided that as a condition precedent to any proceeding to enforce such lien upon any lot against which there is an outstanding valid and subsisting first mortgage lien, such beneficiary shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, such notice to be sent to the nearest office of such mortgage holder by prepaid United States registered or certified mail, such notice to contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of the owner of any such mortgage, said beneficiary shall acknowledge in writing to such owner its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien.

26. Relationship of Maintenance Fund Lien, Special Laffite's Cove Lien and Laffite's Cove at Pirates Beach Lien. The Maintenance Fund Lien, Special Laffite's Cove Lien, and the Laffite's Cove at Pirates Beach Lien shall be ranked as pari passu, with none of the liens being superior or subordinate to the other regardless of the priority of its recordation. The Laffite's Cove at Pirates Beach Lien shall mean the lien securing assessments and other costs provided for in the Declaration of Covenants for Laffite's Cove at Pirates Beach Canals and Nature Preserves recorded under County Clerk's File No. 9226208 of the Real Property Records of Galveston, Texas ("Section 6 Declaration"). In the event of a default in the obligations secured by any of such liens and the institution of proceedings to foreclose liens by the beneficiary thereof, the beneficiary instituting foreclosure proceedings shall provide written notice thereof to the beneficiary of the other liens, and, if there is then a default in any of the obligations secured by any of such liens, the proceeds of a foreclosure sale shall be applied as follows:

- (a) First, to the expenses incurred in connection with the foreclosure sale;
- (b) Second, in equal amounts to the beneficiary of each lien in which there is a default until all obligations secured by any of liens have been paid in full;
- (c) Third, 100% to the beneficiary of the lien securing any obligations remaining unpaid; and
- (d) Fourth, to the obligor(s) their heirs, personal representatives, successors or assigns.

Such foreclosure proceedings shall not in any manner alter, affect or diminish the rights of the beneficiary of any of such liens to bring an action at law against the persons liable for the obligations secured thereby. Likewise, such foreclosure proceedings and any sale or transfer thereunder shall not in any manner alter, affect or diminish the Laffite's Cove at Pirates Beach Lien, the Maintenance Fund Lien, and Special Laffite's Cove Lien as to any future assessments or other obligations secured thereby.

27. Terms of Maintenance Fund and Special Laffite's Cove Fund. The above described maintenance charges will remain in

effect for the full term (and extended term or terms, if applicable) of the within restrictions, covenants, and conditions.

28. Membership in Galveston Country Club. Each owner of one or more lots in the Subdivision shall, simultaneously upon the closing of the purchase of such lot or lots, make application for Membership in the Galveston Country Club on a form to be provided by said Club. If accepted for membership, the lot owner shall maintain such membership in an active status and shall timely pay all dues, charges and fees as may be established by the Galveston Country Club for Membership from time to time, during the period of ownership of a lot in the Subdivision, and shall comply with (and such membership shall be subject to) all rules, regulations and By-Laws promulgated by the Club as they may be amended from time to time. The obligation herein contained shall be a covenant running with the land and shall be binding upon the heirs, successors and assigns of the owner. Payment of such dues and fees shall be secured by a lien as provided in paragraph 24.

29. Use of Recreational Facilities. Lot owners in all sections of Pirates Beach and Pirates Cove Subdivision shall have the use of the combined recreational facilities within said subdivisions.

30. Reservation of Landscape Easement. There is hereby reserved for Developer, its successor and assigns an easement forty (40) feet running within, along, and adjacent to the entire rear foot line of Lots 44-53, both inclusive, Block 10. This easement shall be for the establishment, construction, location, operation, maintenance, repair, replacement and restoration of a landscaped area. Developer, or its successors and assigns, acting by and through its agents or employees shall have the right to enter upon the easement area hereby reserved, at all times, for the purpose of constructing, operating, and maintaining landscaping across, on and through the easement area, and to do any and all things necessary, useful, convenient or incidental to or in connection therewith, including, but not limited to, the right of constructing, operating, maintaining, repairing, and replacing irrigation equipment, berms, trees, shrubs, flowers, and other plantings thereon.

31. Terms and Enforcement. The restrictions, covenants, and conditions set forth in this instrument shall be deemed to run with all or any portion of the Property, and shall be a burden and benefit to Developer, its successors and assigns, and any grantees, successors, heirs, executors, administrators or assigns, and shall run with the land and shall be binding upon all parties and persons claiming under Developer until December 31, 2012, at which time these covenants shall be extended automatically for successive periods of ten (10) years each unless an instrument signed by the majority of the then owners of lots within the Property has been duly executed and acknowledged, changing said covenants, restrictions and conditions, in whole or in part, and filed for record in Galveston County, Texas. Enforcement of these restrictions, covenants, and conditions, including specifically but not limited to, the terms and provisions of paragraph 3. hereof, may be had by any proceedings at law or in equity against any person or persons so violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory. It shall not be a prerequisite to the granting of any such injunction that there be an inadequate remedy at law, or that there be any showing of irreparable harm or damage if such injunction is not granted. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reason of such violation of the terms and provisions hereof. Such enforcement may be by the owner of any lot within the Property, by Developer, or by any association of owners of lots in Pirates Beach and Pirates Cove Subdivisions, as provided by law. Failure by any person or persons to enforce any restriction, covenant or condition herein contained, or acquiescence in any violation hereof, shall not be deemed the

waiver of the right to enforce against the violator or others the provisions so violated or any other provision.

32. Property Owner's Association. Developer shall have the right, but not the duty, to create or cause to be created at any time within the duration of these restrictions one or more property owners' associations, each incorporated as a Texas nonprofit corporation. Every person or entity who is a record owner of a lot within the Subdivision shall be a member of each property owners' association created. Lot ownership shall be the sole qualification for membership, and membership shall be appurtenant to and may not be separated from lot ownership. Members shall be entitled to one (1) vote in each property owners' association for each lot owned. Developer shall have the right, but not the duty, and at its sole discretion, to transfer or sell the recreational facilities it owns, if any, and any or all reserves it owns within the Subdivision, to any property owners' association it forms. Also Developer may transfer its responsibilities under these restrictions, covenants, and conditions, to any property owners' associations it forms, including, but not limited to, the responsibility for collection and disbursement of the Maintenance Fund, responsibility for collection and disbursement of the Special Laffite's Cove Fund, responsibility for enforcing the Maintenance Fund Lien and Special Laffite's Cove Lien and the responsibilities for architectural control set out in paragraph 3. hereof.

33. Annexation. Additional land in Pirates Cove Section Six, a subdivision in Galveston County, Texas according to the map or plat thereof, recorded in Book 18, Pages 277-181 of the Map Records in the Office of the County Clerk of Galveston County, Texas, as amended by Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 326-333 and Partial Replat of Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 366-367 of the Map Records in the Office of the County Clerk of Galveston, Texas, owned by Developer, its successors or assigns, may be added or annexed to the Property and made subject to the terms hereof by the Developer, its successors or assigns, without the consent of owners at any time or from time to time by the recording of an instrument expressly stating an intention to so annex such additional land. Such additional land which may be added or annexed shall become subject to the Regular Maintenance Charge and Special Laffite's Cove Maintenance Charge.

34. Prior Covenants. These restrictions, covenants and conditions are expressly made subject to the Section 6 Declaration. In the event of any conflict between these restrictions, covenants, and conditions of the Section 6 Declaration, the Section 6 Declaration will control.

35. Responsibility of Developer. It is expressly understood and agreed that Developer assumes no obligation, responsibility or liability in the execution of these reservations, restrictions, covenants and conditions, and further that any or all duties, responsibilities, maintenance charges, and/or rights contained, established or reserved herein may be assigned, transferred and conveyed to a civic club or similar organization at any time Developer is reasonably assured that said civic club or similar organization is able to function for the benefit of all owners of lots in the Subdivision.

36. Severability. Invalidation of any one of these covenants by judgment or other court order shall in nowise affect any of the other provisions, such other provisions to remain in full force and effect.

37. Amendments of These Restrictions, Covenants, and Conditions. Any part or all of these restrictions, covenants, and conditions may be amended, from time to time by an instrument duly executed and acknowledged and recorded in the office of the County Clerk of Galveston County, Texas, signed by the owners of a majority of the lots in the Subdivision, provided that only one vote shall be allowed for each lot in the Subdivision, regardless of

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whether more than one person owns a lot, and provided, further that when one person or Developer owns more than one lot, he or it shall be entitled to one vote for each lot owned.

38. Headings. All sections and paragraph headings used herein are for convenience only and shall have no efficacy in construing any of the restrictions, covenants and/or conditions herein contained.

WITNESS the execution hereof this the 2nd day of July, 1992.

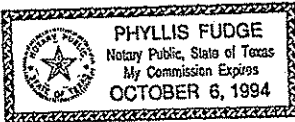
THE WOODLANDS CORPORATION

By: [Signature]  
Name: J. L. Rogers  
Title: Senior Vice President

THE STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on July 2, 1992 by J. L. ROGERS, Senior Vice President of THE WOODLANDS CORPORATION, a Delaware corporation on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 2nd day of July, 1992.



[Signature]  
Notary Public, State of Texas

FILED FOR RECORD  
92 JUL -8 PM 2:17  
[Signature]  
COUNTY CLERK  
GALVESTON COUNTY, TEXAS

STATE OF TEXAS COUNTY OF GALVESTON  
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public Records of Real Property of Galveston County Texas, on  
JUL 8 1992  
[Signature]  
COUNTY CLERK  
GALVESTON CO., TEXAS



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008-35-0345

ECS/pf/GRCCPC6.CMP/07-06-92

CORRECTION  
RESTRICTIONS, COVENANTS  
AND CONDITIONS

Laffite's Cove at Pirates Beach

THE STATE OF TEXAS   \$  
                             \$  
COUNTY OF GALVESTON \$

WHEREAS, THE WOODLANDS CORPORATION, formerly doing business under the name MITCHELL/SOUTHWEST, ("Developer"), a Delaware Corporation, is the owner of the following described property situated in Galveston County, Texas, to-wit:

All numbered lots in Pirates Cove, Section Six, a subdivision in Galveston County, Texas, according to the Plat thereof recorded in Book 18, Pages 277-281, of the Map Records of Galveston County, Texas, as amended by Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 326-333, and Partial Replat of Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 366 - 367 of the Map Records in the Office of the County Clerk of Galveston County, Texas, commonly known as Laffite's Cove at Pirates Beach

all of the hereinabove described property, being hereinafter sometimes referred to as "Said Lots", "the Property", or "the Subdivision"; and,

WHEREAS, it is the desire of the Developer to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of Developer as well as future owners of the Property:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT The Woodlands Corporation, a Delaware corporation, with offices and principle place of business in The Woodlands, Montgomery County, Texas, acting herein by and through its duly authorized officers, does hereby adopt, establish and impose the following reservations, restrictions, covenants and conditions upon the Property, which shall constitute covenants running with the title to the land and shall inure to the benefit of Developer, its successors and assigns and to each and every purchaser of one or more lots in the Subdivision, their successors and assigns, and any one of said beneficiaries shall have the right to enforce these restrictions by any available legal process.

RESTRICTIONS, COVENANTS AND CONDITIONS

1. Land Use and Building Type. The Property shall be used for residential purposes only, and only one (1) detached, single-family dwelling shall be erected on any one lot. No commercial activity shall be conducted on or from any of Said Lots, except that a lot owner may from time to time rent his or her home to another for residential purposes. Notwithstanding anything contained herein to the contrary, until Developer, its successors or assigns has sold all the Property, any unsold lots may be used by Developer for the location and operation of a sales office.

2. Resubdivision. No lot may be resubdivided except between or among the owners of abutting lots and thereafter each owner's resulting oversize tract shall be considered as one lot. Nothing herein contained shall prohibit the construction of a single residence on portions of two (2) lots, in which case both such lots shall be considered as one lot for building purposes. Irrespective of the foregoing provisions of this paragraph, the annual maintenance charge hereinafter set forth shall be and remain applicable

to all lots as originally shown on the recorded plat of the subdivision, recorded in the Office of the County Clerk of Galveston County, Texas ("Plat").

3. Architectural Control and Construction Time. No structure or improvement ("Improvement"), including, but not limited to, buildings, fences, walls, piers, docks, trash enclosures, driveways, curb cuts, culverts, decks, porches, patios, aerial antenna, satellite dish, swimming pools, playground equipment, and outdoor cooking or eating facility of a permanent nature, and any change in the grade of any lot of more than 6 inches shall be commenced, erected, or maintained upon any lot in the Subdivision, nor shall any exterior addition or change or alteration of the exterior be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee ("the Committee") composed of three (3) or more representatives from time to time appointed by Developer. The persons serving from time to time on the Committee may be removed, with or without cause, by Developer at such times and for such reasons as Developer may determine in the exercise of its sole discretion. In the event of the removal or resignation of one or more members of the Committee, the Developer shall promptly designate other persons to replace those who are removed.

Approval by the Committee shall be granted or withheld based upon conformity of the Improvement to both the general and specific intent of this instrument, adequacy of site dimensions, structural design, quality of materials, conformity and harmony of external design and location with neighboring structures and sites and relation of finished grades and elevations to neighboring sites, and such other relevant considerations as the Committee may, in the exercise of its sole discretion, determine to be of significance in such determination ("Committee Considerations"). Special dock design considerations will be required for the following lots: Block 1, Lots 40-42; Block 2, Lots 8, 9, 38-42, 58, 59, 66, 67 and 68; Block 6, Lots 5-10; and Block 10, Lot 35.

Each application made for architectural control approval shall be accompanied by the fee established by the Committee to defray expenses of the Committee and by complete plans and specifications of all proposed Improvements. The plans and specifications to be so submitted and approved shall include the following:

- a) A topographical plat showing existing contour grades and showing the location of all proposed Improvements. Existing and finished grades shall be shown at lot corners. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the lot contours of more than six (6) inches is contemplated.
- b) Exterior elevations.
- c) Exterior materials and colors.
- d) Structural design.
- e) Landscaping plan, including walkways, fences and walls (if permitted), elevation changes, watering systems, lighting, vegetation and ground cover.
- f) Parking area and driveway plan.
- g) Screening, including size, location and method.
- h) Utility connections



- i) Exterior illumination, if any, including location and method.
- j) Design and materials for construction of interconnect (including any culvert (size and type) or related facility) between driveways and any walkway, and the street or roadway.

If the plans and specifications are approved by the Committee, an approved application shall be issued authorizing construction of the proposed Improvements in accordance with the plans and specifications so approved. In the event the Committee fails to approve or disapprove the plans within forty-five (45) days after same have been submitted to it, approval will be presumed and this paragraph will be deemed to have been fully complied with.

Following approval of the plans and specifications and prior to commencement of construction, owner shall obtain a licensed land surveyor or professional engineer to survey the lot and mark the lot corners and the location of the proposed structure on the ground to insure it conforms to the site plan as approved. The Committee must approve the survey in writing prior to commencement of construction.

After the commencement of construction, the lot owner shall have a maximum of six (6) months to complete or cause to be completed the exterior construction unless the Committee approves a written request from the owner for an extension of such time limit. Exterior construction shall be deemed complete when the structure or structures have been completed in accordance with the approved plans, and when all construction materials and debris have been cleaned up and removed from the site.

Approval by the Committee shall not relieve the owner from the responsibility of complying with applicable public ordinances or regulations, and the approval is not, nor is it intended to be, an indication of compliance with any such ordinances or regulations.

Neither the Developer, the Committee nor any of the members of such Committee shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by these restrictions, covenants and conditions, by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

The Committee shall have the right to promulgate and adopt rules and regulations necessary to implement these restrictions, covenants, and conditions, including but not limited to, an outline of minimum, acceptable construction standards and specifications. These rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted with any application, payment of reasonable fees for processing or reviewing the application, it may also include guidelines governing the development of each lot, and building inspection procedures.

A member or agent of the Committee may enter on and inspect any lot and any Improvement thereon during regular business hours and following reasonable notice for the purpose of ascertaining whether such lot and the Improvements thereon are in compliance with these restrictions, covenants, and conditions. Neither the Developer, the Committee, nor the agent of any of them shall be deemed to have committed a trespass by reason of such entry for inspection, provided such inspection is carried out in accordance with the terms of this paragraph.

It shall be the responsibility of the lot owner during construction to remove in a timely manner all trash, lumber, and debris of any other description associated with such construction

so as to preserve a neat and orderly appearance to his or her lot, and, upon completion of construction, to completely remove all remaining construction debris from his or her lot. If, in the opinion of the Committee, a lot owner fails to remove such construction debris in a timely manner, the Committee shall have the option to cause such debris to be removed from the lot, and the cost of such work shall be charged to the lot owner and shall be payable to the Committee upon demand. Any amounts owing to the Committee hereunder shall be secured by the lien hereinafter mentioned in paragraph 24.

No exterior aerial antenna, satellite dish, flag pole, or other structure of any kind (except a chimney) shall project above the uppermost roof line of any structure on any lot in the Property.

The Committee shall have the power and the authority, to be exercised in its sole discretion, to authorize variances and exemptions from the terms and provisions of any of the restrictions, covenants, and requirements set forth in this paragraph as to any one or more lots. The rights, powers and duties reserved to Developer by this instrument and by this paragraph 3, shall remain in force and effect so long as the restrictions, covenants, and conditions, set forth herein shall be and remain in force and effect. The terms and provisions of this paragraph 3. may be enforced in the same manner as the other terms and provisions hereof are enforced pursuant to paragraph 31 hereof.

4. Dwelling Size. Only one (1) detached single-family dwelling may be erected on any lot in the Property and each such dwelling shall contain not less than 1600 square feet of living area; not less than 300 square feet of deck area; and not less than 100 square feet of garage or enclosed storage area.

5. Type of Construction, Materials and Landscape.

(a) Every structure, building or addition thereto shall be affixed to the ground in a permanent manner.

(b) All elevated structures shall be built on pilings or other type of elevated foundation designed so that the foundation will aesthetically conform to standards set by the Committee.

(c) No round pilings shall be permitted, unless the pilings are concrete.

(d) No angle bracing from pilings to floor stringers will be permitted. Elevated structures may be cross braced against the floor joists to prevent racking of structures, and floor joist stringers must be of adequate size to carry floor joists without angle bracing from the pilings to the stringers.

(e) All houses and other structures must be kept in good repair, and painted or stained when necessary to preserve the attractiveness thereof.

(f) No house, building or structure shall be more than two (2) stories of living area in height. Open decking will be permitted above the second level provided it is no more than forty (40) feet above mean sea level and accessed by less than one hundred fifty (150) square feet of enclosed space. The open decking should also be less than forty percent (40%) of the square feet of the floor below. Notwithstanding anything contained herein, to the contrary, a house, building, or structure may be disapproved by the Committee because of excessive height, due to Committee Considerations described in paragraph 3. above.

(g) The minimum first floor elevation of a house must be at least in accordance with the requirements for insurance against storms and as required by the City of Galveston and County of Galveston, and any other governmental entity having jurisdiction.

(h) Toilet facilities of all houses shall be installed inside each house, and shall be connected before use with a sewage disposal system approved by the City of Galveston and the Galveston County Health Department. No other sewage disposal system will be permitted in the Subdivision other than a central sewage system serving the Subdivision. No septic tank or privy shall be installed, erected or maintained on the premises. Nothing herein contained to the contrary or seemingly to the contrary shall prevent the installation and use of sanitary sewer facilities by a water district or other governmental authority in the Subdivision. Each lot owner will, at his or her expense, extend his residence connection line to an outside perimeter of the lot as designated by Developer or a utility district, as the case may be.

(i) All pilings must be sunk to a depth of a least ten (10') feet.

(j) Walls attached to structural or vertical pilings below the living area of the house must be of a break away nature and may not be permanently or structurally affixed to the pilings.

(k) Upon completion of a house each lot owner shall plant, and continually maintain on his or her lot at least four (4) healthy trees, two (2) of which ("Specific Trees") must be of the type, size, and at the locations set forth below. The Specified Trees must be planted at the two (2) corners of each lot adjacent to the street right-of-way, located one (1) foot inside the front lot line and eight (8) feet inside each side lot line. The particular type and size of the Specific Trees depends upon what street right-of-way the lot faces on to, and shall be as follows:

<u>Street Name</u>	<u>Type of Tree</u>	<u>Size</u>
Foremast Dr.	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Cutwater Place	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Eckert Drive	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Jibstay Court	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Moyenne Place	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Lanyard Place	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Windlass Circle	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Windlass Court	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon
Binnacle Way	Sabal Palm (Sabal Florida)	10-20 foot, clear trunk, bear root
Binnacle Court	Live Oak (Quercus Virginiana)	2½ to 3 inch diameter 30 gallon

Cove Lane	Live Oak	2½ to 3 inch diameter
	(Quercus Virginiana)	30 gallon

The other two (2) required trees must be a type of palm tree with a minimum height of ten (10) feet at the time of planting and may be located on the lot as determined by the lot owner. Any tree which is damaged or dies must be replaced in a timely manner with a new tree meeting the requirements of this paragraph 5.(k). Each lot owner also must install a concrete driveway extending to the street pavement.

(1) All construction must be in compliance with all laws, ordinances, rules and regulations of all government and municipal agencies having jurisdiction over construction of improvements on lots.

6. Location of Improvements. No portion of a building, including porch or roof overhang, stairs, and air conditioning units, shall be located closer to the front, side and rear lot lines than the building lines as shown on the Plat and if no rear or side building lines are indicated on the Plat, then no closer than twenty (20) feet to the bulkhead on the inland side; provided that cantilevered or overhanging improvements may be constructed to within fifteen (15) feet of said bulkhead so long as there are no peers, supports, or other ground level improvements within twenty (20) feet of the bulkhead, and six (6) feet to any side lot line. Above ground propane tanks, air conditioning units, and all other unsightly structures, facilities, or equipment must be screened from public view by planting or decorative fencing. Corner lots shall be deemed to front on the street along which such lot has the least amount of frontage, except houses on the bay or those houses which have been excepted by the Committee by reason of outstanding or unusual design. No fence shall be erected in the front building setback line and no rear yard fencing shall be higher than four (4) feet.

7. Electrical Distribution System. An electric distribution system will be installed in that part of the Subdivision, designated herein as -Underground Residential Subdivision, which -underground service area embraces all of the lots which are platted in the Subdivision. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the -Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the dwelling units involved. The owner of each lot containing a single dwelling unit or, in the case of a multiple dwelling unit structure, the owner/developer, shall, at his or her own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Developer has either by designation on the Plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned, and installed service wires. In addition, the owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure the owner/developer, shall at his or its own cost, furnish, install,

own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed or will install the underground electric distribution system in the Underground Residential Subdivision at no cost to Developer (except for certain conduits, where applicable, and except as hereinafter provided) upon Developer's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and if permitted by the restrictions applicable to such subdivision, townhouses, duplexes and apartment structures, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each dwelling unit. Should the plans of the Developer or the lot owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, the electric company shall not be obligated to provide electric service to any such mobile home unless (a) Developer has paid to the electric company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision or (b) the owner of each affected lot, or the applicant for service to any mobile home, shall pay to the electric company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot or dwelling unit over the cost of equivalent overhead facilities to serve such lot or dwelling unit, plus (2) the cost of rearranging, and adding any electric facilities serving such lot, which arrangement and/or addition is determined by the electric company to be necessary.

8. Easements. Easements for the installation and maintenance of utilities, drainage facilities, roads and streets are granted and reserved as shown on the Plat. No utility company, water district or other authorized entity or political subdivision using the easements herein referred to shall be liable for any damage done by themselves, their successors, assigns, agents, employees, or servants, to shrubbery, trees or flowers or other property of the owner situated on the land covered by said easements. Developer reserves the right to grant (without the consent of any lot owner) such additional easements as may, in the opinion of Developer, be necessary to properly serve the Subdivision's requirements.

9. Annovances or Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood or to a person of reasonable sensibilities.

10. Animals. Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be kept, raised or bred on any lot in the Subdivision. Not more than two (2) dogs and/or cats may be kept on a lot, provided they are kept only for the use and pleasure of the owner and are not kept, bred or maintained for commercial purposes.

11. Drainage Structures. Drainage structures under private driveways shall be either of two types: (1) where the drainage ditch is of sufficient size to accommodate the culvert as described herein without causing the driveway to be elevated above the street level, drainage structures shall be buried underneath the private driveway, and shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater, and shall

be a minimum of 1 3/4 square feet (18-inch diameter pipe culvert); (2) where the drainage ditch is of insufficient size to accommodate the culvert above described, the drainage structure may be a dip in the private driveway that will allow the free flow of water over the driveway.

12. Condition of the Lot Surface. The cutting of grass and weeds, and the collection of garbage, trash and rubbish shall be the responsibility of each lot owner, and may be handled by a third party or parties on an individual contract basis. The owner or occupant of each lot shall at all times maintain his or her lot in a sanitary, healthful and attractive manner. No owner or occupant of any lot shall in any event use his or her lot or any part thereof for the storage of materials or equipment except such materials and equipment as may be needed for normal, immediate residential building requirements, nor shall they permit the accumulation of garbage, trash, rubbish, or refuse of any kind thereon. In the event of default on the part of the owner or occupant of any lot in observing any of the above requirements, or in the event any garbage, trash, rubbish or refuse is allowed to remain on the individual owner's premises for a longer period of time than one (1) week, with the exception that a maximum of thirty (30) days is granted to clear debris and repair damage due to hurricanes or other acts of God, Developer, (and the successors and assigns of Developer in a like capacity), without liability to such owner or occupant in trespass or otherwise, may enter upon such lot and cut or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash, rubbish or debris so as to place such lot in a neat, attractive, healthful and sanitary condition, in which case Developer shall bill the owner or occupant for such work. The owner or occupant, as the case may be, agrees by purchase or occupancy of any lot in the Subdivision, to pay such statement within fifteen (15) days of receipt thereof.

13. Temporary Structures. No structure of a temporary character, including, but not limited to, trailers, tents, shacks, mobile homes, boats or motor vehicles of any type, shall ever be maintained or used on any lot at any time as a residence, either temporarily or permanently. Parking of automotive vehicles on road shoulders adjacent to lots is prohibited.

14. Excavation or Filling. The excavation or the removal of any soil from any lot is prohibited except where necessary in conjunction with landscaping or construction being done on such lot. No filling material which will have the effect of changing the grade level of any lot shall be placed on such lot without the prior approval in writing of the Committee, the City of Galveston, and any other governmental agencies having jurisdiction thereof, if any.

15. Signs and Billboards. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any lot without the prior consent in writing of the Committee. Developer or the Committee shall have the right to remove any such signs, advertisements, billboards or structures placed on any lot within the Subdivision without such consent, and in so doing shall not be liable for trespass or any damages in connection therewith or arising from such removal. Notwithstanding anything contained herein to the contrary, Developer reserves the right to construct and maintain such signs and advertising devices on the Property as is customary in connection with the general sale of property in the Subdivision.

16. Hunting. No hunting nor the discharge of firearms shall be permitted in, on, or from, any part of the Subdivision.

17. Treasures or Artifacts. Developer reserves a one-half (1/2) interest in all treasures and artifacts found on any lot within the Subdivision.

18. Docking and Mooring Facilities. No piers, docks or mooring facilities shall be installed, erected or maintained unless and until the plans and specifications for the same have been

approved in writing by the Committee. Furthermore, all boats operated, anchored or docked in any manner in any of said canals must be approved by the Committee as to appearance, size and the extent of motor noise in order that no unsightly, oversized or unusually loud boats will be allowed in any of said canals. No pier, dock or mooring facility may be installed, erected, or maintained on or adjacent to Lot 33, Block 10.

19. Covenants for Maintenance Charges. Each purchaser of any lot within the Property by acceptance of a deed or other instrument of conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance shall be deemed to covenant, and agree as a covenant running with the land, to pay to the Developer, its successors or assigns: a) the Regular Maintenance Charge (as specified in Paragraph 20 hereof and b) the Special Laffite's Cove Maintenance Charge (as specified in paragraph 22 hereof), both such maintenance charges to be fixed, established and collected as hereinafter provided. Each of the maintenance charges herein provided for shall be a charge and a continuing lien upon each lot, together with all improvements thereon, as hereinafter more particularly stated. Each maintenance charge, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of the lot at the time payment of the maintenance charge fell due, but no lot owner shall be personally liable for the payment of any maintenance charge made or becoming due and payable after his or her ownership ceases.

20. Regular Maintenance Charge. The owner of each lot within the Property, except as hereinafter provided, shall pay a minimum annual maintenance charge ("Regular Maintenance Charge") of \$60.00 per year for the purpose of creating a fund to be known as the "Maintenance Fund". Said Regular Maintenance Charge may be increased from time to time by the Committee in an annual amount not to exceed 10% of the Regular Maintenance Charge for the previous year, up to a maximum charge of \$72.00 a lot per year, if in the sole discretion of the Committee, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 21 below. After said maximum charge of \$72.00 per lot has been reached, thereafter the Committee shall have the right, in its sole discretion, to increase the Regular Maintenance Charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Statistics cease to publish the Consumer Price Index - All Items, 1967 equals 100, the Committee shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items, 1967 equals 100. Said Regular Maintenance Charge shall be due and payable annually in advance on or before the first day of July of each year to the Committee at its offices in The Woodlands, Texas. The Regular Maintenance Charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of said ensuing year bears to a whole year. The Regular Maintenance Charges referred to herein, together with the lien securing payment of the same, is hereby transferred, assigned and conveyed to the Committee. It is expressly agreed that all unsold lots owned by Developer and its successors and assigns, shall be excluded from payment of the Regular Maintenance Charge. The sole and only obligation of Developer in connection with the purposes for which said Maintenance Fund has been created is to keep the grass and weeds mowed on all unsold lots. Notwithstanding the foregoing, Developer may, at its sole option, assume and agree to pay other expenditures for the benefit of owners or occupants of lots in the Subdivision.

Notwithstanding anything contained herein to the contrary, in the event either the public and/or private roads and/or streets in sections of Pirates Beach and Pirates Cove Subdivision (including, but not limited to, access roads) are damaged by hurricane, flood,

storm or other act of nature, and the City or County of Galveston does not satisfactorily repair such roads, the Regular Maintenance Charge may be increased annually during the next ensuing collection period or periods by an amount not to exceed one-half (1/2) of the then current Regular Maintenance Charge in order to raise sufficient funds to pay the cost of restoring such roads or streets to their former condition and the funds collected by reason of such increase may be used to repair such damage and/or to reimburse Developer, its successors or assigns, for any expense, including interest, if any, which it may have incurred in connection with the repair of such damage. After the total cost of such repairs, including interest, if any, has been paid, the Regular Maintenance Charge shall revert to such amount as may have been collected annually prior to such increase, subject to the right of the Committee, its successors or assigns, to increase the Regular Maintenance Charge as herein provided.

21. Purpose of the Maintenance Fund. All sums accruing to such Maintenance Fund shall be applied, so far as sufficient, towards the payment of maintenance expenses, of all sections of Pirates Beach and Pirates Cove Subdivision, including, but not limited to, the following: lighting, sidewalks and dunes and dune crossover walkways, if any, paths, public and/or private roads and/or streets (including, but not limited to, access roads), public canals, boat launching facilities, parks, security, playgrounds, Gulf and Bay lot owner facilities, esplanades, collecting and disposing of garbage, trash, and rubbish from common areas, and doing other things necessary or desirable in the opinion of the Committee to keep the Property neat and in good order, or which the Committee considers of a general benefit to the owners or occupants of lots in the Sections of Pirates Beach and Pirates Cove Subdivision. In this connection, it is understood that the judgment of the Committee in the expenditures of the Maintenance Fund shall be final so long as such judgment is exercised in good faith. It is further understood and agreed that the Committee shall have the right to commingle the sums comprising the Maintenance Fund with sums comprising other Maintenance Funds in other Sections of the Pirates Beach and Pirates Cove Subdivision and to expend portions of the Maintenance Fund for the purposes herein specified for the benefit of other Sections of the Pirates Beach and Pirates Cove Subdivision.

22. Special Laffite's Cove Maintenance Charge. The owner of each lot within the Property shall pay to the Developer a minimum annual maintenance charge ("Special Laffite's Cove Maintenance Charge"), of \$250.00 per year for the purpose of creating a fund to be known as a "Special Laffite's Cove Fund". Said Special Laffite's Cove Maintenance Charge may be increased from time to time by the Developer if in the sole discretion of the Developer, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 23 below. Said Special Laffite's Cove Maintenance Charge shall be due and payable annually in advance on or before the first day of July of each year to the Developer at its offices in The Woodlands, Texas. The Special Laffite's Cove Maintenance Charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of said ensuing year bears to a whole year.

23. Purpose of Special Laffite's Cove Fund. All sums accruing to the Special Laffite's Cove Fund shall be used for the purposes of landscaping the common areas within the Property and doing other things necessary or desirable in the opinion of the Developer to keep the Property neat and in good order, or which the Developer considers of a general benefit to the owners or occupants of lots in the Property, including, but not limited to security specifically designed for the Property. In this connection, it is understood that the judgment of the Developer in the expenditures of the Special Laffite's Cove Fund shall be final so long as such judgment is exercised in good faith. It is further understood and agreed that this fund shall not be commingled with the sums comprising the Maintenance Fund.



24. Liens to Secure Maintenance Charges. The Regular Maintenance Charge and the Special Laffite's Cove Maintenance Charge as hereinabove provided for, shall each constitute and be secured by a separate and valid and subsisting lien, hereby created and fixed, and which shall exist upon and against each lot and all improvements thereon, for the benefit of the Developer, its successors or assigns, and all lot owners, such liens to be enforceable by such beneficiary through the appropriate means at law.

25. Subordination of Liens. All liens established by this instrument are hereby specifically made subordinate and inferior to all liens, presently or in the future, given, granted and created at the instance or request of the owner of any such lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such lot, and it is hereby further provided that as a condition precedent to any proceeding to enforce such lien upon any lot against which there is an outstanding valid and subsisting first mortgage lien, such beneficiary shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, such notice to be sent to the nearest office of such mortgage holder by prepaid United States registered or certified mail, such notice to contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of the owner of any such mortgage, said beneficiary shall acknowledge in writing to such owner its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien.

26. Relationship of Maintenance Fund Lien, Special Laffite's Cove Lien and Laffite's Cove at Pirates Beach Lien. The Maintenance Fund Lien, Special Laffite's Cove Lien, and the Laffite's Cove at Pirates Beach Lien shall be ranked as pari passu, with none of the liens being superior or subordinate to the other regardless of the priority of its recordation. The Laffite's Cove at Pirates Beach Lien shall mean the lien securing assessments and other costs provided for in the Declaration of Covenants for Laffite's Cove at Pirates Beach Canals and Nature Preserves recorded under County Clerk's File No. 9226208 of the Real Property Records of Galveston, Texas ("Section 6 Declaration"). In the event of a default in the obligations secured by any of such liens and the institution of proceedings to foreclose liens by the beneficiary thereof, the beneficiary instituting foreclosure proceedings shall provide written notice thereof to the beneficiary of the other liens, and, if there is then a default in any of the obligations secured by any of such liens, the proceeds of a foreclosure sale shall be applied as follows:

- (a) First, to the expenses incurred in connection with the foreclosure sale;
- (b) Second, in equal amounts to the beneficiary of each lien in which there is a default until all obligations secured by any of liens have been paid in full;
- (c) Third, 100% to the beneficiary of the lien securing any obligations remaining unpaid; and
- (d) Fourth, to the obligor(s) their heirs, personal representatives, successors or assigns.

Such foreclosure proceedings shall not in any manner alter, affect or diminish the rights of the beneficiary of any of such liens to bring an action at law against the persons liable for the obligations secured thereby. Likewise, such foreclosure proceedings and any sale or transfer thereunder shall not in any manner alter, affect or diminish the Laffite's Cove at Pirates Beach Lien, the Maintenance Fund Lien, and Special Laffite's Cove Lien as to any future assessments or other obligations secured thereby.

27. Terms of Maintenance Fund and Special Laffite's Cove Fund. The above described maintenance charges will remain in

effect for the full term (and extended term or terms, if applicable) of the within restrictions, covenants, and conditions.

28. Membership in Galveston Country Club. Each owner of one or more lots in the Subdivision shall, simultaneously upon the closing of the purchase of such lot or lots, make application for Membership in the Galveston Country Club on a form to be provided by said Club. If accepted for membership, the lot owner shall maintain such membership in an active status and shall timely pay all dues, charges and fees as may be established by the Galveston Country Club for Membership from time to time, during the period of ownership of a lot in the Subdivision, and shall comply with (and such membership shall be subject to) all rules, regulations and By-Laws promulgated by the Club as they may be amended from time to time. The obligation herein contained shall be a covenant running with the land and shall be binding upon the heirs, successors and assigns of the owner. Payment of such dues and fees shall be secured by a lien as provided in paragraph 24.

29. Use of Recreational Facilities. Lot owners in all sections of Pirates Beach and Pirates Cove Subdivision shall have the use of the combined recreational facilities within said subdivisions.

30. Reservation of Landscape Easement. There is hereby reserved for Developer, its successor and assigns an easement forty (40) feet wide running within, along, and adjacent to the entire rear lot line of Lots 44-53, both inclusive, Block 10. This easement shall be for the establishment, construction, location, operation, maintenance, repair, replacement and restoration of a landscaped area. Developer, or its successors and assigns, acting by and through its agents or employees shall have the right to enter upon the easement area hereby reserved, at all times, for the purpose of constructing, operating, and maintaining landscaping across, on and through the easement area, and to do any and all things necessary, useful, convenient or incidental to or in connection therewith, including, but not limited to, the right of constructing, operating, maintaining, repairing, and replacing irrigation equipment, berms, trees, shrubs, flowers, and other plantings thereon.

31. Terms and Enforcement. The restrictions, covenants, and conditions set forth in this instrument shall be deemed to run with all or any portion of the Property, and shall be a burden and benefit to Developer, its successors and assigns, and any grantees, successors, heirs, executors, administrators or assigns, and shall run with the land and shall be binding upon all parties and persons claiming under Developer until December 31, 2012, at which time these covenants shall be extended automatically for successive periods of ten (10) years each unless an instrument signed by the majority of the then owners of lots within the Property has been duly executed and acknowledged, changing said covenants, restrictions and conditions, in whole or in part, and filed for record in Galveston County, Texas. Enforcement of these restrictions, covenants, and conditions, including specifically but not limited to, the terms and provisions of paragraph 3. hereof, may be had by any proceedings at law or in equity against any person or persons so violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory. It shall not be a prerequisite to the granting of any such injunction that there be an inadequate remedy at law, or that there be any showing of irreparable harm or damage if such injunction is not granted. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reason of such violation of the terms and provisions hereof. Such enforcement may be by the owner of any lot within the Property, by Developer, or by any association of owners of lots in Pirates Beach and Pirates Cove Subdivisions, as provided by law. Failure by any person or persons to enforce any restriction, covenant or condition herein contained, or acquiescence in any violation hereof, shall not be deemed the

waiver of the right to enforce against the violator or others the provisions so violated or any other provision.

32. Property Owner's Association. Developer shall have the right, but not the duty, to create or cause to be created at any time within the duration of these restrictions one or more property owners' associations, each incorporated as a Texas nonprofit corporation. Every person or entity who is a record owner of a lot within the Subdivision shall be a member of each property owners' association created. Lot ownership shall be the sole qualification for membership, and membership shall be appurtenant to and may not be separated from lot ownership. Members shall be entitled to one (1) vote in each property owners' association for each lot owned. Developer shall have the right, but not the duty, and at its sole discretion, to transfer or sell the recreational facilities it owns, if any, and any or all reserves it owns within the Subdivision, to any property owners' association it forms. Also Developer may transfer its responsibilities under these restrictions, covenants, and conditions, to any property owners' associations it forms, including, but not limited to, the responsibility for collection and disbursement of the Maintenance Fund, responsibility for collection and disbursement of the Special Laffite's Cove Fund, responsibility for enforcing the Maintenance Fund Lien and Special Laffite's Cove Lien and the responsibilities for architectural control set out in paragraph 3. hereof.

33. Annexation. Additional land in Pirates Cove Section Six, a subdivision in Galveston County, Texas according to the map or plat thereof, recorded in Book 18, Pages 277-181 of the Map Records in the Office of the County Clerk of Galveston County, Texas, as amended by Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 326-333 and Partial Replat of Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 366-367 of the Map Records in the Office of the County Clerk of Galveston, Texas, owned by Developer, its successors or assigns, may be added or annexed to the Property and made subject to the terms hereof by the Developer, its successors or assigns, without the consent of owners at any time or from time to time by the recording of an instrument expressly stating an intention to so annex such additional land. Such additional land which may be added or annexed shall become subject to the Regular Maintenance Charge and Special Laffite's Cove Maintenance Charge.

34. Prior Covenants. These restrictions, covenants and conditions are expressly made subject to the Section 6 Declaration. In the event of any conflict between these restrictions, covenants, and conditions of the Section 6 Declaration, the Section 6 Declaration will control.

35. Responsibility of Developer. It is expressly understood and agreed that Developer assumes no obligation, responsibility or liability in the execution of these reservations, restrictions, covenants and conditions, and further that any or all duties, responsibilities, maintenance charges, and/or rights contained, established or reserved herein may be assigned, transferred and conveyed to a civic club or similar organization at any time Developer is reasonably assured that said civic club or similar organization is able to function for the benefit of all owners of lots in the Subdivision.

36. Severability. Invalidation of any one of these covenants by judgment or other court order shall in nowise affect any of the other provisions, such other provisions to remain in full force and effect.

37. Amendments of These Restrictions, Covenants, and Conditions. Any part or all of these restrictions, covenants, and conditions may be amended, from time to time by an instrument duly executed and acknowledged and recorded in the office of the County Clerk of Galveston County, Texas, signed by the owners of a majority of the lots in the Subdivision, provided that only one vote shall be allowed for each lot in the Subdivision, regardless of

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whether more than one person owns a lot, and provided, further that when one person or Developer owns more than one lot, he or it shall be entitled to one vote for each lot owned.

38. Headings. All sections and paragraph headings used herein are for convenience only and shall have no efficacy in construing any of the restrictions, covenants and/or conditions herein contained.

This instrument is a correction instrument given in lieu of and as a substitute for that certain instrument dated July 2, 1992, filed for record under County Clerk's File No. 9226209 of the Real Property Records in order to correct clerical errors in paragraph 5(k) and in paragraph 30, Reservation of Landscape Easement, and this instrument is made in order to correct said mistakes and in all other respects confirming the former instrument.

WITNESS the execution hereof this the 3rd day of August, 1992.

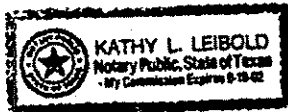
THE WOODLANDS CORPORATION

By: [Signature]  
Name: J. L. Rogers  
Title: Senior Vice President

THE STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on Aug. 3, 1992 by J. L. ROGERS, Senior Vice President of THE WOODLANDS CORPORATION, a Delaware corporation on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 3 day of August, 1992.



Kathy L. Leibold  
Notary Public, State of Texas

RETURN TO:  
THE WOODLANDS CORPORATION  
ATTN: MARY ROSE  
P.O. BOX 4000  
THE WOODLANDS, TX 77380 **PAID**

FILED FOR RECORD

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[Signature]  
COUNTY CLERK  
GALVESTON COUNTY, TEXAS

STATE OF TEXAS COUNTY OF GALVESTON  
I hereby certify that this instrument was filed  
on the date and time stamped hereon by me and  
was duly recorded in the Official Public Records  
of Real Property of Galveston County Texas, on

AUG 6 1992



Jessie B. Kirkland  
COUNTY CLERK  
GALVESTON CO., TEXAS

9226208

008-29-0424

DECLARATION OF COVENANTS  
FOR  
LAFFITE'S COVE AT PIRATES' BEACH  
CANALS AND NATURE PRESERVES

THE STATE OF TEXAS       §  
                              §  
COUNTY OF GALVESTON     §

THIS DECLARATION OF COVENANTS ("Declaration") has been executed by THE WOODLANDS CORPORATION, a Delaware corporation ("Declarant"), this 2nd day of July, 1992.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property located in Galveston County, Texas, and being more particularly described as follows, to wit:

191.42 acres of land, being all of the lands in Pirates' Cove, Section 6, a subdivision in Galveston County, Texas, according to the plat thereof recorded in Book 18, Pages 277-281, of the Map Records in the Office of the County Clerk of Galveston County, Texas, as amended by First Amending Plat recorded in Book 18, Pages 326-333, and Partial Replat recorded in Book 18, Pages 366-367, of the Map Records in the Office of the County Clerk of Galveston County, Texas (the "Property"),

also known as Laffite's Cove at Pirates' Beach; and

WHEREAS, Declarant desires to establish a uniform plan for: (i) the maintenance of canals to be located on the Property; (ii) the preservation, maintenance and management of certain of the reserves located on the Property; and (iii) the protection of trees located on the Property; and

WHEREAS, Declarant has created Laffite's Cove at Pirates' Beach Nature Society ("Society"), a Texas non-profit corporation, which shall be delegated and assigned the powers of maintaining the canals, operating and managing the reserves hereinbelow designated, administering and enforcing the covenants and restrictions of this Declaration, and collecting and disbursing the assessments and charges made pursuant to this Declaration;

NOW, THEREFORE, Declarant, acting herein by and through its duly authorized officers, does hereby adopt, establish, and impose the following covenants, conditions, restrictions, charges, and easements upon the Property, which shall constitute covenants running with the title to the land and shall inure to the benefit of Declarant, its successors and assigns, the Owners (as herein-

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after defined), and the Society, and any one of said beneficiaries shall have the right to enforce these restrictions by any available legal process.

#### ARTICLE I

##### DEFINITIONS

1.01. "Board of Directors" and "Board" shall mean the board of directors of the Society.

1.02. "Bulkhead" shall mean the bulkhead to be constructed and maintained on each Canal Lot in accordance with the Permit.

1.03. "Canal Area" shall mean that portion of the Property comprised of the Flowage Easement, Reserve O, Reserve P, and that portion of Reserve M designated as "Channel" in the Permit.

1.04. "Canal Frontage Property" shall mean all portions of the Property adjacent to Reserve M, Reserve O and/or Reserve P.

1.05. "Canals" shall mean the navigable waterways to be excavated, constructed and maintained within the Canal Area.

1.07. "Declarant" shall mean The Woodlands Corporation, a Delaware corporation (successor by merger to Mitchell Development corporation of the Southwest), and its successors and assigns as the Declarant under this Declaration.

1.08. "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions.

1.09. "Flowage Easement" shall mean the 30-foot flowage easement upon, over and across each Canal Lot, and upon, over and across that portion of Reserve E, as shown on the Plat.

1.10. "Lien Notice" shall mean the written notice given by the Society pursuant to Section 7.06 hereof, such notice setting forth details regarding an assessment unpaid by an Owner.

1.11. "Lot" shall mean all numbered lots in Laffite's Cove at Pirates' Beach, as shown on the Plat, and any additional lots created by replat of any Reserve or portion thereof as residential lots.

1.12. "Member" shall mean each Owner.

1.13. "Mortgage" shall mean any mortgage, deed of trust, sale-leaseback, sale repurchase, or other bona fide financing transaction. "Mortgagee" shall mean and refer to the holder and owner of a Mortgage.

1.14. "Nature Preserves" shall mean Reserves D, E, F, I, and J.

1.15. "Notice of Ownership" shall mean the written notice filed with the Society upon the transfer or conveyance of any portion of the Property.

1.16. "Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to each Lot and to each Reserve (excluding trustees under deeds of trust, Mortgagees, and all other holding title merely as security for the performance of an obligation). In the event any Lot or Reserve is jointly owned by two or more Persons, then each shall be fully liable hereunder as an Owner.

1.17. "Participating Reserves" shall mean Reserves A, B, G, H and L.

1.18. "Party Wall" shall mean the Bulkhead at the location of each boundary line between each Lot and/or Reserve comprising the Canal Frontage Property.

1.19. "Permit" shall mean the Department of the Army Permit No. 17800, dated August 9, 1990, issued by the U. S. Army Corps of Engineers to Mitchell Development corporation of the Southwest, a copy of which is attached hereto as Exhibit "A", incorporated herein by reference and made a part hereof for all purposes.

1.20. "Person" shall mean and refer to one or more individuals, corporations, partnerships, organizations, or other entities.

1.21. "Pirates' Beach and Cove Maintenance Fund Liens" shall mean the liens securing payment of maintenance charges assessed against the Lots for the Pirates' Beach and Cove Maintenance Fund and for the additional maintenance fund for Laffite's Cove at Pirate's Beach, to be established, imposed and created pursuant to additional covenants and restrictions to be imposed upon the Lots pursuant to Section 14.01 hereof.

1.22. "Laffite's Cove at Pirates' Beach Lien" shall mean the lien securing payment of assessments and other costs provided for in this Declaration, as established, imposed and created pursuant to Section 7.01 hereof.

1.23. "Plat" shall mean the subdivision plat of Pirates' Cove at Pirates' Beach, recorded in Book 18, Pages 277-281, of the Plat Records in the Office of the County Clerk of Galveston County, Texas, as amended by First Amending Plat recorded in Book 18, Pages 326-333, and Partial Replat recorded in Book 18, Pages 366-367, of the Map Records in the Office of the County Clerk of Galveston County, Texas.

1.24. "Property" shall mean the real property more particularly described above.

1.25. "Reserve" shall mean an area designated as a Reserve on the Plat.

1.26. "Society" shall mean Laffite's Cove at Pirates' Beach Nature Society, a Texas non-profit corporation.

## ARTICLE II

### COMPLIANCE; ENFORCEABILITY

2.01. Compliance with Provisions of Declaration. Each Owner shall comply strictly with the provisions of this Declaration as the same may be amended from time to time. Failure to comply with any of the Declaration's provisions shall constitute a violation of this Declaration and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Declarant, the Board of Directors on behalf of the Society, or by an aggrieved Owner.

2.02. No Warranty of Enforceability. While Declarant has no reason to believe that any of the sections, terms, or provisions in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such sections, terms, or provisions. Any Owner acquiring a portion of the Property in reliance on one or more of such sections, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring a portion of the Property, agrees to hold Declarant harmless therefrom.

## ARTICLE III

### CANALS

3.01. Construction of Canals. Declarant shall cause the Canals to be constructed in compliance with all applicable governmental rules and regulations including, but not limited to, the terms and provisions of the Permit. Upon completion of construction, the Society shall thereafter be responsible for the maintenance of the Canals in accordance with the terms and provisions hereof. Declarant shall transfer, assign and convey to the Society Reserve O, Reserve P and that portion of Reserve M designated as "Channel" in the Permit. The Flowage Easement has been reserved and retained for the benefit of both Declarant and the Society pursuant to Article 13 below.

3.02. Maintenance of Canals. The Society shall maintain the Canals in a neat, orderly and attractive appearance, and shall maintain the water quality within the Canals sufficient to meet all applicable federal, state and local water quality criteria, including, without limitation, the Permit. The Society shall cause all man-made and natural debris to be removed from the Canals and water circulation structures connecting the Canals, at weekly intervals. At such time as the Canals are transferred to the Society by Declarant, the Society shall thereafter assume and be responsible for the water quality monitoring required by the Permit.



3.03 Canal Area Use Restrictions. The Canal Area shall be used solely and exclusively for the construction, operation and maintenance of navigable waterways to provide ingress and egress to and from Eckert Bayou and West Bay for all properties comprising Laffite's Cove at Pirates' Beach, as shown on the Plat; provided, however, nothing contained herein shall in any manner alter, affect or diminish the rights of the Owners of portions of the Property adjacent to the Canals to construct, operate and maintain within the Canals bulkheads, wharves, piers, boat docks and boat houses, subject to the terms and conditions of the Permit including, but not limited to, maintenance of a minimum channel width of 80 feet as required by Exhibit C, Sheet 4 of the Permit, and all other applicable laws, rules and regulations, and to otherwise exercise and enjoy any and all other rights and privileges appurtenant to their property as riparian or littoral owners.

#### ARTICLE IV

##### NATURE PRESERVES

4.01 Management. The Nature Preserves shall be administered, operated and managed by the Society in accordance with the terms and provisions of this Declaration and the Permit. The Board of Directors shall develop a plan to govern the management of the Nature Preserves in compliance with the archeological and environmental requirements of the Permit.

4.02 Use Restrictions. (a) The Nature Preserves shall be used solely and exclusively for passive, restricted-access open space, and for no other purpose. Without limiting the generality of the foregoing, no portion of the Nature Preserves shall be used for any purpose or activity other than:

- (1) Bird watching;
- (2) Re-interment of pre-historic native American remains removed from other parts of the Property, subject to approval by the Society and all governmental agencies having jurisdiction thereof; and
- (3) Limited maintenance activity by the Society in accordance with the terms of this Declaration.

(b) The existing natural vegetation shall be preserved, and no cutting of live trees or vegetation of any type shall be permitted; provided, however, the Society shall be permitted to conduct limited pruning, mowing, or related maintenance activities which the Society, in its reasonable judgment, deems necessary or advisable to maintain or enhance the existing natural vegetation and natural fresh water swales.

(c) No clearing, paving or construction of improvements of any type or character shall be permitted within the Nature Preserves, except as follows:

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- (i) the Society shall have the right to construct and maintain fences, signs, gates, barriers or other control devices which the Society, in its reasonable judgment, deems necessary to restrict access to the Nature Preserves as provided in Section 4.03 below; and
- (ii) the Society shall have the right to construct and install pedestrian walkways, benches and interpretive exhibit signs.

All such improvements must comply with the plan approved by the U. S. Army Corps of Engineers pursuant to Additional Note 12 of Exhibit N of the Permit.

(d) No hunting, discharge or display of fireworks, or any other activity which is detrimental to or inconsistent with the natural habitat of the Nature Preserves, shall be permitted within the Nature Preserves.

4.03 Limited Access. The Society shall operate and administer the Nature Preserves in a manner that will preserve the existing natural environment and wildlife habitat. Access shall be limited to pedestrian traffic only, and no motorized vehicles of any type shall be permitted within the Nature Preserves, except for limited maintenance operations permitted by this Declaration. The Society shall adopt and enforce rules and regulations regarding the number of Persons that will be allowed access to the Nature Preserves at any one time.

4.04 Weirs. Declarant shall construct the weirs in Reserve D and Reserve E, in accordance with the Permit. After completion of construction, the Society shall at all times operate and maintain these weirs in a manner that will preserve and maintain the existing fresh water swales in their natural state.

#### ARTICLE V

##### TREE PRESERVATION

5.01 Enhancement of Existing Oak Mott. Declarant shall plant within the area designated on the Permit approximately sixteen 3-inch caliper oak trees at 40-foot centers. The Society shall care for and maintain these newly planted trees in accordance with good landscaping practices for a period of five (5) years after planting.

#### ARTICLE VI

##### THE SOCIETY

6.01. Governing Provision. The Society shall be governed by its articles of incorporation and bylaws which shall be consistent with the terms and conditions of this Declaration, and this Declaration shall rule over any inconsistencies between the Declaration and the articles of incorporation and bylaws. In connection with the execution of the Society's duties and responsibilities, the Society may provide for capital reserves, employ

employees, engage professional Persons, engage professional management to assist in the operation of the Society, and borrow funds as it deems prudent and necessary to run the affairs of the Society.

6.02. Purposes. The purpose of the Society shall be to own and maintain the Canals, to operate, manage and administer the Nature Preserves and to carry out its duties and responsibilities under this Declaration.

6.03. Members. All Owners shall, upon becoming Owners, automatically become Members of the Society. Membership in the Society shall be appurtenant to and may not be severed from record title to a Lot or Reserve. Ownership of a Lot or Reserve shall be the sole qualification for membership in the Society. Each Lot and each Reserve shall be entitled to one (1) vote. In the event any Lot or Reserve is jointly owned by two or more Persons, the Persons jointly owning such Lot or Reserve shall be entitled to only one vote for such Lot or Reserve. Unless otherwise stated in this Declaration, all decisions and acts of the Members shall be determined by a majority of the votes of the Members represented at a Member meeting. Members entitled to vote may give a written proxy to any other Member entitling such Member to cast votes by proxy. The membership books will be closed and adjustments in each Member's voting rights will be made on the above basis by the Board of Directors sixty (60) days prior to each annual meeting of the Members. The Society may suspend the voting rights of any Member for any period during which the assessment against the Member's Lot or Reserve remains unpaid for a consecutive sixty (60) day period. Members shall pay assessments to cover the costs of operating the Society, which operation shall include the execution of the duties and responsibilities granted to the Society by this Declaration.

6.04. Board of Directors. (a) The Board of Directors shall consist of seven directors who shall be appointed or elected as follows:

- (1) The Members shall elect four (4) directors, being Director Positions 1 through 4; and
- (2) The remaining three (3) directors, being Director Positions 5 through 7, shall be a marine scientist, an avian biologist and a naturalist, and shall be appointed by the directors then holding Director Positions 5 through 7 at the time a vacancy occurs.

(b) The terms of all directors shall be three (3) years, except for the initial directors named in the Articles of Incorporation of the Society, whose terms shall be as follows:

- (1) The initial directors holding Director Positions 1 and 5 shall serve for a term of one (1) year;
- (2) The initial directors holding Director Positions 2 and 6 shall serve for a term of two (2) years; and

- (3) The initial directors holding Director Positions 3, 4 and 7 shall serve for a term of three (3) years.

(c) A quorum of the Board of Directors shall consist of a majority of the directors appointed or elected. Unless otherwise stated in this Declaration, all decisions and acts of the Board of Directors shall be determined by a majority of the members of the Board of Directors voting. Should any director resign, be removed or otherwise be unable to fulfill his full term of office, a replacement director for the remainder of the unexpired term shall be selected as follows:

- (1) If the vacancy is for Director Position 1 through 4, the interim director shall be appointed by a majority of the directors remaining in Director Positions 1 through 4; and
- (2) If the vacancy is in Director Positions 5 through 7, the interim director shall be appointed by the directors remaining in Director Positions 5 through 7.

(d) Compensation of Directors shall be determined by resolution adopted by the Board from time to time.

(e) All Directors elected or appointed to Director Positions 1 through 4 shall be Owners or the duly authorized representative of an Owner that is a corporation, partnership, organization or other entity.

#### ARTICLE VII

##### COVENANT FOR ASSESSMENTS

7.01. Creation of the Laffite's Cove at Pirates' Beach Lien and Personal Obligation of Assessments. Declarant, for all of the Lots and Participating Reserves, hereby covenants and agrees, and each Owner, by acceptance of a deed or other instrument of conveyance to any Lot or Participating Reserve, whether or not it shall be so expressed in any such deed or other instrument of conveyance, is deemed to covenant and agree, to pay to the Society:

(a) Annual assessments or charges for the obtaining of funds to operate the Society; and

(b) Special assessments to be fixed, established, and collected from time to time as provided below.

The annual assessments and special assessments, together with such interest thereon and costs of collections as hereinafter provided and all other amounts for which an Owner can become liable hereunder, shall be a charge on the land and shall be a continuing lien upon the Lot or Participating Reserve against which each such assessment is made. Each such assessment or cost, together with such interest, collection costs, and reasonable attorneys' fees,

shall also be the personal obligation of the Owner of such Lot or Participating Reserve at the time when the assessment fell due. A suit to recover a money judgment (together with reasonable attorneys' fees and costs as aforesaid) for unpaid assessments or costs may be maintainable without filing or foreclosing a lien securing the same.

7.02. Purpose of Annual Assessments. Annual assessments shall be levied by the Board of Directors and be used for the purposes of: (i) maintaining the Canals; (ii) operating, administering and preserving the Nature Preserves; (iii) enforcement of this Declaration; and (iv) for any other purpose of the Society consistent with this Declaration. The cost for these purposes shall include: all public liability and hazard insurance premiums, costs of personnel, contractors, supplies and equipment; costs of monitoring, testing and reporting; costs of artificial aeration of the Canals; and all other costs and expenses necessary for the purposes hereof. The cost for these purposes shall also include, without limitation, any accounting costs, attorneys' fees, court costs, and similar administrative, management, or overhead expenses necessary to fulfill the purposes hereof, the operation of the Society, and the administration and enforcement of the provisions of this Declaration. The assessments imposed by the Society may include an adequate reserve fund for periodic maintenance, repairs, and replacements.

7.03. Special Assessments. In addition to the annual assessments authorized above, the Society may, subject to the notice provisions below, levy in any assessment year, a special assessment applicable to that year only, for the purpose of (a) defraying, in whole or in part, the cost of repairing, restoring or replacing the Canals (excluding the bulkheading and any other structures constructed by an Owner within the Canals, which shall remain the responsibility of such Owner) if the Canals or portions thereof are damaged or destroyed by hurricane, storm or other sudden catastrophe; and/or (b) implementing the contingency plan to provide for artificial aeration of the Canals pursuant to Exhibit "N", item 10 of the Permit. Any such special assessment may be adopted only at a special meeting of the Board of Directors, written notice of which shall be sent to all Members not less than twenty-five (25) days nor more than sixty (60) days in advance, with the specific purpose of the proposed special assessment being set forth therein.

7.04. Rate of Assessment. Both annual and special assessments shall be assessed against the Lots and the Participating Reserves in the following percentages, with the percentage allocated to the Lots being assessed uniformly against all Lots:

(a)	Lots -	88.5%
(b)	Reserve A -	3.5%
(c)	Reserve B -	3.1%
(d)	Reserve G -	2.0%
(e)	Reserve H -	1.6%
(f)	Reserve L -	1.3%
		100%

The percentage of the assessment allocated to each of the above listed Participating Reserves is based on the number of linear feet of Canal frontage included within each such Participating Reserve. If any such Participating Reserve, or portion thereof, is subsequently subdivided and platted as Lots, the percentage of the assessments allocated to such Participating Reserve shall be reduced pro rata based on the remaining number of linear feet of Canal frontage in such Participating Reserve, the percentage of the assessments allocated to the Lots shall be increased by the amount of such reduction, and the additional Lots created out of such Participating Reserve shall be assessed uniformly with the remainder of the Lots. The Society shall make assessments based on its reasonable estimate of the Society's costs and expenses to be incurred over the annual assessment period to be assessed. If such assessment is less than or exceeds the actual costs and expenses incurred, then such deficit or excess will be debited or credited against the assessment levied for the following annual assessment period. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment at least thirty (30) days in advance of each annual assessment period. The annual assessment period shall be from January 1 to December 31 of any given year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates for such assessments shall be established by the Board of Directors.

7.05. Remedies of the Society in the Event of Default. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear penalty and interest from the date of delinquency at the rate then imposed by Galveston County for delinquent real estate taxes. The Board of Directors in its discretion may also:

(a) Accelerate the required payment date of the entire remaining annual assessment;

(b) Bring an action at law against the Owner or Owners personally obligated to pay the same, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such judgment;

(c) File a Lien Notice against the Lot or Participating Reserve for such delinquent assessment as provided herein in this Article. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of its portion of the Property; and/or

(d) Institute foreclosure proceedings of the lien securing payment thereof.

7.06. Lien Notice. To evidence its lien, the Society may prepare a written Lien Notice setting forth the amount of such unpaid assessment, the name of the Owner or the reputed Owner of the Lot or Participating Reserve, and a legal description of such Lot or Participating Reserve. The Lien Notice shall be signed by

an officer of the Society and shall be recorded among the Real Property Records of Galveston County, Texas, after having been mailed not less than ten (10) days prior to such recording to the Owner or reputed Owner of the Lot or Participating Reserve in default. Any such lien may be enforced by the foreclosure upon the Lot or Participating Reserve with respect to which the assessment has not been paid, in like manner as a lien on real property is foreclosed under the laws of the State of Texas. In any such foreclosure, the Owner or Owners of the Lot or Participating Reserve which is being foreclosed shall be required to pay the cost, expenses, and reasonable attorneys' fees in connection with the preparation and filing of the Lien Notice as provided herein and all costs and reasonable attorneys' fees incurred in connection with the foreclosure. The Society, Declarant, and any Owner shall have the power to bid on the Lot or Participating Reserve being foreclosed upon. At least sixty (60) days prior to any such foreclosure, the Society shall notify any Mortgagee with a prior lien on the portion of the Property being foreclosed of such foreclosure if such Mortgagee has furnished its address in writing to the Society.

7.07. Relationship of Laffite's Cove at Pirates' Beach Lien and Pirates' Beach and Cove Maintenance Fund Liens. The Laffite's Cove at Pirates' Beach Lien and the Pirates' Beach and Cove Maintenance Fund Liens shall be ranked as pari passu, with neither lien being superior or subordinate to the other regardless of the priority of their recordation. In the event of a default in the obligations secured by either such lien and the institution of proceedings to foreclosure either of such liens by the beneficiary thereof, the beneficiary instituting foreclosure proceedings shall provide written notice thereof to the beneficiary of the other lien, and, if there is then a default in each of the obligations secured by each of such liens, the proceeds of a foreclosure sale shall be applied as follows:

- (a) First, to the expenses incurred in connection with the foreclosure sale;
- (b) Second, in equal amounts to the beneficiary of each such lien until all obligations secured by either of such liens have been paid in full;
- (c) Third, 100% to the beneficiary of the lien securing any obligations remaining unpaid; and
- (d) Fourth, to the obligor(s), their heirs, personal representatives, successors or assigns.

Such foreclosure proceedings shall not in any manner alter, affect or diminish the rights of the beneficiary of either of such liens to bring an action at law against the persons liable for the obligations secured thereby. Likewise, such foreclosure proceedings and any sale or transfer thereunder shall not in any manner alter, affect or diminish either the Laffite's Cove at Pirates' Beach Lien

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or the Pirates' Beach and Cove Maintenance Fund Liens as to any future assessments or other obligations secured thereby.

7.08. Subordination of the Lien to Mortgages. The lien for assessments provided for in this Article shall be subordinate only to (i) liens for real estate taxes, and (ii) the lien of any Mortgage existing on the respective Lot or Participating Reserve prior to the date when the assessment becomes due and payable. Sale or transfer of any Lot or Participating Reserve shall not affect the assessment lien. No sale or transfer shall relieve such Lot or Participating Reserve or Owner from liability for any assessments which thereafter become due or from the lien thereof.

7.09. Certificate of Compliance. Upon payment of a reasonable fee and upon written request of any Owner, Mortgagee, or prospective Owner or Mortgagee of a Lot or Participating Reserve, the Society shall issue an acknowledged certificate in recordable form setting forth the amounts of any unpaid assessments, if any, and setting forth generally whether or not said Owner is in violation of any of the items and conditions of this Declaration. Said written statement shall be conclusive upon the Society in favor of the Persons who rely thereon in good faith. Such statement shall be furnished by the Society within a reasonable time, but not to exceed thirty (30) business days from the receipt of a written request for such written statement, accompanied by the required fee, mailed to the registered agent or registered office of the Society, with the Society's registered agent or registered office being listed with the appropriate office of the State of Texas having jurisdiction over the formation of the Society. In the event the Society fails to furnish such statement within said thirty (30) business days, it shall be conclusively presumed that there are no unpaid assessments relating to the Lot or Participating Reserve as to which the request was made and that the Lot or Participating Reserve is in conformance with all of the terms and conditions of this Declaration.

7.10. Notice of Ownership. The Notice of Ownership shall set forth the location of the Lot or Participating Reserve affected by the Notice, the recordation information related to the transfer or conveyance of such Lot or Participating Reserve, the prior Owner, the current Owner, and the mailing address of the current Owner. The Society shall be entitled to rely on the correctness of any Notice of Ownership filed with it, and such notice may be used for all assessment notices and any other notices to be given by the Society. The failure of an Owner to provide the Society with an updated and current Notice of Ownership shall be considered a default of this Declaration and a waiver by said Owner of receiving any assessment notices and any other notices to be given by the Society. If the filed Notice of Ownership is not accurate and the Society undertakes the task of obtaining accurate information, the Society's costs in obtaining the correct information shall be considered an additional assessment against the respective Lots or Participating Reserves.



ARTICLE VIII

POWERS AND DUTIES OF THE SOCIETY

8.01. Powers and Duties. The Society shall have the following powers and duties (subject to the terms and conditions set forth in this Declaration) which may be exercised within its reasonable discretion:

(a) To maintain, repair, or replace, or pay for the maintenance, repair, or replacement, of the Canals;

(b) To operate, administer, maintain and preserve the Nature Preserves;

(c) To take any and all actions necessary to comply with the Permit, including, but not by way of limitation, monitoring of water quality in the Canals and adjacent waters;

(d) To employ counsel and institute and prosecute such suits as the Society may deem necessary or advisable, and to defend suits brought against the Society;

(e) To employ from time to time such agents, servants, and laborers as the Society may deem necessary in order to exercise the powers, rights, and privileges granted to it, and to make contracts;

(f) To maintain insurance;

(g) To pay market costs for all goods and services purchased by the Society;

(h) To fix, levy, and collect assessments pursuant to Article VII hereof;

(i) To enforce the provisions of this Declaration; and

(j) To conduct any other activity within the terms and conditions set forth in this Declaration or allowed under the Texas Non-Profit Corporation Act.

ARTICLE IX

RIGHTS OF MORTGAGEES

9.01. Rights of Mortgagees. A Mortgagee, upon written request to the Society, will be given written notification from the Society of any default in the performance by the Owner of a Lot or Participating Reserve relating to the Mortgage owned by the Mortgagee of any obligation under this Declaration or related Society documents which is not cured within thirty (30) days. The Mortgagee will be given thirty (30) days to cure such default should it so elect. However, the Society shall bear no liability

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or responsibility for the accuracy of the information contained in any such notice.

ARTICLE X

USE RESTRICTIONS

10.01 Clearing Restrictions. No living tree having a diameter of six (6) inches or more at breast height shall be removed from any Lot, except as follows:

- (a) Trees located within the Canal Area or within twenty (20) feet of a Canal if necessary to facilitate construction of the Canals; and
- (b) Trees within the footprint of a house and driveway areas.

10.02. Canal Water Circulation. No structure or improvement of any type, and no grading or other alteration of the terrain shall be permitted on either Lot 42 or Lot 43, of Block 2, or Lot 7 or Lot 8 of Block 6, or Canals adjacent thereto, that would impede the water circulation in the Canals and the culverts linking the Canals, which culverts will be located within the drainage easements upon, across and under such Lots as shown on the Plat.

10.03. Bulkhead. (a) As a part of the construction of the Canals, Declarant shall cause a Bulkhead to be constructed on the Canal Frontage Property, in accordance with the Permit. Such Bulkhead shall be an appurtenance to each Lot and Reserve on which it is located and shall run with the title to such Lot and Reserve.

(b) Each Owner of Canal Frontage Property shall maintain the Bulkhead on such Owner's property in accordance with the original design and construction, both as to structural integrity and appearance, sufficient to:

- (1) Prevent erosion of the Owner's property ; and
- (2) Provide support for the adjoining Bulkhead located on the adjacent property in accordance with the provisions of Section 10.04 below.

10.04. Party Wall Agreement. Declarant, for itself, its successors and assigns, and all succeeding Owners of Canal Frontage Property, hereby declares, covenants and agrees that, after construction of the Bulkhead in accordance with the Permit, such Bulkhead at the location of each boundary line between each Lot and/or Reserve comprising the Canal Frontage Property shall constitute a Party Wall which shall be owned, used and maintained by each Canal Frontage Property Owner subject to the following:

(a) As to each Party Wall located on a boundary line of his property, each Canal Frontage Property Owner shall hold, enjoy and be entitled to, and shall be subject to all of the duties and

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obligations of, the rights, duties and obligations of the owner of a party wall easement at law;

(b) Each Canal Frontage Property Owner shall have, own and hold an easement and right of support together with the right and privilege of joining to and using each Party Wall located on a boundary line of his property;

(c) If any portion of the Bulkhead is damaged or destroyed by the act, default or negligence of the Owner of Canal Frontage Property, such Owner shall promptly rebuild and repair the Bulkhead on his property and shall compensate the adjoining property Owners for any damages to their respective property;

(d) If a Party Wall shall be damaged or destroyed by a cause other than the act, default or negligence of any Owner, such Party Wall shall be repaired and rebuilt at the joint expense of each Owner entitled to the use thereof on the basis of 50% each of the net costs of restoration after the application of any sum or sums received by either Owner from insurance covering such casualty risk. Each Owner hereby grants to each adjoining Owner a lien on and against his Canal Frontage Property to secure the payment of his aliquot share of such repair and restoration costs, and each Owner hereby grants to each adjoining Owner a perpetual easement for the purposes of going on to such Owner's Canal Frontage Property to repair and restore the Party Wall in the event of damage (the provisions of this Section 10.04(d) being applicable only to Owners and Lots and Reserves entitled to the use of the damaged Party Wall);

(e) Each Owner shall at all times keep and maintain his Canal Frontage Property adequately backfilled and vegetated so as to prevent erosion of the land behind the Bulkhead and prevent undermining of the Bulkhead by ground water, seepage, wave action or otherwise; and further, no changes shall be made in the grade of any Canal Frontage Property nor shall any building or other structure be permitted on any Canal Frontage Property which will materially increase the loads carried by the Bulkhead or otherwise materially adversely affect the structural integrity of the Bulkhead; and

(f) The covenants and conditions of this Section 10.04 shall run with the title to each Lot and Reserve comprising the Canal Frontage Property and shall be binding upon and inure to the benefit of each Canal Frontage Property Owner and their respective successors, administrators, executors and assigns, provided, however, that no present or future Owner of Canal Frontage Property shall be liable under the terms hereof except for their acts or defaults as the Owner of Canal Frontage Property.

10.05. Intertidal Fringe Marsh. In conjunction with the construction of the Canals and Bulkhead, Declarant shall plant the intertidal fringe marsh on the Canal Frontage Property within a strip of land that is 15 feet in width along, adjacent to, and on the seaward side of, the Bulkhead, in compliance with the Permit.

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AFTER THE INITIAL PLANTING BY DECLARANT, EACH OWNER SHALL MAINTAIN THIS INTERTIDAL FRINGE MARSH WITHIN THIS 15-FOOT STRIP ON SUCH OWNER'S PROPERTY IN THE MANNER REQUIRED BY THE PERMIT, INCLUDING REPLANTING IF NECESSARY.

10.06. Remedial Action by the Society. Should any Owner fail to maintain the Bulkhead as required by Section 10.03 above, or fail to maintain the intertidal fringe marsh, as required by Section 10.05 above, after receiving 15-days written notice of such violation, the Society shall have the right, but not the obligation, to take the actions specified in the notice of such violations. The Declarant, for itself and each subsequent Owner, hereby grants to the Society the right, license, easement and authority to enter upon each Lot and Reserve for the purposes of correcting the violations as hereinabove set forth, and neither the Society nor any of its employees, agents or contractors shall be liable for trespass or any other legal or equitable violation in pursuing the remedies herein provided for. All costs and expenses incurred by the Society in effecting such remedy or abatement pursuant to this Section 10.06 will be paid to the Society by the Owner of the Lot or Reserve for which such costs and expenses are incurred upon demand. If such costs and expenses are not paid to the Society within ten days after written demand to the Owner, said amounts shall accrue interest at a rate that is the lesser of (i) 15% per annum, or (ii) the highest amount of interest allowed by applicable law. Further, if said costs and expenses are not paid to the Society by the Owner within thirty days after the date of written demand therefor, said costs and expenses, together with interest thereon and costs of collection and all other amounts for which an Owner can become liable hereunder, shall be a charge on the land and shall be a continuing lien upon the Lot or Reserve for which such costs and expenses are incurred in the same manner and subject to all the provisions of Article VIII hereof. All such costs and expenses, together with such interest, collection costs, and reasonable attorney's fees, shall be the personal obligation of the Owner of such Lot or Reserve at the time such costs and expenses are incurred. The suit to recover a money judgment (together with reasonable attorneys' fees and costs as aforesaid) may be maintainable without filing or foreclosing a lien securing the same.

#### ARTICLE XI

##### ENFORCEMENT OF DECLARATION AND COVENANTS

11.01. Reciprocal Rights; Covenants Run with Land. Except as otherwise provided for herein, all covenants, conditions, restrictions, charges, and easements contained herein (a) are made for the direct, mutual, and reciprocal benefit of each and every portion of the Property in favor of every other Lot and Reserve; (b) shall create reciprocal rights and obligations between the Declarant, the Society, and the respective Owners, and privity of contract and estate between the Declarant, the Society, and all Owners, their heirs, successors, and assigns; and (c) shall operate as covenants

running with the land, for the benefit of all other portions of the Property.

11.02. Attorneys Fees. In any legal or equitable proceeding for the enforcement of or to remedy the violation of this Declaration or any provision hereof, the party seeking to enforce the Declaration or remedy a violation hereof shall be entitled to the payment of its reasonable attorneys' fees and costs in such amount as may be fixed by the court in such proceeding.

11.03. By Whom Enforceable. Subject to the limitations set forth herein, these covenants may be enforced by Declarant, any Owner, and the Society, but none of whom shall have any obligation to do so nor be liable to anyone in the event of its failure to do so.

11.04. Specific Enforcement. All provisions of this Declaration may be specifically enforced by any court of competent jurisdiction upon petition by any party entitled to enforce them as herein provided. All remedies provided herein and/or otherwise available, at law or in equity, including injunction, shall be cumulative and not exclusive.

11.05. Failure to Enforce Not a Waiver of Rights. The failure of Declarant, any Owner, or the Society to enforce any of the provisions of this Declaration herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other provision of this Declaration.

#### ARTICLE XII

##### TERM; MODIFICATION AND ASSIGNMENT OF DECLARANT'S RIGHTS AND DUTIES

12.01. Term. Unless extended, modified, amended, or terminated as provided in Section 12.02 hereof, every provision hereof and every covenant, condition, and restriction contained herein shall continue in full force and effect until the expiration of twenty (20) years from the date hereof, and thereafter shall, as then in force, be extended automatically and without further notice, for successive periods of ten (10) years each, unless modified or terminated in the manner set forth in Section 12.02 hereof.

12.02. Modification. This Declaration shall not be terminated or modified or amended if such termination, modification or amendment would either: (i) cause or result in a violation of the Permit; or (ii) cause the Society to be in violation of its corporate purposes as set forth in its Articles of Incorporation. Subject to the provisions of the foregoing sentence, this Declaration, or any provision hereof, may be terminated, extended, modified, or amended by an instrument duly executed and acknowledged by: (i) the Society; and (ii) the then Owners of a majority of the Lots and Reserves, and filed for record in the Real Property Records in the Office of the County Clerk of Galveston County,

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Texas; provided, however, that as long as Declarant retains any rights, powers, duties or obligations under this Declaration, such rights and powers shall not be altered, affected or diminished, nor shall such duties and obligations be increased, without the express, written consent of Declarant.

12.03. Assignment of Declarant's Rights and Duties. Any and all rights, powers, easements, and reservations of Declarant herein contained or hereafter granted to Declarant pursuant to the terms and provisions of this Declaration may be assigned, in whole or in part, to any Person (including, but not limited to, the Society) which will assume the position of Declarant pertaining to the particular rights, powers, easements, and reservations assigned, and upon any such Person's evidencing its consent in writing to accept such assignment and assume such position, it shall, to the extent of such assignment, have the same rights, powers, easements, and reservations as Declarant and be subject to the same obligations, if any, which then exist by reason of this Declaration. Upon the occurrence of such assignment, Declarant will serve written notice thereof on all the then Owners in accordance with Section 14.05 hereof. Upon the occurrence of such assignment and the giving of such notice, Declarant, its employees, officers, directors, and agents, shall be released and relieved from any and all liability and obligations imposed upon it as Declarant by this Declaration.

#### ARTICLE XIII

##### EASEMENTS

13.01. Reservation of Easements. Declarant hereby grants and retains for the benefit of Declarant and of the Society and their respective Mortgagees, contractors, independent contractors' agents, and assigns, permanent and perpetual easements and all rights of access on, over, and across the following described portions of the Property for the purposes hereinbelow stated, to wit:

(a) The Flowage Easement for the purposes of:

- (1) Inundating and flooding the lands covered thereby with waters from the Canals; and
- (2) Entering upon the Flowage Easement at any time and from time to time for the purposes of performing the maintenance and other obligations of the Declarant and the Society under this Declaration including, but not limited to, the right to clear and dispose of all man-made and natural debris from the Canals.

(b) Reserves D, E, F, I, J and K, for the purposes of exercising the rights, duties and obligations of the Declarant and the Society under this Declaration.

13.02. Use of and Limitations on Easements. The Owner of a portion of the Property upon which an easement is located pursuant to Section 13.01 hereof shall be entitled to use and enjoy said easement in common with the Declarant and the Society and their respective representatives as long as such use does not interfere with the use thereof by the Declarant or the Society.

#### ARTICLE XIV

##### MISCELLANEOUS PROVISIONS

14.01. Further Covenants and Restrictions. The Property is a part of a project being developed by Declarant as Pirates' Beach and Pirates' Cove. Prior to the sale of Lots, Declarant may adopt, establish, impose and create additional covenants and restrictions, further restricting the use of the Lots, providing for additional assessments as a part of the Pirates' Beach and Cove Maintenance Fund, and providing for additional assessments for an additional maintenance fund for Laffite's Cove at Pirates' Beach. Such further conditions and restrictions shall be in addition to, and not an amendment to or in lieu of the covenants, conditions and restrictions contained in this Declaration. In the event of any conflict between this Declaration and such further covenants and restrictions, this Declaration shall control unless such further covenants and restrictions expressly provide that they are amending or modifying this Declaration.

14.02. Constructive Notice and Acceptance. Each Owner, Mortgagee, or other Person, who or which now or hereafter owns or acquires any right, title, or interest in or to any portion of the Property, is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such Owner, Mortgagee, or other Person acquired such right, title, or interest. All Occupants who are not Owners are and shall be conclusively deemed to have notice of and to have agreed to and be bound by all terms and applicable provisions of this Declaration.

14.03. Paragraph Headings. Paragraph, article, and section headings, where used herein, are inserted for convenience of reference only, are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular paragraphs, articles, or sections to which they refer, and accordingly shall not be deemed or construed to affect the meaning of any provision hereof.

14.04. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

14.05. Written Notice. Whenever written notice is required or specified herein, such written notice shall be deemed given only when (a) delivered in person, (b) deposited in the United States

008-29-0443

mail, postage paid, and addressed to the address shown on the most recent Notice of Ownership filed with the Society, (c) facsimile transmission, or (d) express courier delivery. All such notices shall be sent certified mail, return receipt requested. Whenever actual receipt is specified or required herein, then such actual receipt shall be deemed obtained when notice is given in writing and delivered in person or otherwise actually received by the designated recipient, or three (3) days after the certified mailing where such notice is sent to the Owner at the address shown on the most recent Notice of Ownership filed with the Society.

14.06. Cumulative Remedies. The various rights, options, elections, powers, and remedies contained in his Declaration shall be construed as cumulative, and no one of them shall be exclusive of any of the others or of any other legal or equitable remedy which Declarant, the Society, or any Owner might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy of any such party shall not impair its right to any other right or remedy until all obligations imposed upon any other party, Person, or entity have been fully performed.

14.07. Time is of the Essence. In regard to the acts, duties, obligations, or responsibilities to be performed by any Member or Owner pursuant to this Declaration, time is of the essence as to such performance.

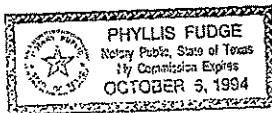
IN WITNESS WHEREOF, The Woodlands Corporation has caused this Declaration to be executed as of the date first hereinabove written.

THE WOODLANDS CORPORATION  
a Delaware corporation

By: [Signature]  
Name: J. Leonard Rogers  
Title: Senior Vice President

STATE OF TEXAS §  
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on July 2, 1992, by J. Leonard Rogers, Senior Vice President of THE WOODLANDS CORPORATION, a Delaware corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas  
Printed Name: Phyllis Fudge  
My Commission Expires: 10-06-94



008-29-0444

Mailing Address of Declarant:

The Woodlands Corporation  
2201 Timberloch Place  
The Woodlands, Texas 77380  
Attn: Mary Rose

008-29-0445

DEPARTMENT OF THE ARMY PERMIT

Mitchell Development Corporation

Permittee of the Southwest

Permit No. 17800

Issuing Office Galveston District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To perform a dredging operation, place fill and construct bulkheads for a single-family canal subdivision and to create an off-site fresh water wetland mitigation area, in accordance with the attached plans in 22 sheets entitled "Pirates Cove Subdivision."

Project Location: Eckert Bayou, between 11 and 12 Mile Roads in Galveston, Galveston County, Texas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 1995. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

ENG FORM 1721, Nov 86

EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 325 (Appendix A))

1  
**EXHIBIT A**

008-29-0446

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions: See attached Sheets 2a. and 2b.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

## Special Conditions:

1. PRESERVATION OF REMAINING PORTIONS OF 41GV66

The permittee will ensure that the National Register portion of site 41GV66 will be preserved and maintained. The boundaries of the site are shown and described on the attached map (Sheet 21A of 21). Prior to any permitted development in the immediate vicinity of National Register site 41GV66, the boundaries of the site shall be marked by a survey crew, assisted by a professional archeologist familiar with the location of the eligible portion of 41GV66. The permittee shall securely fence the site to ensure avoidance prior to and during all construction. The avoidance area will be clearly marked on all construction drawings. Removal of the fence may be undertaken at a time when all ground disturbing activities are complete. The permittee shall contact the Corps prior to removal of the fence. A conservation easement, as that term is defined by Section 183.001 of the Texas Natural Resources Code shall be recorded covering the National Register site. This conservation easement shall specifically state, as authorized by Section 183.001(1)(D), that the purpose of the easement is to preserve the archeological and cultural aspects of this real property. The holder of this easement shall be the property owner's association responsible for the management of the overall preserved area within Pirates Cove Section Six development. A third party right of enforcement shall be granted to the Texas Historical Commission. The conservation easement shall remain in force so long as site 41GV66 remains eligible for the National Register. It is expressly provided that if future development is planned for the area of the site, and impacts to 41GV66 cannot be avoided, the permittee may consult with the Corps and SHPO to develop a mitigation plan for data recovery within the eligible portion of 41GV66. The completion of mitigation will suffice to terminate the conservation easement imposed on the site. Development may commence only when the mitigation is complete, and the easement terminated.

2. CURATION OF ARTIFACTS

The permittee shall ensure that all artifacts, specimens, samples, notes, photographs, negatives, and processed data (tables, maps, etc.) previously recovered from 41GV66 are stored in a manner that makes them available for future study at an appropriate institution that meets professionally accepted standards. The permittee shall provide assurance of the completion of such storage to the Corps and the SHPO within a reasonable period after issuance of the permit. If additional investigations are carried out at 41GV66, the permittee shall also ensure the storage of all materials in the same manner as specified above.

### 3. REPORT PREPARATION

The permittee shall ensure that a professional report of the previously conducted investigations of 41GV66 shall be completed. The permittee shall use its best efforts to complete a contract for this report within six months of the start of permitted construction. The specifications for the report shall be clearly described in a Scope of Work to be prepared by the Corps. The report shall be based upon a research design that has been approved by the Corps and SHPO; be in accordance with the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation" (48 Fed. Reg. 44716-44740; Sept. 23, 1983); fully document, to the extent the available data allows, all investigations carried out at the site to date, including a full analysis and description of all data recovered; be authorized by a professional archeologist qualified in accordance with the "Professional Qualification Standards" of the Standards, and who has demonstrated expertise in the upper Texas coastal region; and be submitted in draft form to the Corps for coordination with the SHPO. The final report shall incorporate all comments, and be submitted to the Corps for distribution.

008-29-0449

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

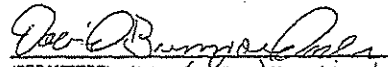
b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
(PERMITTEE) J. V. G. President  
MITCHELL DEVELOPMENT CORPORATION  
OF THE SOUTHWEST

August 9, 1990  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
(DISTRICT ENGINEER)  
DOLAN DUNN  
FOR COLONEL BRINK P. MILLER

09 AUG 1990  
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)

#11800

008-29-0450

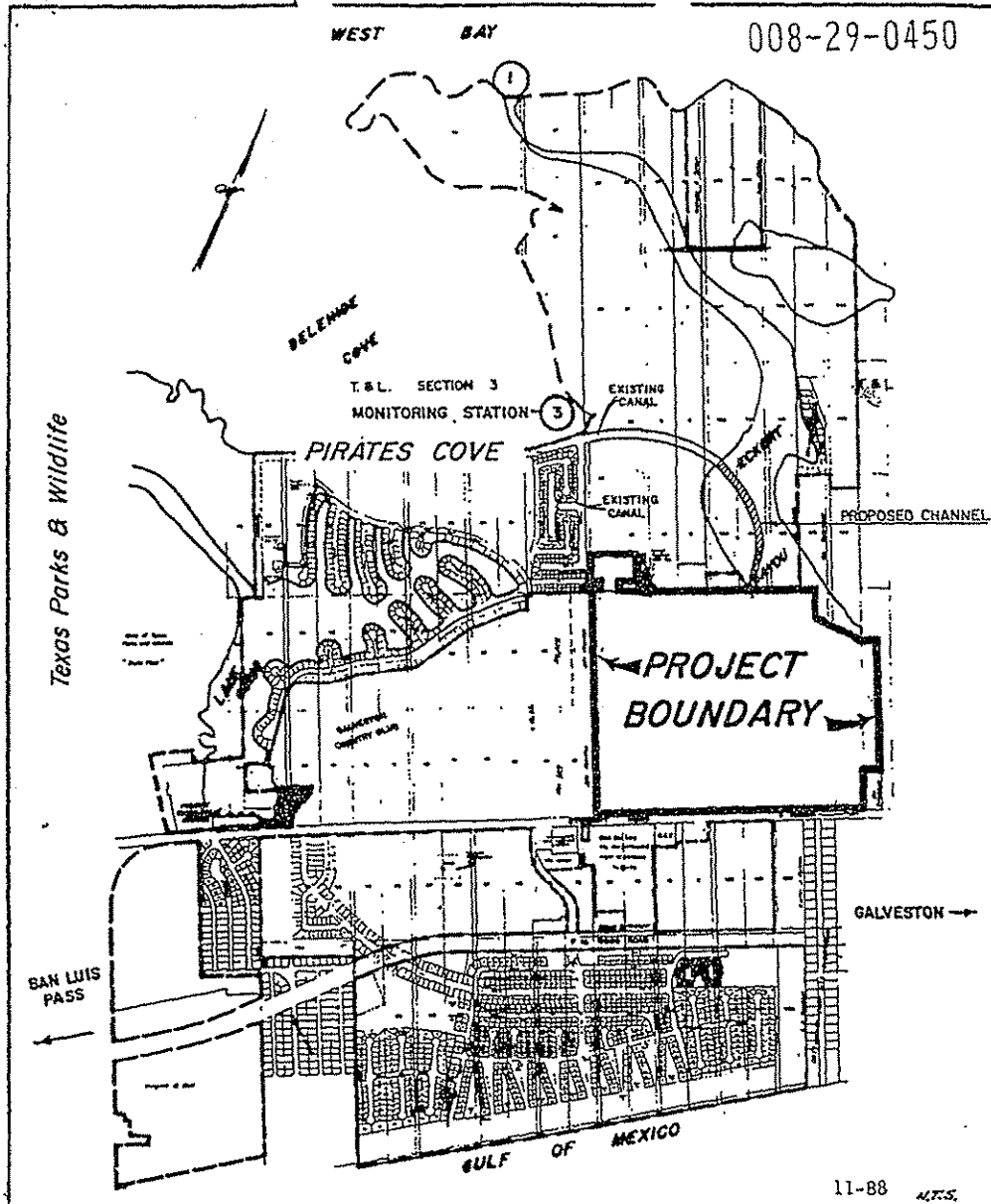


EXHIBIT A  
VICINITY MAP  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 1 of 21

008-29-0451

[illegible]

- a) Connection between Interior canals and navigable waters to be made upon completion of excavation, bulkhead construction, and associated work within the interior canals.
- b) Approximately 450,000 cubic yards of material to be dug by dragline and dredge. Approximately half to be placed in fill areas within subdivisions. Remainder to be transported off-site to the areas shown on Sheet of
- c) Initial canal width to be greater than -5 ft. +/-
- d) Initial canal depth to gradually increase from -5' to -7' ft. +/-
- e) Four 4' x 10' box culverts.
- f) All lots shall be seeded and the resulting vegetation maintained prior to and after construction on the lots, so long as they are in the ownership of the permittee.

11-88

WATER QUALITY  
MONITORING  
STATION

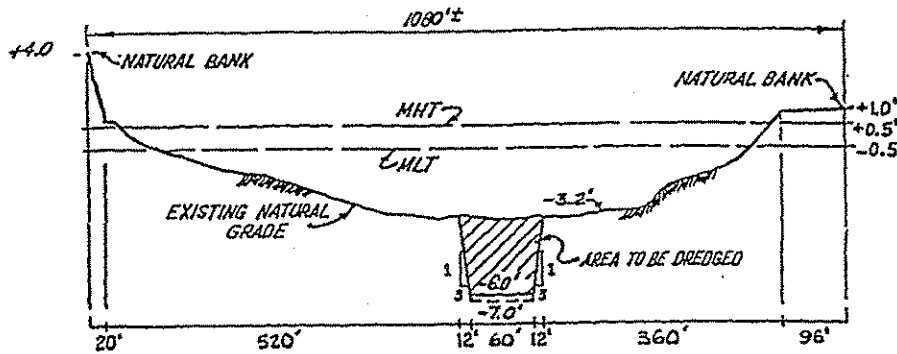
AREA TO BE DREDGED TO  
ELEV. -7.0 FT. MAINTAINED  
AT -6.0 FT.

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

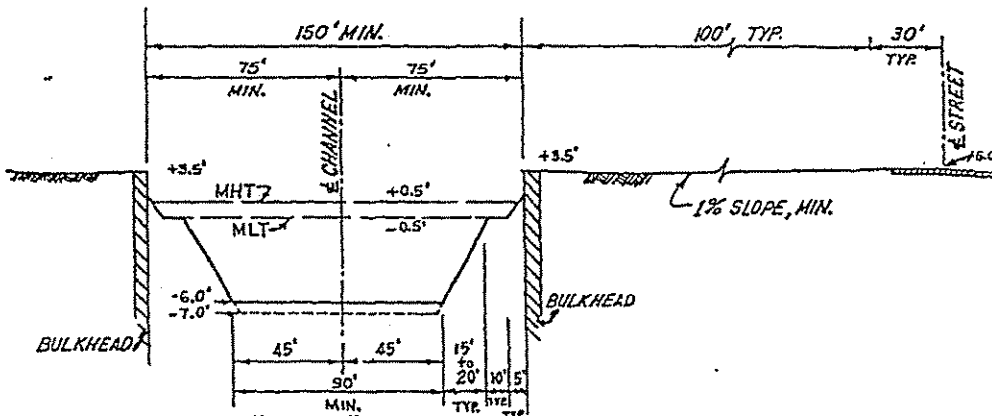
SHEET 2 of 21



008-29-0452



SECTION "A-A": ECKERTS BAYOU ACCESS CHANNEL  
NOTE: INITIAL DREDGING OF CHANNELS INCLUDES ONE FOOT ADDITIONAL DEPTH FOR ADVANCED MAINTENANCE.



SECTION "B-B": BULKHEADED CANAL EDGE

NOT TO SCALE

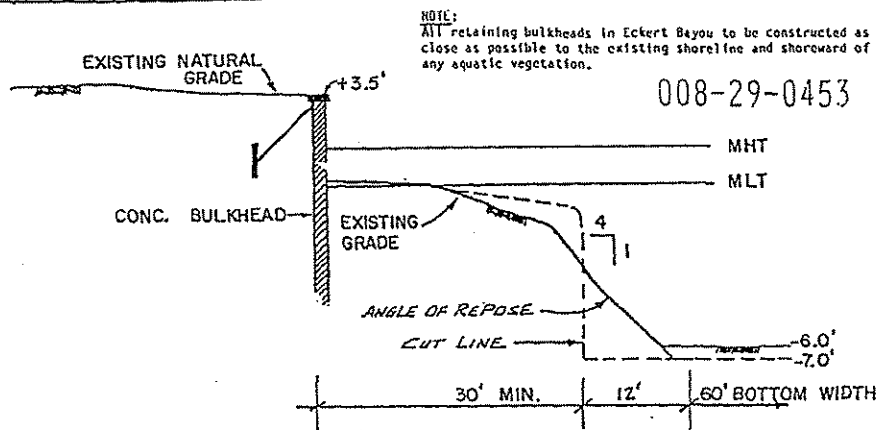
11-88

EXHIBIT C, SHEET 1  
TYPICAL CROSS SECTIONS  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

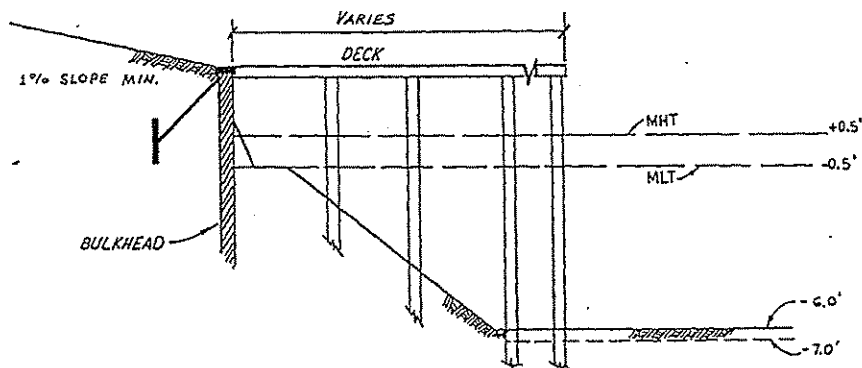
SHEET 3 of 21

#17802



SECTION "C-C": BULKHEADED CHANNEL EDGE,  
ECKERTS BAYOU

NOT TO SCALE



SECTION "D-D": MARINA PIERS

NOT TO SCALE

1-88

EXHIBIT C, SHEET 2  
TYPICAL CROSS SECTIONS  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

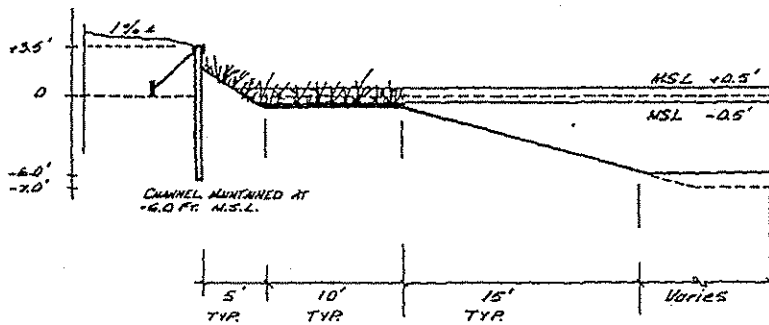
SHEET 4 of 21

#10051

008-29-0454

## NOTES:

- A) Intertidal fringe marsh will be constructed and permanently maintained at the back edge of each lot. This mitigation will begin concurrent with initiation of project construction and be completed within one year of connection of the canals to navigable waters.
- B) Acceptance of this mitigation will be based on 70% cover of smooth cordgrass (*Spartina alterniflora*) determined by a random point-frequency method at the 80% confidence level throughout each marsh planting area. If coverage of smooth cordgrass is not acceptable within one year of planting, then remedy through regrading and/or replanting will be required until mitigation, as specified above, is achieved. If natural smooth cordgrass marshes adjacent to the project area have coverage of less than 70%, then the required created marsh coverage may be reduced to a comparable figure.



TYPICAL CANAL EDGE CONDITION

A.T.S. 11-89

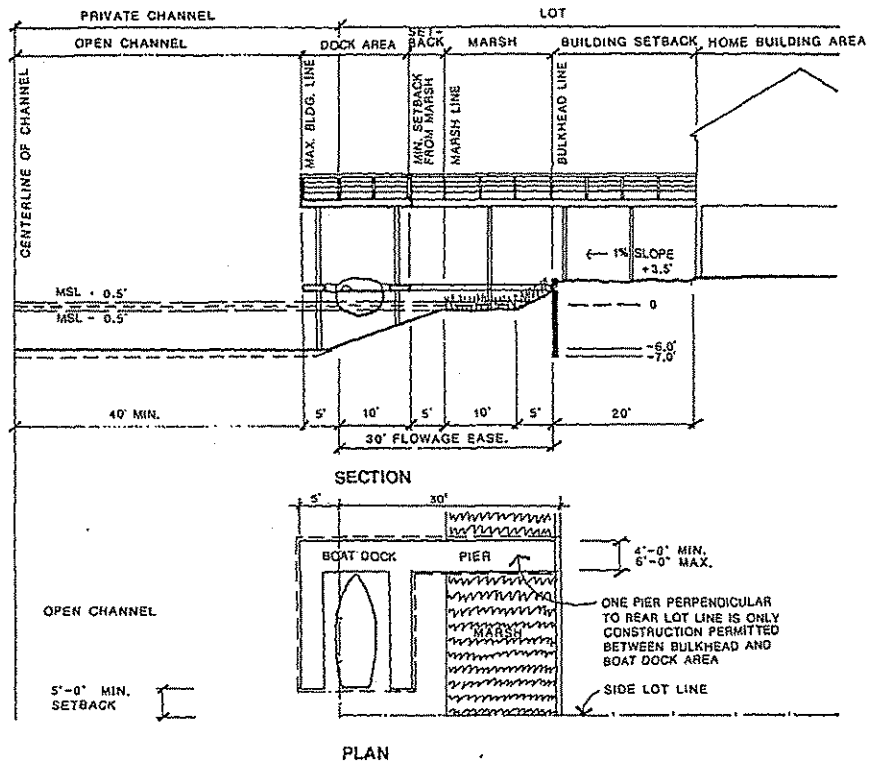
EXHIBIT C, SHEET 3  
TYPICAL CROSS SECTIONS  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 5 of 21

#17800

008-29-0455



BOATDOCK/PIER DESIGN CRITERIA

11-88

EXHIBIT C, SHEET 4  
TYPICAL CROSS SECTION - BOAT DOCK  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 6 of 21

#17800

008-29-0456

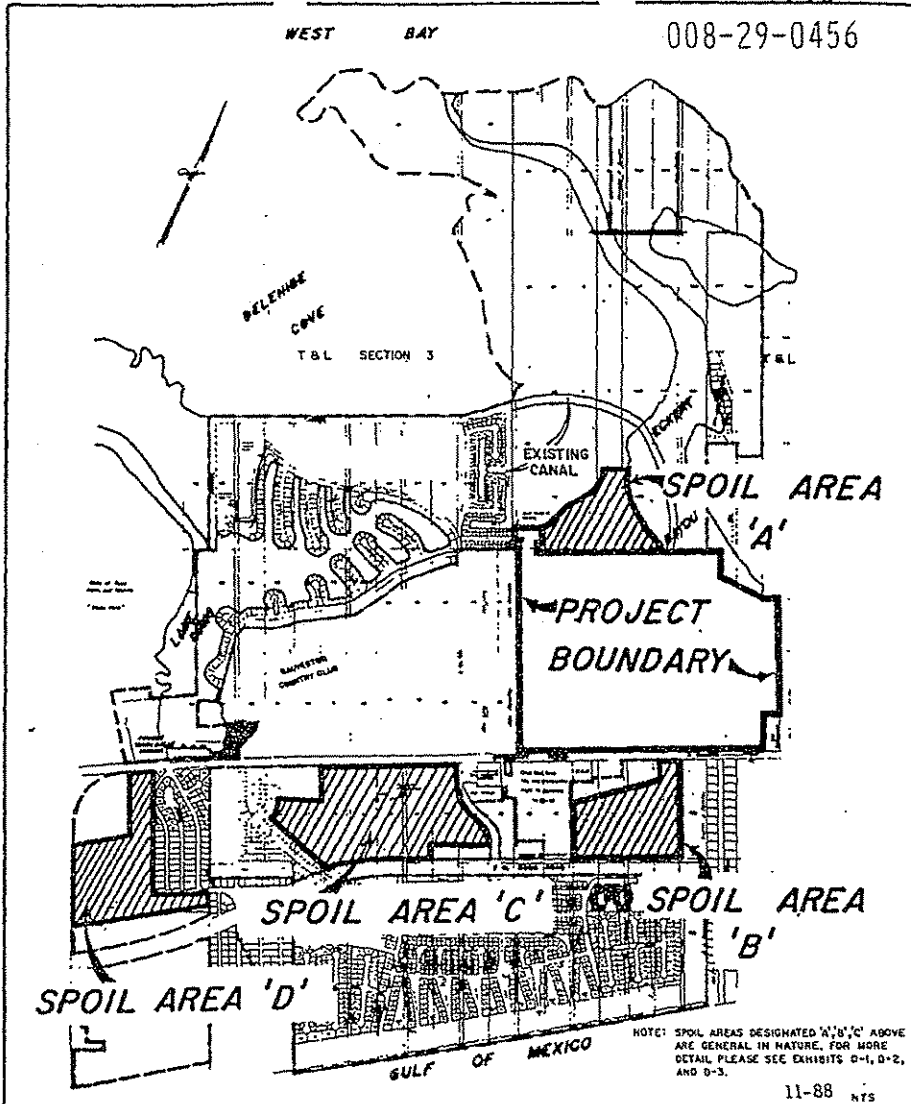


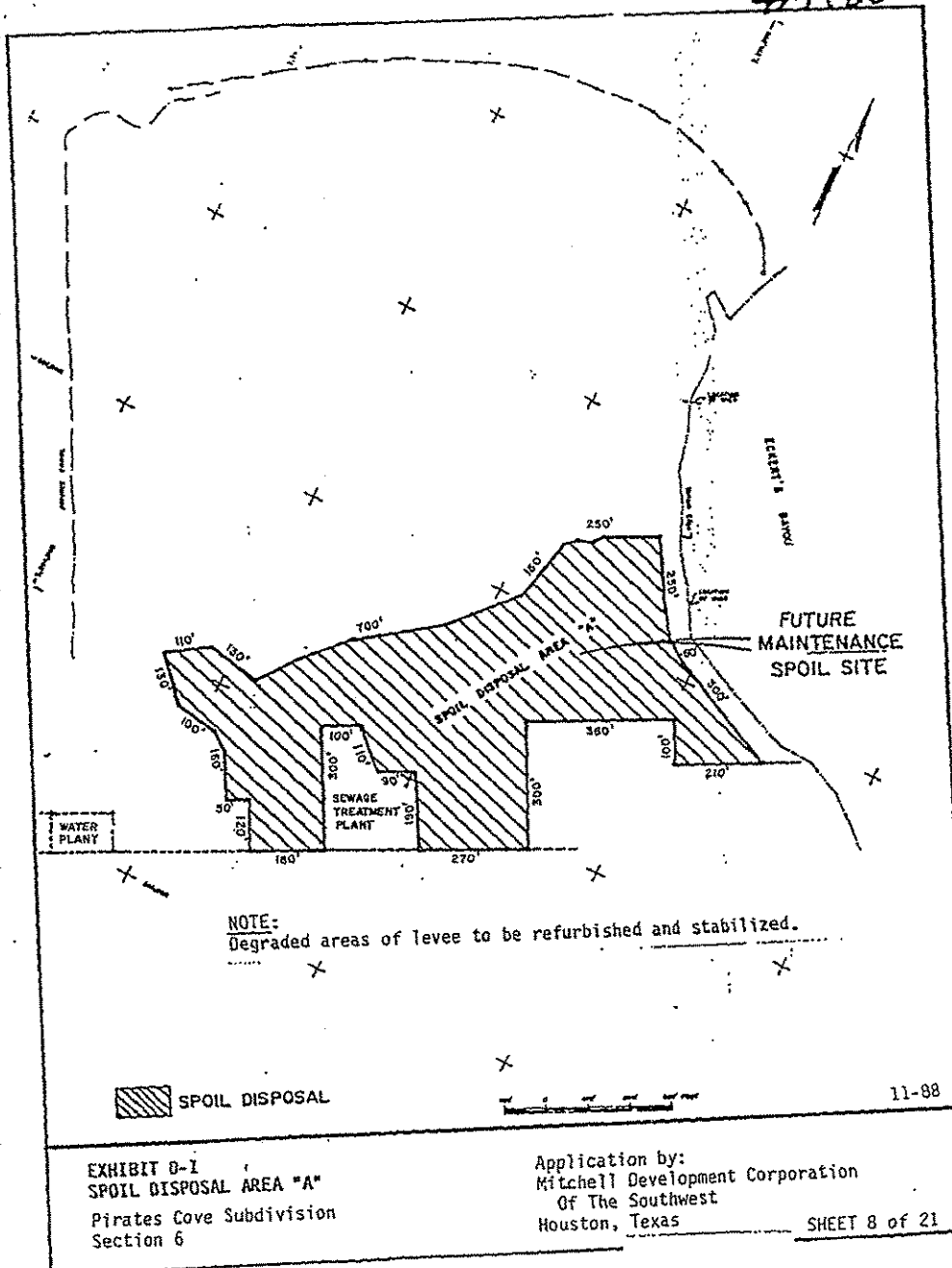
EXHIBIT D  
SPOIL DISPOSAL AREAS  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 7 of 21

008-29-0457

#17800



008-29-0458

WEIR LOCATION  
(IF NECESSARY)

STEWART

ROAD

N 65° 00' E  
275.00'

N 25° 00' W  
270.00'

1108.27'

N 56° 08' E

1240.46'

S 25° 00' E

N 25° 00' W  
800.00'

SPOIL

DISPOSAL

AREA

NOTES:  
The spoil area has  
been surveyed and  
verified not to  
contain wetland  
vegetation.

"B"

S 65° 03' W  
321.51'

S 64° 58' W

1048.52'

F. M.

3005

200' ROW



SPOIL DISPOSAL

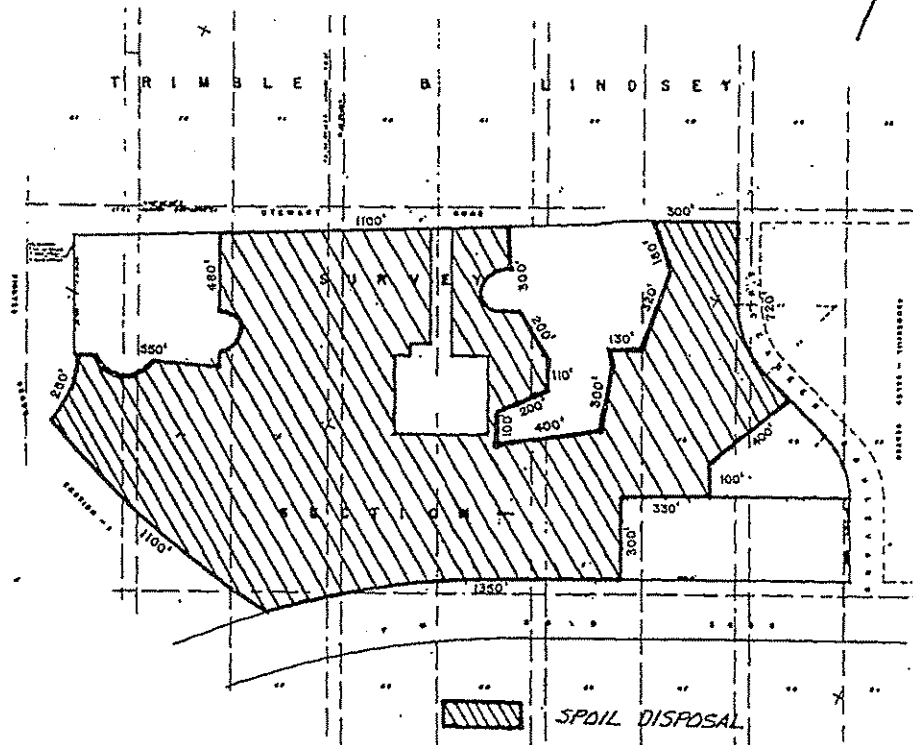
11-88

EXHIBIT D-2  
SPOIL DISPOSAL AREA "B"  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 9 of 21

008-29-0459



NOTES:  
The spoil area has been surveyed and verified not to contain wetland vegetation.

11-88

EXHIBIT D-3  
SPOIL DISPOSAL AREA "C"  
Pirates Cove Subdivision  
Section 6

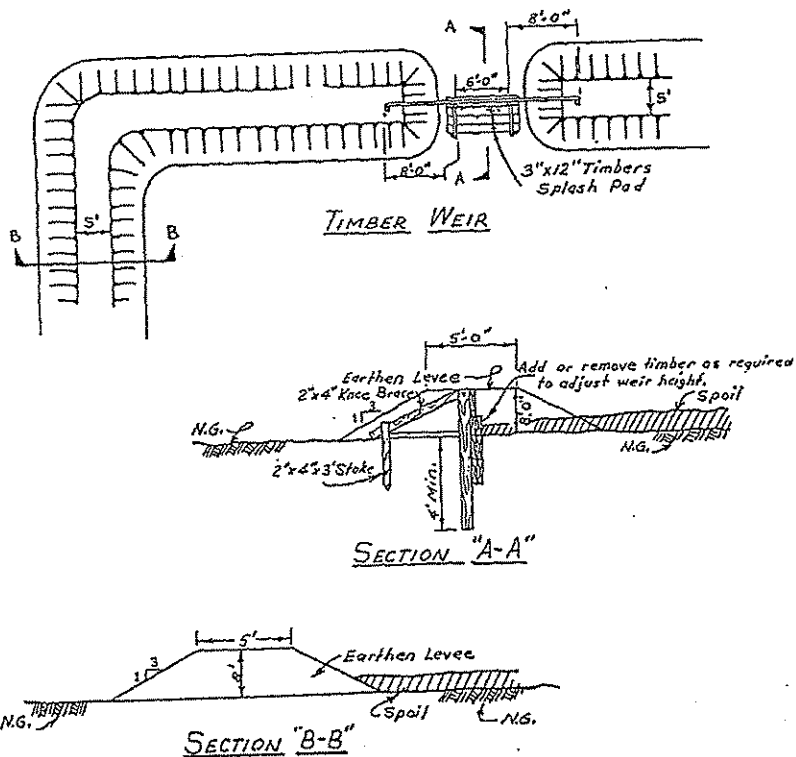
Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 10 of 21



008-29-0460

NOTE:  
Weir to be operated to avoid the discharge of solids into  
waters of the United States.



NOTE: WEIR CONSTRUCTED IF DREDGING IS  
PERFORMED HYDRAULICALLY.

11-392

EXHIBIT D-4  
TYPICAL LEVEE DETAIL - SPOIL DISPOSAL AREA  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 11 of 21

008-29-0461

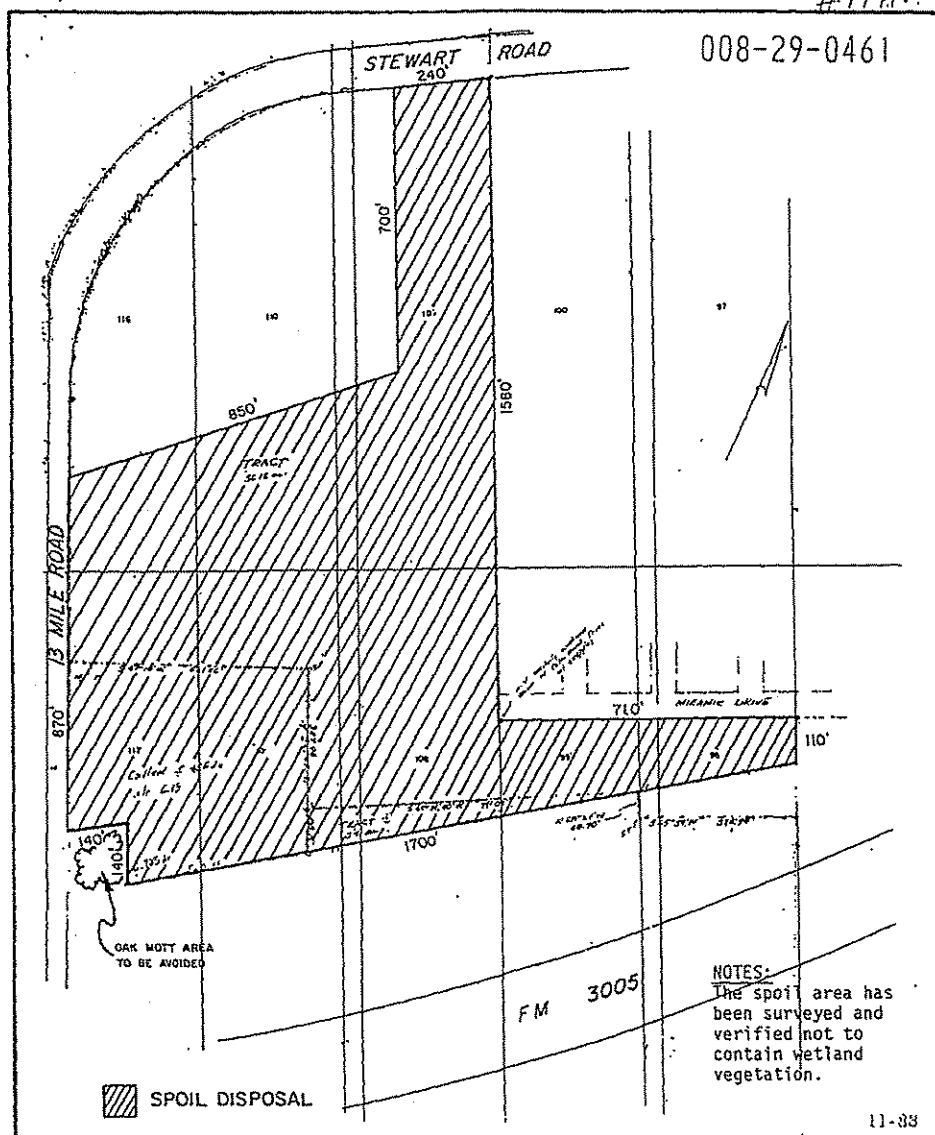


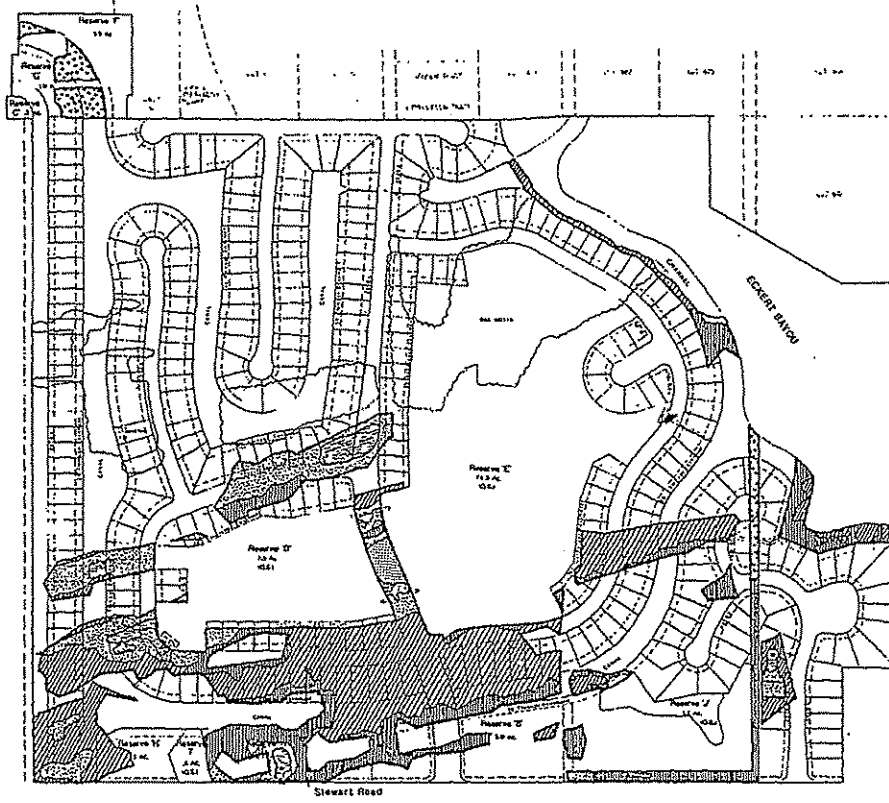
EXHIBIT "D-5"  
SPOIL DISPOSAL AREA "D"  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 12 of 21

TN 11800

008-29-0462



VEGETATION TYPES WITHIN IMPACTED WETLAND AREAS

- |  |                        |  |   |
|--|------------------------|--|---|
|  | Giant Bullrush Marsh   |  | Ponds                                   |
|  | Rattlebush Shrub Swamp |  | Black Needlerush/<br>Marsh Elder Assoc. |
|  | Black Needlerush Marsh |  | Water Hyssop/<br>Spikerush Assoc.       |
|  | Smooth Cordgrass Marsh |  | Salt Cedar                              |

11-88

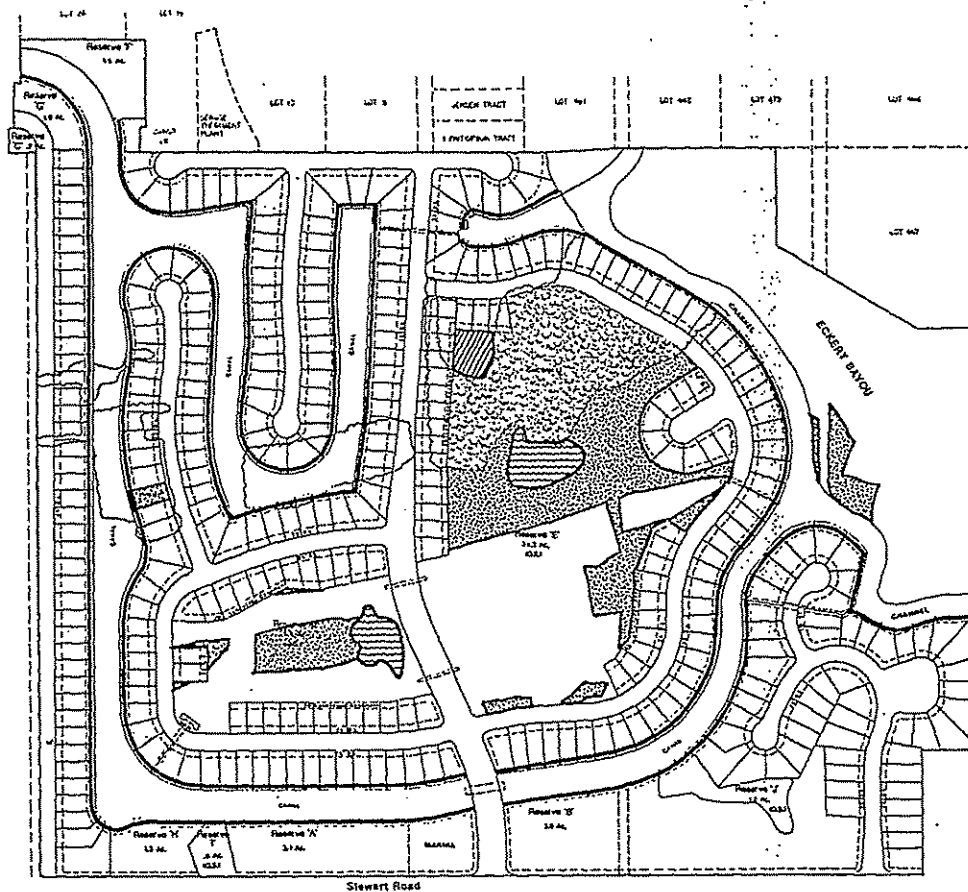
EXHIBIT "H"  
DEVELOPMENT IMPACTS  
Pirates Cove Subdivision  
Section 6






Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 13 of 21

# 17800

008-29-0463



-  Oak Mott Upland Within Open Space Reserve
-  Oak Area To Be Planted
-  Other Upland
-  Ponds Created
-  Marsh Created

11-88

**EXHIBIT "I"**  
**MITIGATION AND UPLAND CONSERVATION**

Pirates Cove Subdivision  
Section 6

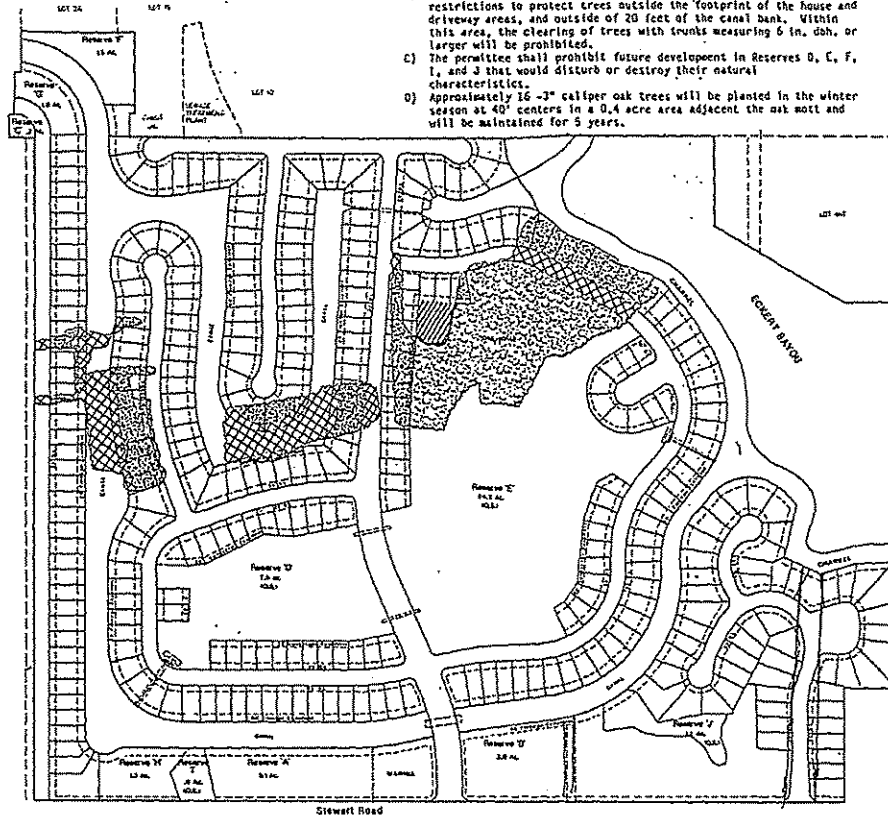
Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 14 of 21

008-29-0464 # 17500

**NOTES:**

- A) The undisturbed area of the live oak grove in Reserve E will be protected through deed restrictions or donation of easements or title to the responsible government entity or private organization that will assure the continued protection of wooded habitat.
- B) Wooded areas on lots outside the reserves shall incorporate deed restrictions to protect trees outside the footprint of the house and driveway areas, and outside of 20 feet of the canal bank. Within this area, the clearing of trees with trunks measuring 6 in. dbh, or larger will be prohibited.
- C) The permittee shall prohibit future development in Reserves D, E, F, I, and J that would disturb or destroy their natural characteristics.
- D) Approximately 16 - 2" caliper oak trees will be planted in the winter season at 40' centers in a 0.4 acre area adjacent the oak mott and will be maintained for 5 years.



**OAK MOTT DISPOSITION**

- |  |                                      |  |                                  |
|--|--------------------------------------|--|----------------------------------|
|  | Within Open Space Preserve (6.5 ac.) |  | Oak Area To Be Planted (0.4 ac.) |
|  | Within Landscape Easement (0.2 ac.)  |  |                                  |
|  | Within Lot (4.6 ac.)                 |  |                                  |
|  | Within Canal or Roadway (4.7 ac.)    |  |                                  |

11-88

**EXHIBIT "K"**  
**DEVELOPMENT IMPACT ON OAK MOTT**

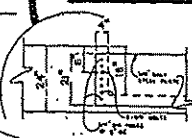
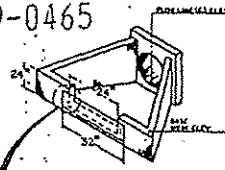
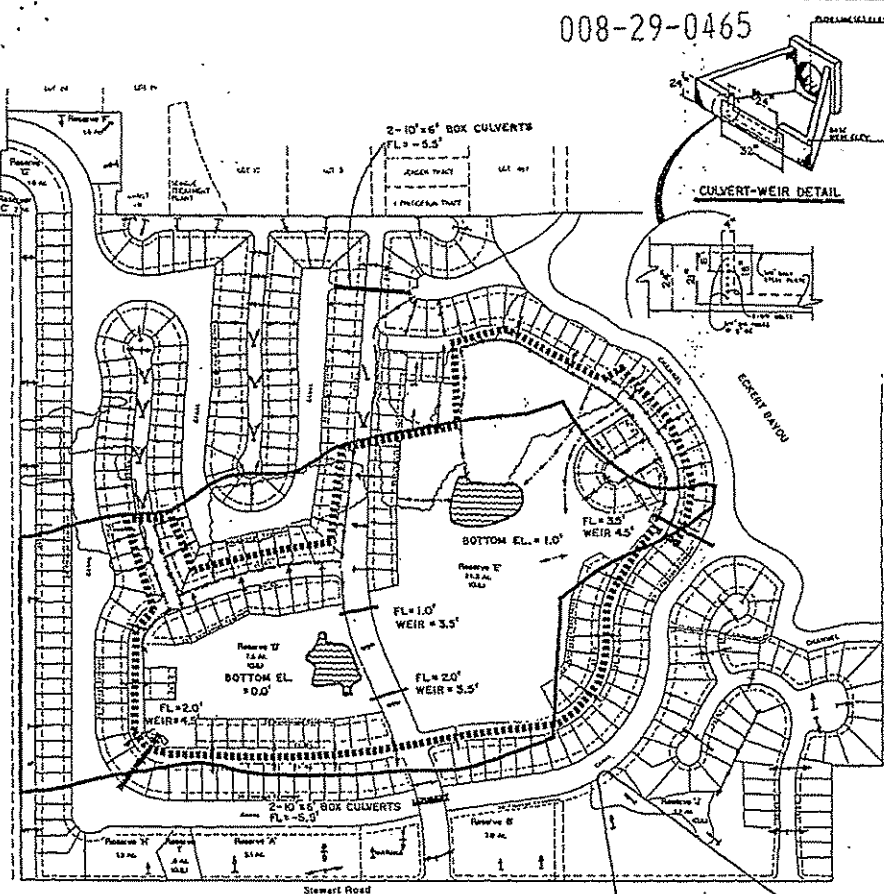
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 15 of 21

008-29-0465

4 1/000



- Proposed Drainage Boundary
- Existing Drainage Boundary
- Proposed Swale/Roadside Ditch
- Proposed Culvert

- Sheet Flow
- Ponds



11-88

EXHIBIT "L"  
DRAINAGE PLAN/CANAL CIRCULATION STRUCTURES  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas

SHEET 16 of 21

008-29-0466

PERMIT NO. 17800  
EXHIBIT N  
PIRATE'S COVE SUBDIVISION  
SECTION 6

Additional Notes

1. The ownership and financial responsibility for maintaining the reserves and canals will be disclosed to all potential property owners.
2. Effective 30 days after the permit issuance date, a Water Quality Monitoring Program will be instituted by the permittee. The permittee will bear the entire initial cost of the program, with such responsibility eventually being transferred to the property owners' association. The program shall be supervised by an independent testing firm chosen by the permittee and approved by the Corps of Engineers. Sample collections, however, may be accomplished by adequately trained employees of the permittee. Sampling stations 1, 2, 3, and 7 (see Exhibits A and B) will become active collection sites within 30 days of permit issuance. Stations 4, 5, and 6 will become active only after the canal system is connected to the navigable waters of the United States. Baseline sampling shall be limited to a maximum of one year.
3. The monitoring program will include the measurement of the following parameters at the indicated intervals:
  - (1) Daily, at 6:00 a.m.--temperature (degrees centigrade), salinity (ppt), pH, tide stage (msl datum), Secchi disc reading (cm), dissolved oxygen (ppm).
  - (2) Weekly, each Monday, or Tuesday if Monday is a holiday--oil and grease, coliform bacteria, nitrogen (nitrates, mg per liter), phosphorus (total--micrograms per liter), sulfides (mg per liter).
  - (3) Monthly--chlorinated hydrocarbons (micrograms per liter).
4. All tests will be conducted at the indicated intervals between June 1 and September 15. The oil and grease and chlorinated hydrocarbon measurements will be conducted monthly over the remainder of the year.
5. All measurements are to be made in accordance with procedures given in the latest published edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, Inc., publisher.

008-29-0467

6. Water samples will be taken at the locations specified in Exhibits A and B, not more than 1 ft. above the existing bottom, at a midchannel location, except at Stations 2, 3 and 7, which are located outside of the channel.

7. Test weeks shall run from Tuesday through the following Monday. On a weekly basis, not later than the Thursday following the test week, the results of the Water Quality Monitoring Program shall be furnished on forms provided to the Corps of Engineers, ATTENTION: CESWG-CO-RC, P. O. Box 1229, Galveston, Texas 77553-1229. Copies of the forms shall also be furnished to the National Marine Fisheries Service in Galveston, the U.S. Fish and Wildlife Service in Houston, the U.S. Environmental Protection Agency in Dallas, and the Texas Parks and Wildlife Department in Seabrook.

8. The permittee or its designee shall be required to maintain a water quality within the canal system that meets all applicable Federal, State and local water quality criteria for this particular estuarine system. If, however, Stations 2, 3 and 7 exceed (or fail to meet for dissolved oxygen) the applicable criteria, then levels in the canals may exceed (or fail to meet for dissolved oxygen) the criteria, but not to a greater degree than Stations 2, 3 and 7.

9. Based on the data provided through the Water Quality Monitoring Program, changes or modifications in the program may be required at any time during the life of the development. The program will be reviewed every six months by Galveston District personnel for possible modification of the monitoring operations or the development itself.

10. The permittee shall devise a contingency plan that will provide for artificial aeration of the canal system, should the dissolved oxygen levels fall below those levels found at the mouth of Eckert Bayou. Details of the plan shall be provided to the Galveston District Engineer, within one year of the permit issuance date, but no later than 180 days prior to connection of the canal system to navigable waters.

11. The permittee shall remove all manmade and natural debris from the canal system and water circulation structures at weekly intervals. This removal shall be indicated on the Water Quality Monitoring Program report sheet. The permittee shall retain the right to transfer this responsibility to a public entity or a quasipublic residents' or property owners' association.

12. A property owners' association will be formed within one year of issuance of the permit. The association will be governed by a Board of Directors with direct responsibility for the maintenance of the canal and reserves. The Board will be composed of seven members, serving



staggered terms. Four members of the Board will be property owners, elected by a vote of all property owners. The other three Board members would be scientists, one being a marine scientist, one an avian biologist, and one a naturalist. The original scientific board members will be selected by agreement of the Corps, the applicant, and Federal and State wildlife agencies. Thereafter, scientific vacancies will be filled by vote of the three serving scientific members. The Board of Directors will develop a plan to govern the management of the reserve areas. This plan will be submitted to the Corps of Engineers for approval, which will include coordination of it with Federal and State resource agencies. The plan will be in place before the site is accessible to the general public.

13. Any future maintenance dredging of the canal system shall not result in a canal depth to exceed -6 ft, msl, except in the dead end channel to the east, which shall be maintained no deeper than -4 ft, msl, in Section A and will gradually increase from -4 to -6 ft, msl in Section B.

14. Runoff in the subdivision will be directed primarily into freshwater wetlands on the site. The runoff not entering the freshwater wetland system will be dispersed through "between lot" swales and sheet flow across the lots into the canals.

15. The permittee shall prohibit the construction of structures in the immediate vicinity of the culvers linking the canals, which would impede water circulation in the canals.

16. Any responsibility of the permittee under this permit may be transferred to a public entity or quasipublic residents' or property owners' association.

17. All contractors shall be closely supervised to assure compliance with all conditions of this permit. Reserve areas will be clearly marked on all construction drawings as areas to be avoided.

008-29-0469

# 17800

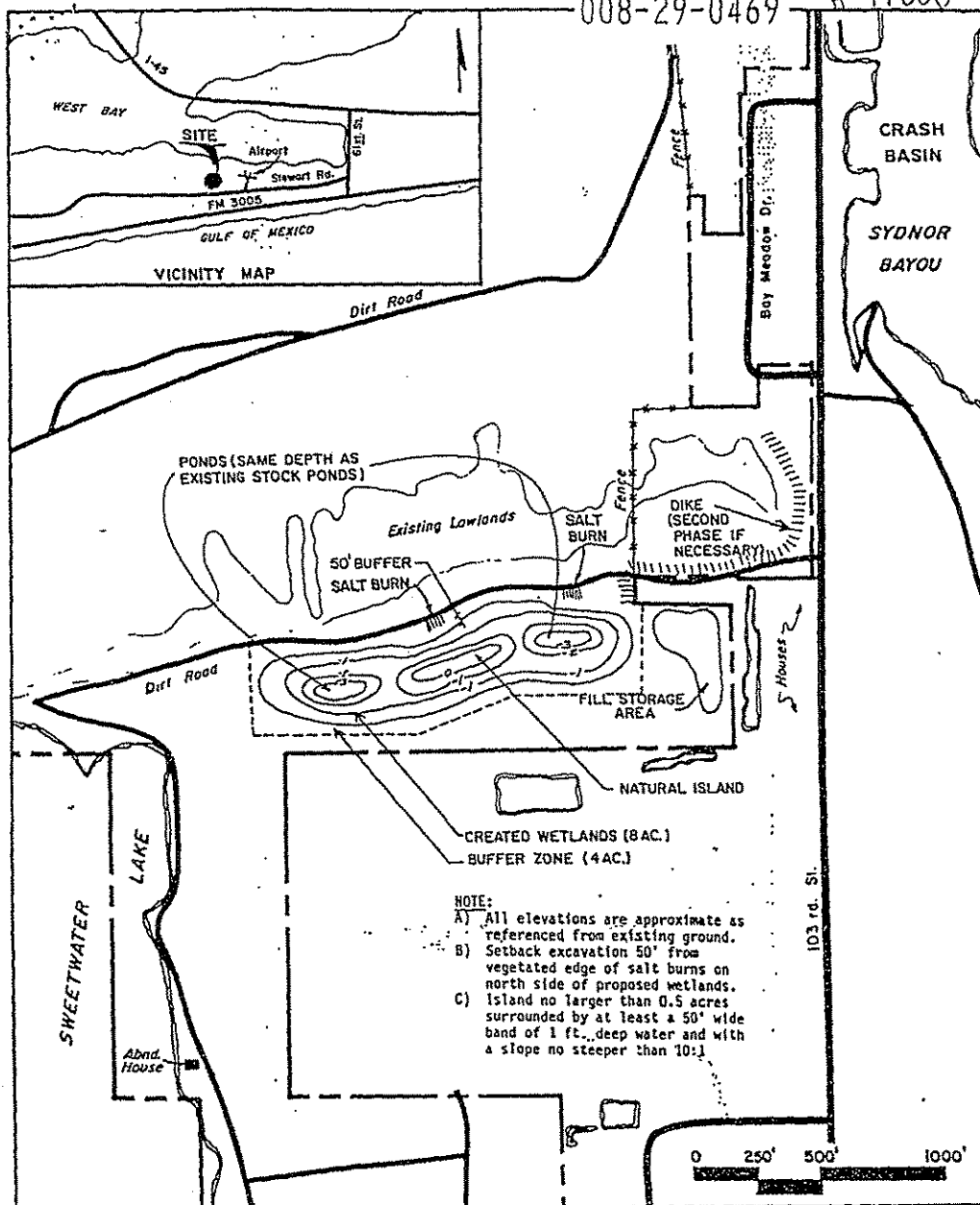


EXHIBIT "M"  
WETLANDS MITIGATION SITE  
Pirates Cove Subdivision  
Section 6

Application by:  
Mitchell Development Corporation  
Of The Southwest  
Houston, Texas.

11-88

SHEET 20 of 21

# 17800

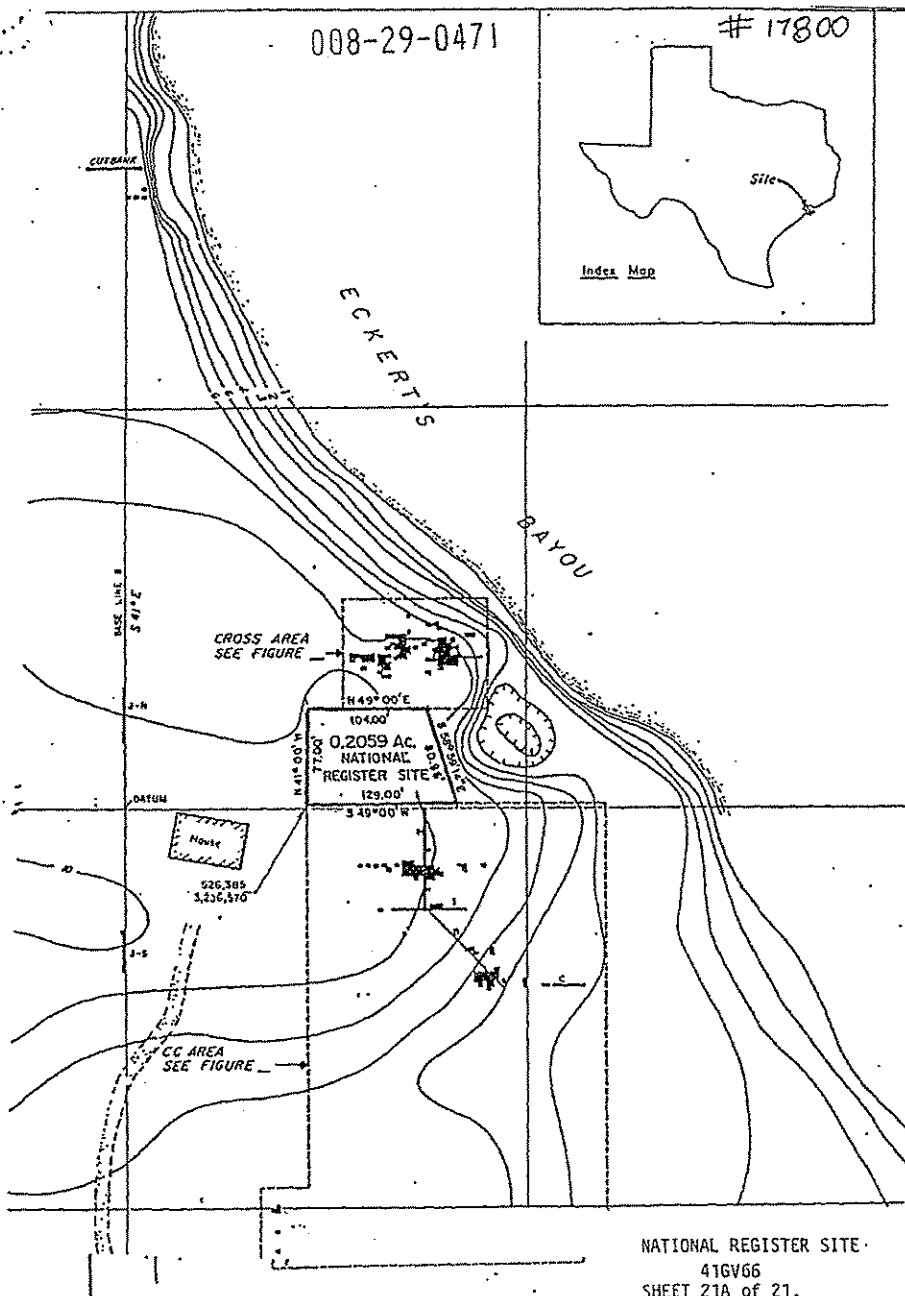
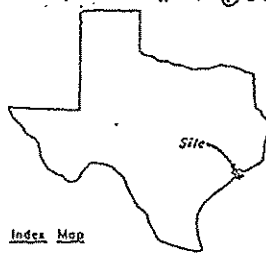
008-29-0470

NOTES: FRESHWATER WETLAND MITIGATION

1. The construction of freshwater swale habitat shall be initiated concurrent with land development activities impacting freshwater wetlands and shall be completed within 9 months from that date.
2. The buffer zone around the wetland will not be mowed, grazed, used for parking, or become part of a road-side ditch or shoulder. The dirt road between the existing wetland and the wetland to be created will not be improved.
3. The created wetland will be monitored for one year as follows:
  - a. First week of every other month--maximum depth in each of the three ponds in the existing wetland and in each of the two ponds in the created wetland; depth of the shallow water area of the existing and created wetlands; and, salinity in the existing and created wetlands.
  - b. After first year--ratio of emergent vegetation to open water.
4. Standards of success for the mitigation are as follows:
  - a. Ponds and shallow water areas in the created wetland should have standing water at least 75% of the time that those in the existing wetland do.
  - b. The salinity in the created wetland should average no greater than five parts per thousand higher than that in the existing wetland.
  - c. At least 50% of the aquatic area of the created wetland should be vegetated with emergent obligate hydrophytic vegetation.
5. If, after one year, it is determined that the habitat quality of the created wetland is not acceptable because of the lack of standing water, then dike construction, as shown on the plans, or other appropriate remedial measures will be required. If less than 50% of the aquatic area is vegetated appropriately, then supplemental planting will be done.
6. Monitoring will continue until standards of success are met.

008-29-0471

#17800



NATIONAL REGISTER SITE  
41GV66  
SHEET 21A of 21.

008-29-0472



DEPARTMENT OF THE ARMY  
GALVESTON DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 1229  
GALVESTON, TEXAS 77553-1229

REPLY TO  
ATTENTION OF:

Evaluation Section

AUG 09 1990

SUBJECT: Permit - 17800

Mitchell Development Corporation  
of the Southwest  
2001 Timberloch Place  
The Woodlands, Texas 77380

Gentlemen:

The above numbered permit has been approved and a signed copy is enclosed for your retention.

Also enclosed is ENG Form 4336 and a copy of "Notice to Permittees" which provides important information for permit administration. Construction or work under the permit should be coordinated with the Area Engineer indicated below.

Sincerely,

  
Dolan Dunn  
Chief, Evaluation Section

Enclosures

Copies Furnished:

Commander, Eighth Coast Guard District (can), Room 1330, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130 w/encl

Director, Atlantic Marine Center, National Ocean Service,  
Attn: N/CG2442xl, 439 West York Street, Norfolk, Virginia 23510-1114

Area Engineer, Fort Point Area Office, P.O. Box 1229, Galveston, Texas 77553-1229 w/encl

SWG FL 278  
25 Aug 88 (Supersedes edition of 18 Dec 85)

008-29-0473

TEXAS WATER COMMISSION

14 APR 1988

62

Paul Hopkins, Chairman  
John O. Houchins, Commissioner  
B. J. Wynne, III, Commissioner



J. D. Head, General Counsel  
Michael E. Field, Chief Examiner  
Karen A. Phillips, Chief Clerk

Allen Beinke, Executive Director

March 31, 1988

Mr. Bruce Bennett  
Galveston District SWGCO-RP  
Corps of Engineers  
P.O. Box 1229  
Galveston, TX 77553

RE: USCOE Permit No. 17800  
Mitchell Development Corporation  
of the Southwest  
Galveston County  
Tributary of TWC Segment No. 2424

Dear Mr. Bennett:

In response to the Public Notice or application for the referenced applicant dated June 20, 1986 and June 25, 1987 this certification is issued pursuant to the provisions of Section 401 of the Clean Water Act. Contingent upon completion of the project as described (summarized in Attachment I) and within the provisions included in Attachment I, we certify that the project will not cause violation of established Texas Water Quality Standards. This certification is limited to those water quality considerations under the jurisdiction of this agency according to the various statutes which this agency administers.

Our review has been primarily of the information provided by the applicant or the Public Notice. No review of property rights, location of property lines, nor the distinction between public and private ownership has been made and this certification may not be used in any way with regard to questions of ownership.

We appreciate your cooperation in this matter, and if we can be of additional assistance, please contact Mr. Charles Eanes of 512/463-8245.

Sincerely,

A handwritten signature in cursive script, appearing to read "Allen Beinke".

Allen Beinke  
Executive Director

Attachment

cc: Mitchell Development Corporation of the Southwest  
2001 Timberlock Place  
The Woodlands, TX 77380

Mrs. Sharon M. Mattox  
Vinson & Elkins  
300 First City Tower  
1001 Fannin  
Houston, TX 77002-6760

TWC-SER/Deer Park Office

00808

008-29-0474

TEXAS WATER COMMISSION

RE: USCOE Permit No. 17800  
Mitchell Development Corporation  
of the Southwest

DREDGE AND FILL CERTIFICATION - ATTACHMENT I

WORK DESCRIPTION: As described in the work section of the Public Notice dated June 20, 1986 and June 25, 1987.

SPECIAL PROVISIONS: Necessary Permit Conditions or Explanation for Waiver:

- a. An average Dissolved Oxygen limitation of 3 mg/l shall be maintained within the canal system.
- b. On a semiannual basis, the applicant shall submit a summary of the tests detailed in Exhibit N. item i of Public Notice 17800 dated June 25, 1987, to the Texas Water Commission, Attn: Water Quality Division, P.O. Box 13087 Capitol Station, Austin, TX 78711-3087.

STANDARD PROVISIONS:

I. GENERAL

This certification is contingent upon the work being accomplished as described in the public notice or certification application and according to the following provisions. This certification is valid for any extension of time, minor revision or maintenance dredging subsequent to the original COE permit but expires concurrently with the final expiration of the applicable United States Army Corps of Engineers permit. Significant changes in the method or location of spoil disposal may require amendment or reissue of this certification.

2. DISCHARGE

- a. The discharge of oil, gasoline, other fuels or materials capable of causing pollution is prohibited.
- b. Commercial or industrial facilities must provide for containment of any spillage which may occur during loading or unloading operations, and for prevention of leakage of chemical products or other contaminants into State waters.
- c. Major off-shore dredge rigs and/or those staying off-shore for extended periods must retain sanitary wastes for disposal onshore in some legal manner.
- d. Marinas and similar facilities shall arrange docks and appurtenances so that shoreside waste receiving and treating facilities can be added to service boats for both sanitary and other wastes as may be required. Provision of these facilities is not required by this certification but arrangements and/or space shall be such that they can be added conveniently.
- e. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.

3. TURBIDITY

Adequate methods shall be used to minimize turbidity in state waters during all phases of the project. This includes (as applicable) dredge, decant, fill and

00899

008-29-0475

construction. Additionally, adequate methods shall be used to insure minimum turbidity from near and long term erosion from fill, spoil and/or devegetated areas during and following completion of the project.

4. DREDGING AND/OR EXCAVATION

- a. This certification does not authorize dredging, excavation, or spoil disposal other than as detailed in the public notice or certification application or as provided for in "Special Provisions".
- b. If the spoil disposal area is not designated in the public notice or certification application, spoil must be placed in areas approved by the United States Army Corps of Engineers and/or Texas Parks and Wildlife Department.
- c. Hydraulically dredged materials shall be placed in a leveed disposal area having a controlled spillway. A minimum of one hour residence time shall be provided for the spoil's liquid phase. Materials pumped to the area shall be introduced at a point calculated to maximize settlement prior to overflow from the spillway. Liquid overflowing the spillway shall be generally returned to the channel or area being dredged. Hydraulic dredge pipelines shall be periodically inspected for leakage during pumping and any leaks detected shall be corrected before continuing.
- d. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations will be immediately terminated and the Texas Water Commission District Office contacted.

5. PIPELINES

Following installation of pipelines across waterways, waterway bottom and natural shoreline contours shall be restored, to the degree reasonable, to their original configuration and revegetated or otherwise stabilized. Signs shall be posted at crossing points on each side of the waterway identifying the pipeline owner and emergency telephone numbers. Pipelines will be periodically inspected for leaks.

FILED FOR RECORD

92 JUL -8 PM 2:17

*Jessie B. Kirkendall*  
COUNTY CLERK  
GALVESTON COUNTY, TEXAS

STATE OF TEXAS COUNTY OF GALVESTON  
I hereby certify that this instrument was filed  
on the date and time stamped hereon by me and  
was duly recorded in the Official Public Records  
of Real Property of Galveston County Texas, on

JUL 8 1992



*Jessie B. Kirkendall*  
COUNTY CLERK  
GALVESTON CO., TEXAS

00810



9323348

008-95-2288

AMENDMENT TO CORRECTION RESTRICTIONS,  
COVENANTS AND CONDITIONS FOR  
LAFFITE'S COVE AT PIRATES BEACH

THE STATE OF TEXAS       §  
                                  §  
COUNTY OF GALVESTON   §

WHEREAS, pursuant to the provisions of that certain instrument entitled Correction Restrictions, Covenants and Conditions for Laffite's Cove at Pirates Beach ("Restrictions") dated August 3, 1992, filed for record under County Clerk's file No. 9230659, Film Code No. 008-35-0345 of Galveston County, Texas, certain restrictions, covenants and conditions were imposed upon all numbered lots in Pirates Cove, Section Six, a subdivision ("Subdivision") in Galveston County, Texas, according to the plats thereof recorded in Book 18, Pages 277-281 of the Map Records of Galveston County, Texas, as amended by Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 326-333 of the Map Records of Galveston County, Texas and Partial Replat of Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 366-367 of the Map Records of Galveston County, Texas.

WHEREAS, it is the desire of the undersigned owner of a majority of the lots in the aforementioned Subdivision to amend the Restrictions.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That, THE WOODLANDS CORPORATION, a Delaware corporation, with its offices and principal place of business in The Woodlands, Montgomery County, Texas, acting herein by and through its duly authorized officers, the owner of a majority of the lots in the Subdivision, does hereby amend the Restrictions in the following particulars:

Paragraph 22 of the Restrictions entitled Special Laffite's Cove Maintenance Charge is hereby deleted in its entirety and the following Paragraph 22 is inserted in its stead:

"22. Special Laffite's Cove Maintenance Charge.

The owner of each lot within the Property, except as hereinafter provided, shall pay to the Developer a minimum annual maintenance charge ("Special Laffite's Cove Maintenance Charge") of \$250.00 per

year for the purpose of creating a fund to be known as the "Special Laffite's Cove Fund". Said Special Laffite's Cove Maintenance Charge may be increased from time to time by the Developer in an annual amount not to exceed 10% of the Special Laffite's Cove Maintenance Charge for the previous year up to a maximum charge of \$402.62 per year, if, in the sole discretion of Developer, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 23 below. After said maximum charge of \$402.62 per lot has been reached, the Developer shall have the right, in its sole discretion, to increase the Special Laffite's Cove Maintenance Charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Statistics cease to publish the Consumer Price Index - all Items, 1967 equals 100, the Developer shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items, 1967 equals 100. Said Special Laffite's Cove Maintenance Charge shall be due and payable annually, in advance, on or before the first day of July of each year, to the Developer at its offices in The Woodlands, Texas. The Special Laffite's Cove Maintenance Charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of

008-95-2290

said ensuing year bears to a whole year. It is expressly agreed that all unsold lots owned by Developer and its successors and assigns shall be excluded from payment of the Special Laffite's Cove Maintenance Charge. The sole and only obligation of Developer in connection with the purposes for which said Special Laffite's Cove Maintenance Charge has been created is to keep the grass and weeds mowed on all unsold lots. Notwithstanding the foregoing, Developer may, at its sole option, assume and agree to pay other expenditures for the benefit of owners or occupants of lots in the Subdivision."

Except as herein and heretofore changed and amended, all of the provisions contained in the Restrictions shall remain in full force and effect as originally written.

EXECUTED this the 1st day of June, 1993.

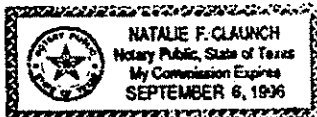
OWNER:

THE WOODLANDS CORPORATION

By: William A. Ross, Jr.  
Name: William A. Ross, Jr.  
Title: Vice President

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF MONTGOMERY   §

This instrument was acknowledged before me on June 1, 1993, by William A. Ross, Jr., Vice President of THE WOODLANDS CORPORATION, a Delaware corporation, on behalf of said corporation.



Natalie F. Claunch  
Notary Public, State of Texas

MAILING ADDRESS OF GRANTEE  
THE WOODLANDS CORPORATION  
C/O MARY ROSE - ~~Copied~~  
2201 TIMBERLOCH RD  
THE WOODLANDS, TX 77380

ECS/pl/BAMEND.FCS/05-26-93

FILED FOR RECORD

93 JUN -9 AM 10:51 -3-

James B. Kirkland  
COUNTY CLERK  
GALVESTON COUNTY, TEXAS

STATE OF TEXAS COUNTY OF GALVESTON  
I hereby certify that this instrument was filed  
on the date and time stamped hereon by me and  
was duly recorded in the Official Public Records  
of Real Property of Galveston County Texas, on

JUN 9 1993



James B. Kirkland  
COUNTY CLERK  
GALVESTON CO., TEXAS

009-07-0815

9330979

SECOND  
AMENDMENT TO CORRECTION RESTRICTIONS,  
COVENANTS AND CONDITIONS FOR  
LAFFITE'S COVE AT PIRATES BEACH

THE STATE OF TEXAS       §  
                                  §  
COUNTY OF GALVESTON     §

WHEREAS, pursuant to the provisions of that certain instrument entitled Correction Restrictions, Covenants and Conditions for Laffite's Cove at Pirates Beach ("Restrictions") dated August 3, 1992, filed for record under County Clerk's file No. 9230659, Film Code No. 008-35-0345 of the Real Property Records of Galveston County, Texas, modified by Amendment to Correction Restrictions, Covenants and Conditions for Laffite's Cove at Pirates Beach dated June 1, 1993, filed for record under County Clerk's File No. 9323348, Film Code No. 008-95-2288 of the Real Property Records of Galveston County, Texas, certain restrictions, covenants and conditions were imposed upon all numbered lots in Pirates Cove, Section Six, a subdivision ("Subdivision") in Galveston County, Texas, according to the plats thereof recorded in Book 18, Pages 277-281 of the Map Records of Galveston County, Texas, as amended by Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 326-333 of the Map Records of Galveston County, Texas and Partial Replat of Pirates Cove Section Six First Amending Plat recorded in Book 18, Pages 366-367 of the Map Records of Galveston County, Texas;

WHEREAS, it is the desire of the undersigned owner of a majority of the lots in the aforementioned Subdivision to further amend the Restrictions.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That, THE WOODLANDS CORPORATION, a Delaware corporation, with its offices and principal place of business in The Woodlands, Montgomery County, Texas, acting herein by and through its duly authorized officers, the owner of a majority of the lots in the Subdivision, does hereby amend the Restrictions in the following particulars:

Paragraph 22 of the Restrictions entitled Special Laffite's Cove Maintenance Charge is hereby deleted in its entirety and the following Paragraph 22 is inserted in its stead:

"22. Special Laffite's Cove Maintenance Charge.

The owner of each lot within the Property, except as hereinafter provided, shall pay to the Developer a minimum annual maintenance charge ("Special Laffite's Cove Maintenance Charge") of \$250.00 per year for the purpose of creating a fund to be known as the "Special Laffite's Cove Fund". Said Special Laffite's Cove Maintenance Charge may be increased from time to time by the Developer in an annual amount not to exceed 10% of the Special Laffite's Cove Maintenance Charge for the previous year up to a maximum charge of \$402.62 per year, if, in the sole discretion of Developer, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 23 below. After said maximum charge of \$402.62 per lot has been reached, the Developer shall have the right, in its sole discretion, to increase the Special Laffite's Cove Maintenance Charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Statistics cease to publish the Consumer Price Index - all Items, 1967 equals 100, the Developer shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items, 1967 equals 100. Said Special Laffite's Cove Maintenance Charge shall be due and payable annually, in advance, on or before the first day of July of each year, to the Developer at its offices in The Woodlands, Texas. The Special Laffite's

009-07-0817

Cove Maintenance Charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of said ensuing year bears to a whole year. It is expressly agreed that all unsold lots owned by Developer and its successors and assigns shall be excluded from payment of the Special Laffite's Cove Maintenance Charge."

Except as herein and heretofore changed and amended, all of the provisions contained in the Restrictions shall remain in full force and effect as originally written.

EXECUTED this the 19th day of July, 1993.

OWNER:

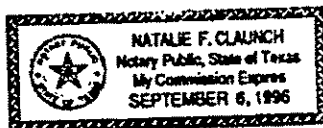
THE WOODLANDS CORPORATION

By:

*William A. Ross, Jr.*  
William A. Ross, Jr.  
Vice President

THE STATE OF TEXAS     §  
                                   §  
COUNTY OF MONTGOMERY   §

This instrument was acknowledged before me on July 19, 1993, by William A. Ross, Jr., Vice President of THE WOODLANDS CORPORATION, a Delaware corporation, on behalf of said corporation.



*Natalie F. Claunch*  
Notary Public, State of Texas

I, J. C. TEXAS COUNTY OF GALVESTON  
hereby certify that this instrument was filed  
on the date and time stamped hereon by me and  
is duly recorded in the Official Public Records  
of Real Property of Galveston County Texas, on  
JUL 26 1993

ECS/11/BAMEND2.PC6/07-14-93



*Jessie G. Kirkendall*  
COUNTY CLERK  
GALVESTON CO., TEXAS

FILED FOR RECORD  
93 JUL 26 AM 11:04

▶ The Woodlands Corporation

**AFFIDAVIT FOR THE FILING OF DEDICATORY INSTRUMENTS**

THE STATE OF TEXAS §  
 COUNTY OF GALVESTON §

KNOW ALL MEN  
 BY THESE PRESENTS

WHEREAS, the attached documents are true and correct copies of the dedicatory instruments for LAFFITES COVE NATURE SOCIETY and are being filed in the Real Property Records of GALVESTON COUNTY pursuant to Section 202.006 of the Texas Property Code, hereto attached as exhibit "A". That the property affected by these documents is set out in the plat recorded for all lots and reserve lots in the plat being recorded in the County Clerks Office in GALVESTON County, for Laffite's Cove at Pirates Beach Section 6 recorded in Book 18, Pages 326-333 and Book 18, Pages 366-367 of the Map or Plat records the Office of the County Clerk of Galveston County

By:

Printed Name

Title

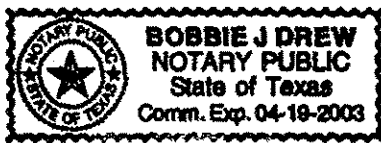
Susan L. McKirahan

Secretary & Managing Agent

THE STATE OF TEXAS §  
 COUNTY OF GALVESTON §

BEFORE ME, the undersigned authority, on this day personally appeared Susan L. McKirahan, whose position is the Managing Agent of Laffites' Cove Nature Society, known to me to be the person and position whose name is subscribed to the foregoing instrument, and acknowledged to me that Susan L. McKirahan executed the same for the purposes and consideration and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 28<sup>th</sup> day of December, 1999.



Bobbie J. Drew  
 Notary Public in and for  
 The State of Texas

After recording return to:  
Laffites Cove Nature Society  
c/o CKM Property Management, Inc.  
P. O. Box 690845  
Houston, Texas 77269-0845

**RECORDER'S MEMORANDUM**  
 At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded

014-19-1551



# The State of Texas

## SECRETARY OF STATE

The undersigned, Secretary of State of the State of Texas, HEREBY CERTIFIES that the attached is a true and correct copy of the following described instruments on file in this office:

LAFITE'S COVE AT PRIATES' BEACH NATURE SOCIETY  
Charter #01237044-01

Articles of Incorporation

July 07, 1992



*IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this*

*07th day of July, A.D. 19<sup>92</sup>*

*John Hannah Jr.* pap  
Secretary of State

**EXHIBIT "A"**



014-19-1552

P.2

FILED  
In the Office of the  
Secretary of State of Texas

JUL 07 1992

Corporations Section

ARTICLES OF INCORPORATION

OF

LAFFITE'S COVE AT PIRATES' BEACH NATURE SOCIETY

I, the undersigned natural person of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE ONE

NAME

The name of the corporation is LAFFITE'S COVE AT PIRATES' BEACH NATURE SOCIETY.

ARTICLE TWO

NONPROFIT CORPORATION

The corporation is a nonprofit corporation. Upon dissolution, all of the corporation's assets shall be distributed to the State of Texas or an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) for one or more purposes that are exempt under the Texas franchise tax.

ARTICLE THREE

DURATION

The period of its duration is perpetual.

## ARTICLE FOUR

## PURPOSES

The purposes for which the corporation is organized are:

- (a) To own, operate and maintain the canals in Pirates' Cove, Section 6, a subdivision in Galveston County, Texas (the "Subdivision"); and
- (b) To operate, maintain, protect and preserve the nature preserves in the Subdivision;
- (c) To exercise all of the rights, powers and privileges, and to perform all of the duties and obligations, of the Pirates Cove Nature Society as set forth and undertaken in the Declaration of Covenants for Laffite's Cove at Pirates' Beach, Canals and Nature Preserves (the "Covenants"), applicable to the Subdivision, which shall be hereafter executed and recorded in the Office of County Clerk of Galveston County, Texas, as such Covenants may be modified or supplemented from time to time as therein provided.

## ARTICLE FIVE

## POWERS

The corporation shall have the following powers:

- (a) To have and exercise all rights and powers conferred on nonprofit corporations under the laws of Texas, or which may hereinafter be conferred, including the power to contract, rent, buy or sell personal or real property; and

- (b) To do all other acts necessary or expedient to the administration of the affairs and attainment of the purposes of this corporation.

Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this corporation. This corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate pecuniary gain or profit to the members thereof and is organized for nonprofit purposes.

The corporation shall have no power to take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings and procedures. The corporation shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation or state law the corporation shall have no power to:

- (i) Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.
- (ii) Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or

otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.

- (iii) Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and any other direct or indirect campaign activities.
- (iv) Have objectives that characterize it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.
- (v) Permit any part of the net earnings of the corporation to inure to the benefit of any private shareholder or member of the corporation or any private individual.
- (vi) Carry on an unrelated trade or business except as a secondary purpose related to the corporation's primary exempt purposes.

#### ARTICLE SIX

##### MEMBERSHIP

The corporation shall have members as provided in the Covenants and in the Bylaws of the Corporation.

#### ARTICLE SEVEN

##### INITIAL REGISTERED AGENT AND OFFICE

The corporation's initial registered agent for service of process shall be Thomas P. Battle. The street address of the initial registered agent's office shall be: 2002 Timberloch Place, The Woodlands, Texas 77381.

014-19-1556

## ARTICLE EIGHT

## BOARD OF DIRECTORS

The number of Directors constituting the initial board of directors of the Corporation is seven, and the names and addresses of the persons who are to serve as the initial board of directors are:

<u>Director</u>	<u>Position</u>	<u>Street Address</u>
G. David Bumgardner	1	2002 Timberloch Place The Woodlands, Texas 77380
Robert Heineman	2	2201 Timberloch Place The Woodlands, Texas 77380
Plato J. Pappas	3	2201 Timberloch Place The Woodlands, Texas 77380
J. Leonard Rogers	4	2201 Timberloch Place The Woodlands, Texas 77380
Dr. Robert W. McFarlane	5	9503 Sharpview Drive Houston, Texas 77036
Dr. Sammy Ray	6	7213 Yucca Drive Galveston, Texas 77551
Tony Vasquez	7	Vasquez Environmental Services, Inc. York Centre Office Building 10235 W. Little York Suite 445 Houston, Texas 77040

## ARTICLE SEVEN

## INCORPORATORS

The name and street address of the incorporator is:

G. David Bumgardner  
2002 Timberloch Place  
The Woodlands, Texas 77380

014-19-1557

IN WITNESS WHEREOF, I have hereunto set my hand, this 2nd  
day of July, 1992.

  
G. David Bumgardner

THE STATE OF TEXAS

COUNTY OF MONTGOMERY

I, Sharon Preston, a notary public, do hereby  
certify that on the 2nd day of July, 1992, person-  
ally appeared G. David Bumgardner, who, being by me first duly  
sworn, declared that he is the person who signed the foregoing  
document as incorporator, and that the statements therein contained  
are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the  
day and year written.

  
Notary Public - State of Texas



GDB/sp/BNATURE.FCS/07-02-92

014-19-1558



# The State of Texas

## SECRETARY OF STATE CERTIFICATE OF INCORPORATION

OF

**LAFFITE'S COVE AT PIRATES' BEACH NATURE SOCIETY**

Charter No. 1237044

The undersigned, as Secretary of State of the State of Texas, hereby certifies that Articles of Incorporation for the above corporation duly signed pursuant to the provisions of the Texas Non-Profit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation and attaches hereto a copy of the Articles of Incorporation

Dated JULY 7, 19 92.



*John Hannah Jr.*  
Secretary of State

dlm

014-19-1559

FILED  
In the Office of the  
Secretary of State of Texas

JUL 07 1992

ARTICLES OF INCORPORATION  
OF

LAFFITE'S COVE AT PIRATES' BEACH NATURE SOCIETY ~~Corporations Section~~

I, the undersigned natural person of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE ONE

NAME

The name of the corporation is LAFFITE'S COVE AT PIRATES' BEACH NATURE SOCIETY.

ARTICLE TWO

NONPROFIT CORPORATION

The corporation is a nonprofit corporation. Upon dissolution, all of the corporation's assets shall be distributed to the State of Texas or an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) for one or more purposes that are exempt under the Texas franchise tax.

ARTICLE THREE

DURATION

The period of its duration is perpetual.



## ARTICLE FOUR

## PURPOSES

The purposes for which the corporation is organized are:

- (a) To own, operate and maintain the canals in Pirates' Cove, Section 6, a subdivision in Galveston County, Texas (the "Subdivision"); and
- (b) To operate, maintain, protect and preserve the nature preserves in the Subdivision;
- (c) To exercise all of the rights, powers and privileges, and to perform all of the duties and obligations, of the Pirates Cove Nature Society as set forth and undertaken in the Declaration of Covenants for Laffite's Cove at Pirates' Beach, Canals and Nature Preserves (the "Covenants"), applicable to the Subdivision, which shall be hereafter executed and recorded in the Office of County Clerk of Galveston County, Texas, as such Covenants may be modified or supplemented from time to time as therein provided.

## ARTICLE FIVE

## POWERS

The corporation shall have the following powers:

- (a) To have and exercise all rights and powers conferred on nonprofit corporations under the laws of Texas, or which may hereinafter be conferred, including the power to contract, rent, buy or sell personal or real property; and

- (b) To do all other acts necessary or expedient to the administration of the affairs and attainment of the purposes of this corporation.

Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this corporation. This corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate pecuniary gain or profit to the members thereof and is organized for nonprofit purposes.

The corporation shall have no power to take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings and procedures. The corporation shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation or state law the corporation shall have no power to:

- (i) Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.
- (ii) Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or

014-19-1562

otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.

- (iii) Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and any other direct or indirect campaign activities.
- (iv) Have objectives that characterize it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.
- (v) Permit any part of the net earnings of the corporation to inure to the benefit of any private shareholder or member of the corporation or any private individual.
- (vi) Carry on an unrelated trade or business except as a secondary purpose related to the corporation's primary exempt purposes.

#### ARTICLE SIX

##### MEMBERSHIP

The corporation shall have members as provided in the Covenants and in the Bylaws of the Corporation.

#### ARTICLE SEVEN

##### INITIAL REGISTERED AGENT AND OFFICE

The corporation's initial registered agent for service of process shall be Thomas P. Battle. The street address of the initial registered agent's office shall be: 2002 Timberloch Place, The Woodlands, Texas 77381.

014-19-1563

## ARTICLE EIGHT

## BOARD OF DIRECTORS

The number of Directors constituting the initial board of directors of the Corporation is seven, and the names and addresses of the persons who are to serve as the initial board of directors are:

<u>Director</u>	<u>Position</u>	<u>Street Address</u>
G. David Bumgardner	1	2002 Timberloch Place The Woodlands, Texas 77380
Robert Heineman	2	2201 Timberloch Place The Woodlands, Texas 77380
Plato J. Pappas	3	2201 Timberloch Place The Woodlands, Texas 77380
J. Leonard Rogers	4	2201 Timberloch Place The Woodlands, Texas 77380
Dr. Robert W. McFarlane	5	9503 Sharpview Drive Houston, Texas 77036
Dr. Sammy Ray	6	7213 Yucca Drive Galveston, Texas 77551
Tony Vasquez	7	Vasquez Environmental Services, Inc. York Centre Office Building 10235 W. Little York Suite 445 Houston, Texas 77040

## ARTICLE SEVEN

## INCORPORATORS

The name and street address of the incorporator is:

G. David Bumgardner  
2002 Timberloch Place  
The Woodlands, Texas 77380

IN WITNESS WHEREOF, I have hereunto set my hand, this 2nd  
day of July, 1992.

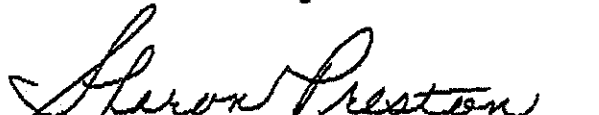
  
G. David Bumgardner

THE STATE OF TEXAS

COUNTY OF MONTGOMERY

I, Sharon Preston, a notary public, do hereby  
certify that on the 2nd day of July, 1992, person-  
ally appeared G. David Bumgardner, who, being by me first duly  
sworn, declared that he is the person who signed the foregoing  
document as incorporator, and that the statements therein contained  
are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the  
day and year written.

  
Notary Public - State of Texas



GDB/ep/BNATURE.PCS/07-02-92

014-19-1565

BYLAWS  
OF  
LAFFITE'S COVE AT PIRATES' BEACH NATURE SOCIETY

ARTICLE I  
GENERAL PROVISIONS

1.1. Introduction. Laffite's Cove at Pirates' Beach Nature Society (hereinafter referred to as the "Society") is a Texas non-profit corporation, organized and existing under the laws of the State of Texas for the purposes set forth in the Articles of Incorporation of the Society and in the Declaration of Covenants for Laffite's Cove at Pirates' Beach, Canals and Nature Preserves, filed for record under File No. 9226208 in the Office Public Records of Real Property in the Office of the County Clerk of Galveston County, Texas, and all amendments and supplements thereto (hereinafter referred to as the "Covenants").

1.2. Definitions. Unless expressly indicated otherwise, capitalized terms used herein shall have the same meanings assigned to them in the Covenants.

1.3. Conflicts. In the event of any conflict between these Bylaws, as amended from time to time, and the Covenants, the Covenants shall control.

ARTICLE II  
MEMBERSHIP

2.1. Eligibility. Each Owner is a Member of the Society. If a Lot or Reserve is owned by two (2) or more persons, then all of the persons so owning said Lot or Reserve shall be Members and shall be eligible to hold office, attend meetings, and exercise all of the other rights of a Member; provided however, votes shall be cast only by the voting Member, as provided in Section 3.8 below.

2.2. Termination. The membership of any Member shall terminate when he/she ceases to be an Owner. Transfer of a Lot or Reserve, whether such transfer occurs voluntarily or by operation of law, shall immediately and automatically terminate the transferor's membership in the Society, except to the extent that such transferor retains an interest in any other Lot or Reserve. The transfer of a Lot or Participating Reserve shall not terminate the liability of the transferor for any unpaid annual or special assessments due the Society. The transferee shall, immediately and automatically upon the valid transfer of the Lot or Reserve, become a Member of the Society.

2.3. Transfer of Membership. Membership in the Society is neither transferable nor assignable, other than by transfer of a Lot or Reserve as set forth above.

ARTICLE III  
Society MEETINGS

3.1. Annual Meetings. An annual meeting of the Members shall be held within the first ninety (90) days of the beginning of each calendar year, commencing with the year 1992, for the purpose of electing directors in accordance with the provisions of these Bylaws and for the transaction of other business as may come before the meeting.

3.2. Special Meetings. Special meetings of the Members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, and shall be called by the President or the Secretary at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of Members representing not less than one-tenth (1/10th) of the total votes eligible to be voted by all of the Members. Each such request shall state the purpose or purposes of the proposed meeting. The business transacted at all special meetings shall be confined to the subject(s) stated in the notice thereof.

3.3. Place of Meetings. All Members meetings shall be held in a suitable place, reasonably convenient to the Members, which is designated by the Board and stated in the notice of the meeting. Each Members meeting shall be open to all of the Members and such other persons as are not expressly excluded from such meeting by the affirmative vote of Members representing a majority of the total votes eligible to be voted by the Members present at such meeting, either in person or by proxy.

3.4. Notice of Meeting. Written notice stating the place, day and hour of a meeting of Members shall be delivered either personally or by mail to each Member at the address given to the Board by the Member for such purpose, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the Secretary of the Society, or the persons calling the meeting. In case of a special meeting, or when required by law or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed the notice shall be deemed to be delivered when deposited in the United States mail.

3.5. Action Without a Meeting. Any action required to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Members representing all the votes entitled to be cast on the subject matter thereof.

3.6. Quorum. A quorum of Members for any meeting shall be constituted by Members represented in person or by proxy at such meeting.

3.7. Voting.

(a) Subject to Section 3.7(c) below, each Owner shall be entitled to one (1) vote for each Lot and/or Reserve with respect to which a deed in such Owner's name is recorded in the County Clerk's Office, Galveston County, Texas.

(b) Except as otherwise provided by law, the Covenants, or by these Bylaws, the votes of Members, present either in person or by proxy at any duly called Members meeting at which a quorum has been established, casting a majority of the total votes eligible to be voted by such Members shall decide any question under consideration, and shall constitute the act of and be binding upon the Society.

(c) The Board of Directors shall have the right to suspend the voting right of any Member for any period during which the assessment against the Member's Lot or Reserve remains unpaid for a consecutive sixty (60) day period.

3.8. Designation of Voting Members. If a Lot or Reserve is owned by more than one person, only one (1) Owner shall be entitled to cast votes for that Lot or Reserve. The Owners of such Lot or Reserve shall designate a voting Member to cast such votes on their behalf.

3.9. Proxies. Votes may be cast by the Members either in person or by proxy. All proxies shall be in writing and signed and dated by the person entitled to vote. In no event shall any proxy be valid for a period longer than eleven (11) months from the date of its execution, unless otherwise provided therein. A proxy shall be revocable only in writing at any time in the sole discretion of the Member who executed it. If a Lot or Reserve is owned by more than one (1) person, a proxy must be signed by each Owner of such Lot or Reserve.

3.10. Waiver and Consent. Whenever the vote of Members at a meeting is required or permitted by any provision of these Bylaws to be taken in connection with any action of the Society, the meeting and vote of Members may be dispensed with, and matter(s) in question may be voted upon by mail-in ballot if Members representing a majority of the total votes eligible to be voted by all of the Members consent in writing to dispense with the meeting and to vote upon the matter(s) in question by mail-in ballot. Mail-in ballots may accompany the required consent of Members, and may be completed and returned simultaneously therewith.

3.11. Rules of Meeting. The Board may prescribe reasonable order of business and rules for the conduct of all meetings of the Members and in the absence of such rules, Robert's Rules of Order shall be used.



**ARTICLE IV**  
**BOARD OF DIRECTORS**

4.1. Number and Qualifications. The affairs of the Society shall be governed by a Board of Directors composed of seven (7) directors who shall be appointed or elected as follows:

(a) The Members shall elect four (4) directors, being Director Positions 1 through 4; and

(b) The remaining three (3) directors, being Director Positions 5 through 7, shall be a marine scientist, an avian biologist and a naturalist, and shall be appointed by the directors then holding Director Positions 5 through 7 at the time a vacancy occurs.

4.2. Term. The terms of all directors shall be three (3) years, except for the initial directors named in the Articles of Incorporation of the Society, whose terms shall be as follows:

(a) The initial directors holding Director Positions 1 and 5 shall serve for a term of one (1) year;

(b) The initial directors holding Director Positions 2 and 6 shall serve for a term of two (2) years; and

(c) The initial directors holding Director Positions 3, 4 and 7 shall serve for a term of three (3) years.

4.3. Election.

(a) The initial Board of Directors appointed by the incorporator shall serve until such time as his successor has been appointed or elected as provided in Section 4.2 above.

(b) At each annual meeting of Members, the Members shall elect directors for the then expiring terms in Director Positions 1 through 4.

(c) Those candidates for election as director receiving the greatest percentage of the votes cast either in person or by proxy at the meeting shall be elected.

4.4. Vacancies. Should any director resign, be removed or otherwise be unable to fulfill his full term of office, a replacement director for the remainder of the unexpired term shall be selected as follows:

(a) If the vacancy is for Director Position 1 through 4, the interim director shall be appointed by a majority of the directors remaining in Director Positions 1 through 4; and

(b) If the vacancy is in Director Positions 5 through 7, the interim director shall be appointed by the directors remaining in Director Positions 5 through 7.

4.5 Ownership Required. All Directors elected or appointed to Director Positions 1 through 4 shall be Owners or the duly authorized representative of an Owner that is a corporation, partnership, organization or other entity.

4.6. Removal. Any one or more of the directors in Director positions 1 through 4 may be removed, with cause, by the affirmative vote of Members casting a majority of the total votes eligible to be voted by all of the Members at any annual or special meeting of the Society. Any director whose removal has been proposed by the Members shall be given prompt written notice of his proposed removal and shall be provided with a reasonable opportunity to attend and be heard at the meeting at which removal is voted upon.

4.7. Annual Meetings. An annual meeting of the Board of Directors shall be held immediately after, and at the same place as, the annual meeting of Members.

4.8. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) directors. The person or persons authorized to call special meetings of the Board of Directors may fix any time and place for holding any such special meetings called by them.

4.9. Notice of Special Meeting. Written notice stating the place, day, and hour of a special meeting of the Board of Directors shall be delivered to each director at least five (5) days before the date of the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail with postage prepaid. If notice is given by telegram, the notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting unless his attendance is for the purpose of protesting the legality of the meeting.

4.10. Meetings by Telephone Conference. Both annual and special Board meetings may be conducted by telephone conference. To the extent permitted by law, any director who is not physically in attendance at any meeting of the Board of Directors, but who is in telephone contact with the other directors during such meeting and is thereby able to participate in the discussions, reports, debates, votes, and other matters conducted thereat, shall be deemed to be in attendance at said meeting for all purposes, including but not limited to the purpose of creating a quorum.

4.11. Action by Consent. Any action required by law to be taken at a meeting of directors, or any action which may be taken at a meeting of directors, may be taken without a meeting if a consent in writing setting forth the action so taken, shall be signed by all of the directors.

4.12. Quorum At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business. If at any meeting of the Board of Directors a quorum is not established, a majority of those directors present may adjourn the meeting, one or more times, to a subsequent time, date, and place.

4.13. Compensation. Directors shall receive compensation for their services as determined by resolution adopted by the Board of Directors from time to time. Until changed by resolution of the Board of Directors, the directors holding Director Positions 5 through 7 shall be paid a directors fee of \$100.00 per meeting. Nothing contained herein shall preclude any director from serving the Society in any other capacity and receiving compensation therefor.

4.14. Voting. The vote of a majority of those directors present at a meeting at which a quorum is in attendance shall constitute the decision of the Board of Directors.

4.15. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the enforcement of the Covenants, and for the operation and administration of the Society. The powers and duties of the Board of Directors shall be subject to approval by the Members only when such approval is specifically required by law or by the Bylaws. Such powers and duties shall include, but shall not be limited to, the following:

(a) To elect and remove the officers of the Society as herein provided;

(b) To exercise all of the powers of the Society specifically set forth in the Covenants and to exercise all powers incidental thereto;

(c) To cause to be prepared and to approve an annual budget;

(d) To levy, collect, and enforce annual or special assessments against the Owners in the manner provided in the Covenants in order to pay all of the costs of the Society operations and to do all things necessary to enforce each Owner's obligations under the Covenants;

(e) To employ, dismiss and control the personnel necessary for the maintenance and operation of the Society including legal counsel, accountants, contractors and other professionals, as needed;

(f) To delegate all or a portion of the responsibilities of the Board for management of the Society to one (1) or more agents;

(g) To open bank accounts on behalf of the Society and its Members, and to designate the signatures required therefor;

(h) To procure insurance, pursuant to the provisions of the Covenants;

(i) To appoint such committee(s) as the Board may deem appropriate, which, to the extent provided in the resolution appointing such committee(s), shall have the powers of the Board of Directors in the affairs and business of the Society;

(j) To enter into and terminate agreements, on behalf of the Society;

(k) To perform all other acts deemed by the Board to be necessary, desirable or appropriate in order to ensure the proper operation and administration of the Society; and

(l) To suspend the voting rights of a Member as permitted by the Covenants.

4.16. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Society or to the officers of the Society any powers or duties which, by law, have been delegated to the Owners.

4.17. City of Galveston Representative. The City of Galveston shall be entitled to appoint a representative who shall have the right to receive notice of, be present at and participate in all meetings of the Board of Directors, provided, however, that the City's representative shall not have the right to vote on matters considered by the Board of Directors.

#### ARTICLE V OFFICERS

5.1. Designation. At each annual meeting of the Board of Directors, the directors present at said meeting shall elect the following officers of the Society by a majority vote:

(a) a President who shall be a director and who shall preside over the meetings of the Board and of the Members and who shall be the chief executive officer of the Society;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Members, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for establishing and maintaining bank accounts, preparing the annual budget, maintaining financial records and books of

account and establishing the manner in which such records and books are kept and reported; and

(d) such additional officers, including one or more Vice Presidents, as the Board shall see fit to elect.

5.2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

5.3. Term of Office. Each officer shall hold office for the term of one year or until his successor shall have been elected.

5.4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the Board at a duly called meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of majority of the Board at a duly called meeting.

5.5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by a majority of the Members. Nothing contained herein shall preclude any officer from serving the Society in any other capacity and receiving compensation thereof.

5.6. Execution of Instruments. All agreements, contracts, deeds, leases, checks and other instruments of the Society shall be executed by the President, Vice President or by such other person or persons as may be designated by the Board of Directors.

## ARTICLE VI INDEMNIFICATION

6.1. General. To the fullest extent permitted by law, the Society shall indemnify and hold harmless each of its directors and officers, and each member of any committee appointed pursuant to the Bylaws of the Society against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, officers, committee members on behalf of the Owners or arising out of their status as directors, officers or committee members, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to, counsel fees, amounts of judgements paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer or committee member may be involved by virtue of such

persons being or having been such Director, officer or committee member; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer or committee member, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such director, officer or committee member.

6.2. Success on Merits. To the extent that a member of the Board of Directors or an officer of the Society or a member of any committee appointed pursuant to the Bylaws of the Society has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 6.1, or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

6.3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Society in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Society as authorized in this Article VI.

6.4. Miscellaneous. The Society and the Board of Directors shall have the power to raise and the responsibility for raising, by special assessments or otherwise, any sums required to discharge its obligations under this Article; provided, however, that the liability of any Owner arising out of any contract made by or other acts of the directors, Board, officers or members of such committees or out of the aforesaid indemnity in favor of the directors, Board, officers or members of such committees shall be limited to such proportion of the total liability hereunder as said Owner's percentage of the ownership bears to the total percentage of ownership of all the Owners. In every agreement made by the directors, Board, officers or member of such committees, as the case may be, said persons are acting only as agents for the Owners and shall have no personal liability thereunder, and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of ownership bears to the total percentage of ownership of all Owners. The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Society or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has

ceased to be a member of the Board of Directors, officer of the Society or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each person or entity.

ARTICLE VII  
CONTRACTUAL POWERS

7.1. Interested Directors. No contract or other transaction between the Society and one or more of its directors or between the Society and any corporation or association in which one or more of the directors of this Society are directors, or are financially interested, is void or voidable because such director or directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the contract or transaction is just and reasonable to the Society at the time it is authorized or approved.

ARTICLE VIII  
FINANCES AND ASSESSMENTS

8.1. Assessments. Annual or special assessments shall be paid by Owners subject thereto and collected by the Society in the manner and according to the terms and provisions set forth in the Covenants.

8.2. Lien to Secure Payment. All sums assessed by the Board pursuant to the provisions of the Covenants shall constitute a lien on the Lot or Reserve of the Owner and shall be enforceable by the Society on behalf of its Members as set forth in the Covenants.

8.3. Depositories. The funds of the Society shall be deposited in a federally insured institution and shall be withdrawn by the person or persons so designated by the Board. Said funds shall be deposited in one or more accounts.

8.4. Fiscal Year. The Society shall operate on a fiscal year which begins on the first day of January of each year; provided, however, that the Board of Directors may, in its sole discretion, change to a different fiscal year in the event that the Board of Directors deems it advisable to do so.

8.5. Records and Statement of Account. The Board shall cause to be kept detailed records of the receipts and expenditures of the Society. Payment vouchers may be approved in such manner as the Board may determine. All such books and records shall be kept in accordance with generally accepted accounting principles, consistently applied.

014-19-1575

ARTICLE IX  
AMENDMENTS

9.1. Members. These Bylaws may be amended or modified by vote of three-fourths (3/4) of all of the Members eligible to vote.

9.2. Board. The Board shall have the authority, without the joinder or consent of any other party, to make any amendment to these Bylaws necessary to clarify any conflicting provisions hereof, to correct any mistakes or errors of a clerical nature and/or to carry out the requirements of the law.


10.3. Records. Such amendments shall be maintained in the corporate records of the Society.

KNOW ALL MEN BY THESE PRESENTS, that the undersigned Secretary of the Laffite's Cove at Pirates' Beach Nature Society does hereby certify that the above and foregoing Bylaws were duly adopted by the directors of the Society as the Bylaws of the Society on the 6<sup>th</sup> day of October, 1997.

  
Secretary

GDB/sp/KLAFFITE.BYL/07-07-92

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY

  
1999 DEC 30 11:08 AM 9965174  
STRIMLT \$59.00  
Patricia Ritchie, COUNTY CLERK  
GALVESTON, TEXAS

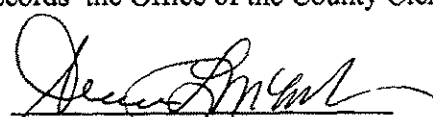


**AFFIDAVIT FOR THE FILING OF DEDICATORY INSTRUMENTS**

THE STATE OF TEXAS §  
 COUNTY OF GALVESTON §

KNOW ALL MEN  
 BY THESE PRESENTS.

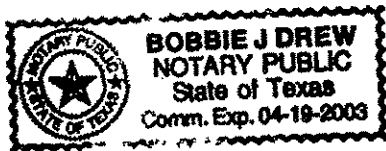
WHEREAS, the attached documents are true and correct copies of the dedicatory instruments for LAFFITES COVE PROPERTY OWNERS' ASSOCIATION, INC and are being filed in the Real Property Records of GALVESTON COUNTY pursuant to Section 202.006 of the Texas Property Code, hereto attached as exhibit "A" That the property affected by these documents is set out in the plat recorded for all lots and reserve lots in the plat being recorded in the County Clerks Office in GALVESTON County; for Laffite's Cove at Pirates Beach Section 6 recorded in Book 18, Pages 326-333 and Book 18, Pages 366-367 of the Map or Plat records the Office of the County Clerk of Galveston County.

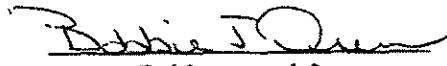
By:   
 Printed Name: Susan L. McKirahan  
 Title: Secretary & Managing Agent

THE STATE OF TEXAS §  
 COUNTY OF GALVESTON §

BEFORE ME, the undersigned authority, on this day personally appeared Susan L McKirahan, whose position is the Managing Agent of Laffites' Cove Property Owners' Association, Inc. known to me to be the person and position whose name is subscribed to the foregoing instrument, and acknowledged to me that Susan L McKirahan executed the same for the purposes and consideration and in the capacity therein stated

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 28<sup>th</sup> day of December, 1999



  
 Notary Public in and for  
 The State of Texas

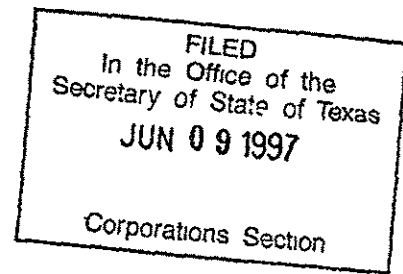
After recording return to:  
Laffites Cove P. O. A.  
c/o: CKM Property Management, Inc.  
P. O. Box 690845  
Houston, Texas 77269-0845

**RECORDER'S MEMORANDUM**  
 At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded

014-19-1581

**ARTICLES OF INCORPORATION  
OF  
LAFFITE'S COVE**

**PROPERTY OWNERS' ASSOCIATION**



We, the undersigned natural persons of the age of eighteen years or more, at least two (2) of whom are citizens of the State of Texas, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, Tex Civ Stat Ann art 1396-1 01 et seq, as it may be amended, do hereby adopt the following Articles of Incorporation for such corporation.

**ARTICLE I**

**Name**

The name of the corporation is Laffite's Cove Property Owners' Association ("Association")

**ARTICLE II**

**Non-Profit Corporation**

The Association is formed as a non-stock, non-profit corporation under the provisions of the Texas Non-Profit Corporation Act, Article 1396-1 01, et seq. The Association does not contemplate pecuniary gain or profit to its Members (as defined in Article VIII hereinbelow) and is organized for non-profit purposes

**ARTICLE III**

**Principal Business Address**

The mailing address of the principal business address of the Association is 2201 Timberloch Place, The Woodlands Texas 77380

**Exhibit A**

**ARTICLE IV**  
**Duration**

The period of duration of the Association shall be perpetual

**ARTICLE V**  
**Purposes**

The purposes for which the Association is organized are

- (a) to be and constitute one of the property owners' association to which reference is made in those certain Correction Restrictions, Covenants and Conditions for Laffite's Cove at Pirates Beach, recorded under County Clerk's File No 9230659 of the Real Property Records of Galveston County, Texas, as amended from time to time ("Restrictions"),
- (b) to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified in the Restrictions and the Bylaws (as defined in Article VI hereinbelow), and as provided by law, and
- (c) to further the interests of the owners of property subject to the Restrictions

**ARTICLE VI**  
**Bylaws**

The Bylaws of the Association ("Bylaws") shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided in the Bylaws

**ARTICLE VII**  
**Powers**

The powers of the Association shall include and be governed by the following provisions

- (a) The Association shall have all of the powers of a non-profit corporation under Texas law and all of the powers necessary or desirable to perform the obligations and duties

and to exercise the rights and powers set out in these Articles of Incorporation, the Bylaws, and the Restrictions, including, without limitation, the power

- (i) subject to the provisions set forth in the Restrictions, to fix, collect, and enforce payment, by any lawful means, of assessments and other charges to be levied against the property subject to the Restrictions and to use the proceeds therefrom for the purposes set forth in the Restrictions, these Articles of Incorporation and the Bylaws;
- (ii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Restrictions or Bylaws,
- (iii) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property subject to the Restrictions,
- (iv) to buy or otherwise acquire, sell, dedicate for public use, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, own, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association, subject to such limitations as may be set forth in the Restrictions or Bylaws,
- (v) to borrow money for any purpose, subject to such limitations as may be contained in the Restrictions or Bylaws,
- (vi) to enter into, make, perform, or enforce contracts of every kind and description, and

- (vii) to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other rights and powers which may now or hereafter be permitted by law; the powers specified in each of the paragraphs of these Articles of Incorporation are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph of these Articles of Incorporation

- (b) The Association shall make no distributions of income to its Members, directors, or officers

#### ARTICLE VIII Members

- (a) Subject to the provisions of the Restrictions, the owners of property subject to the Restrictions shall be members of the Association ("Members") and shall be entitled to vote as set forth in the Restrictions and Bylaws
- (b) Change of membership in the Association shall be established by recording in the Official Public Records of Real Property of Galveston County, Texas, a deed or other instrument establishing record title to real property subject to the Restrictions. Upon such recordation, the owner designated by such instrument shall become a Member of the Association and the membership of the prior owner shall be terminated
- (c) A Member's privileges and rights in the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance of property owned by such Member

**ARTICLE IX**  
**Directors**

- (a) The affairs of the Association shall be conducted, managed, and controlled by a Board of Directors. The Board shall consist of no less than three (3) nor more than seven (7) members, which number may be adjusted as provided in the Bylaws. The initial Board shall consist of the following three (3) members who shall serve until the first annual meeting of the Association or until their successors are appointed:

William A. Ross, Jr.	2201 Timberloch Place The Woodlands, Texas 77380
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Tom Richards	2201 Timberloch Place The Woodlands, Texas 77380
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Tom Ledwell	2201 Timberloch Place The Woodlands, Texas 77380
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- (b) The method of election, removal, and filling of vacancies on the Board of Directors and the term of office of directors shall be as set forth in the Bylaws.
- (c) The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

**ARTICLE X**  
**Liability of Directors, Officers and Committee Members**

To the fullest extent that Texas law, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, officers and committee members, no director, officer or committee member of the Association shall be personally liable to the Association or its members for monetary damages for breach of duty of care or other duty as a director, officer or committee member. No amendment to or repeal of this Article shall apply to or

have any effect on the liability or alleged liability of any director, officer or committee member of the Association for or with respect to any acts or omissions of such director, officer, or committee member occurring prior to such amendment or repeal

**ARTICLE XI**  
**Incorporators**

The name and address of the incorporators of the Association are:

William A. Ross, Jr	2201 Timberloch Place The Woodlands, Texas 77380
Tom Richards	2201 Timberloch Place The Woodlands, Texas 77380
Tom Ledwell	2201 Timberloch Place The Woodlands, Texas 77380

**ARTICLE XII**  
**Registered Agent and Office**

The Association hereby appoints Thomas P Battle, as its lawful registered agent upon whom all notices and processes, including service of summons, may be served, and which when served, shall be lawful, personal service upon the Association. The registered office of the Association for service of process is

Thomas P Battle  
2002 Timberloch Place  
The Woodlands, Texas 77380

The Board of the Association may, at any time, appoint another agent for such purpose and the filing of such appointment shall revoke this or any other previous appointment of such agent

014-19-1587

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this

27th day of May, 1997.

William A. Ross, Jr.  
William A. Ross, Jr., Incorporator

Tom Richards  
Tom Richards, Incorporator

Tom Ledwell  
Tom Ledwell, Incorporator

W\AKWHLAFFITE ART05-15-97



014-19-1588

**FIRST AMENDMENT OF BYLAWS  
LAFFITE'S COVE  
PROPERTY OWNERS ASSOCIATION**

The Laffite's Cove Property Owner's Association Bylaws are hereby amended. The Amendments sole purpose is to increase the number of Directors from five (5) to seven (7) and to set out their staggered terms and to state the staggered terms to be in effect after the Developer relinquishes its rights on the Board

**ARTICLE II**

**SECTION 1.(a).;     Number, Election and Term of Office**

The Board of Directors of the Association ("Board of Directors" or Board") shall consist of seven directors

At the next annual meeting for the Members, two (2) additional Directors shall be elected by the vote of the Members. The two newly elected Directors shall serve for a term of two (2) years; provided, however, one (1) of the first Directors so elected shall serve an initial term of one (1) year and one (1) of the first Directors so elected shall serve an initial term of two (2) years

**SECTION 1., Paragraph 3., Sentence 2., will be hereby changed to read:**

At the next annual meeting for the Members, seven (7) Directors shall be elected by the vote of the Members and shall serve for a term of three (3) years; provided however, three (3) of the first Directors so elected shall serve for an initial term of one (1) year, two (2) of the first directors so elected shall serve for an initial term of two (2) years, and two (2) Directors shall serve for an initial term of three (3) years

Adopted by the Board of Directors on the 18 day of September, 1999

LAFFITE'S COVE PROPERTY OWNERS ASSOCIATION

By. Terrie Farmer  
President: Terrie Farmer

BYLAWS OF  
LAFFITE'S COVE  
PROPERTY OWNERS' ASSOCIATION

ARTICLE I

Members -- (Owners)

Section 1. Eligibility. Membership in Laffite's Cove Property Owners' Association ("Association") shall be as set forth in the Articles of Incorporation of the Association ("Member(s)").

Section 2. Regular Meetings. The regular annual meeting of Members shall be held on such date and at such place and time as designated by the Board of Directors in written notice given to all Members at least ten (10) days, but no more than thirty (30) days, prior to the date of such meeting for the purpose of electing the Board of Directors of the Association in accordance with Article II, Section 1 hereinbelow and for the transaction of other business of the Association as may properly come before the meeting.

Section 3. Special Meetings. Special meetings of the Members may be called by the President, by a majority of the Board of Directors, or upon petition signed by a majority of Members and presented to the Secretary of the Association. Said special meetings shall be called by delivering written notice to all Members not less than ten (10) days prior to the date of said meeting stating the date, time and place of said special meeting and the matters to be considered. A meeting called by a majority of the Members shall be held within thirty (30) days of receipt of the petition by the Secretary.

Section 4. Delivery of Notice of Meetings. Notices of meetings may be delivered either personally or by mail to a Member at the address given to the Board of Directors for such purpose or at the last known address if no address was so given to the Board of Directors.

Section 5. Voting. Members shall be entitled to one (1) vote for each lot in which they own the interest required for membership. When more than one person holds an interest in a lot, the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Section 6. Quorum. A quorum of Members for any meeting shall be constituted by Members represented in person or by proxy and holding at least five percent (5%) of the votes entitled to be cast at such meeting.

Section 7. Rules of Meetings. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Members and in the absence of such rules, Robert's Rules of Order shall be used.

Section 8. Proxies. Votes may be cast by the Members either in person or by proxy. All proxies shall be in writing and signed and dated by the person or persons entitled to vote. In no event shall any proxy be valid for a period longer than eleven (11) months from the date of its execution, unless otherwise provided therein. A proxy shall be revocable in writing at any time in the sole discretion of the Member who executed it. If a lot is owned by more than one (1) person, a proxy must be signed by all such owners for the proxy to be valid.

Section 9. Waiver and Consent. Whenever the vote of Members at an Association meeting is required or permitted by any provision of these Bylaws, the meeting and vote of Members may be dispensed with, and matter(s) in question may be voted upon by mail-in ballot if Members representing a majority of the total votes eligible to be voted by all of the Members consent in writing to dispense with the meeting and to vote upon the matter(s) in question by mail-in ballot. Mail-in ballots may accompany the required consent of Members, and may be completed and returned simultaneously therewith.

## ARTICLE II

### Board of Directors

Section 1. Number, Election and Term of Office. The initial Board of Directors of the Association ("Board of Directors" or "Board"), shall consist of the three directors whose names are set forth in the Articles of Incorporation ("Director(s)").

At the first regular annual meeting of the Members three (3) Directors shall be appointed by The Woodlands Corporation or its successor or assign (the "Developer"), and two (2) Directors shall be elected by the vote of Members. The elected Directors shall serve for a term of two (2) years; provided, however, one (1) of the first Directors so elected shall serve an initial term of one (1) year and one (1) of the first Director so elected shall serve an initial term of two (2) years. Those candidates for election as Director receiving the greatest percentage of the votes cast either in person or by proxy at the meeting shall be elected to serve until the next regular annual meeting.

At such time as Developer, in its sole discretion, elects to relinquish its right to appoint three (3) Directors, Developer shall give written notice to the Board of Directors and a special meeting of the Directors shall be called by the remaining Directors for the purpose of filling the vacancies created by the resignation of the three (3) appointed Directors. At the next annual meeting of the Members, five (5) Directors shall be elected by the vote of the Members and shall serve for a term of three (3) years; provided however, two (2) of the first Directors so elected shall serve for an initial term of one (1) year, two (2) of the first Directors so elected shall serve for an initial term of two (2) years, and the remaining Director first elected shall serve for an initial term of three (3) years. Those candidates for election as Director receiving the greatest percentage of the votes either in person or by proxy shall be elected to serve until their term expires.

The number of Directors may be increased or decreased by amendment of these Bylaws; provided however, that the Board shall be composed of at least three (3) but no more than seven (7) persons; and provided, further, that the Board shall at all times be composed of an odd number of Directors. No decrease in the number of Directors shall have the effect of shortening the term of an incumbent Director.

Section 2. Qualifications. Each Director shall be a Member in good standing of the Association. If a Member is a trustee of a trust, a Director may be a beneficiary of such trust; or if Member is a corporation, a Director may be an officer, partner or employee of such Member. If an elected Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 3. Vacancies. Any vacancy occurring on the Board by reason of resignation, removal or incapacity of an elected Director shall be filled by majority vote of the remaining Directors thereof. Subject to the provisions of Section 1 hereinabove, any vacancy occurring on the Board by reason of resignation, removal or incapacity of an appointed Director shall be filled by appointment by the Developer; and any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director whom he succeeds.

Section 4. Meetings. The Board shall meet for the purpose of organization, the election of officers and the transaction of other business, at any time after receiving notice from the Secretary of State of the filing of the Articles of Incorporation. A regular annual meeting of the Board shall be held within ten (10) days following the regular annual meeting of Members. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours notice in writing to each Director, delivered personally, by mail or by facsimile. Any Director may waive notice of a meeting, or

consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting.

Section 5. Removal. Any elected Director may be removed from office for cause by a majority vote of Members entitled to vote at any annual or special meeting of the Association, duly called. Any appointed Director may be removed by the Developer for any reason.

Section 6. Meetings by Telephone Conference. Both annual and special Board meetings may be conducted by telephone conference. To the extent permitted by law, any Director who is not physically in attendance at any meeting of the Board of Directors, but who is in telephone contact with the other Directors during such meeting and is thereby able to participate in the discussions, reports, debates, votes and other matters conducted thereat, shall be deemed to be in attendance at said meeting for all purposes, including but not limited to the purpose of creating a quorum.

Section 7. Compensation. Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by a majority of the Members. Nothing contained herein shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

Section 8. Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting, one or more times, to a subsequent time, date and place.

Section 9. Voting. The vote of a majority of those Directors present at a meeting at which a quorum is in attendance shall constitute the decision of the Board of Directors.

Section 10. Powers. The Board shall have the following powers:

(a) to elect and remove the officers of the Association as hereinafter provided;

(b) to administer the affairs and attain the purposes of the Association;

(c) to formulate policies for the administration, management and operation of the property held for the use and benefit of all Members ("Common Property");

(d) to adopt rules and regulations, with written notice thereof to all Members, governing the administration, management, operation and use of the Common Property, and to amend such rules and regulations from time to time;

(e) to provide for the maintenance, repair and replacement of the Common Property and payments therefor, and to approve payment vouchers or delegate such approval to the officers;

(f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Property and to delegate any such powers to a managing agent (and any such employees or other personnel who may be the employees of a managing agent);

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(i) to collect all assessments and charges provided for in any covenants and restrictions imposed in Laffite's Cove subdivision at such time as Developer assigns said right to the Association pursuant to the restrictions, and to use the proceeds therefrom for the purposes set forth in such covenants and restrictions and in the Articles of Incorporation of the Association;

(j) to enforce all covenants and restrictions imposed in Laffite's Cove;

(k) to establish bank accounts which are interest bearing or non-interest bearing, as may be deemed advisable by the Board of Directors;

(l) to enter such contracts and agreements relating to the providing of maintenance, management and operational services as the Board may deem advisable;

(m) to enter into leases as the Board may deem advisable;

(n) to exercise all powers and duties of a Board of Directors referred to in these Bylaws;

(o) to obtain insurance coverage as may be deemed advisable by the Board of Directors;

(p) to establish budgets and long range plans as may be deemed advisable by the Board of Directors, and

(q) in general, to carry on the administration of the Association and to do all of those things necessary and/or desirable in order to carry out the governing and operating of the Association.

Section 11. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Members.

### ARTICLE III

#### Officers

Section 1. Designation. At each regular annual meeting of the Board, the Directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a President who shall be a Director and who shall preside over the meetings of the Board and of the Members, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Members, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional officers as the Board shall see fit to elect.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one (1) year or until such officer's successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the Board at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer which was succeeded. Any officer may be removed for cause

at any time by vote of a majority of the total membership of the Board at a special meeting thereof.

Section 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by a majority of the Members.

#### ARTICLE IV

##### Indemnification

Section 1. General. To the fullest extent permitted by law the Association shall indemnify and hold harmless each of its Directors, officers and each member of any committee appointed pursuant to the Bylaws of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of such Directors, officers, committee members, on behalf of the owners or arising out of their status as Directors, officers or committee members, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to, attorney's fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director, officer, or committee member may be involved by virtue of such persons being or having been such Director, officer or committee member; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director, officer, or committee member, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer, or committee member.

Section 2. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer, or committee member.



Article V

Amendments

These Bylaws may be amended at a regular or special meeting of the Board by a vote of the majority of a quorum of the Board Members present in person; and the provisions of these Bylaws which are covered by the Articles of Incorporation of the Association may not be amended except as provided in the Articles of Incorporation or applicable law.

In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control. Should all or part of any Article of these Bylaws be in conflict with the provisions of the Texas Nonprofit Corporation Act or any other Texas law, such Act or law shall control.

**ARCHITECTURAL CONTROL COMMITTEE STANDARDS  
FOR ALL SECTIONS IN  
PIRATES BEACH AND PIRATES COVE**

**PURPOSE:** The purpose of these architectural standards is to unify the standards for the single-family residential development for Pirates Beach and Pirates Cove. These standards will insure a high quality development and protect the investments of builders and homeowners. They are intended to augment the restrictions, which are recorded in the real property records of Galveston County, Texas (Restrictions). They should provide a common level of plan submissions, design, construction and maintenance criteria.

**A Plan Submission**

All homes must be designed by registered architect, by a member of the Texas or American Institute of Building Design or by a builder or designer certified by the Architectural Control Committee (ACC). Prior to the submission of plans for approval, it is recommended to have a pre-planning conference with a representative of the ACC. This conference may include a visit to the site.

The following is a list of minimum information required for plan submittal.  
(See Restrictions for additional information required in same sections)

- 1 Site Plans. (1/8" - 1'0") Show relation of house to lot. Include dimensions of lot and distance from house to lot on all sides. Indicate all easements, setbacks, slab elevation, driveway location, and curb cuts, septic tank drain fields (if any), walks, decks, and fences, existing and proposed grades.
- 2 Floor Plans. (1/4" - 1'0") A floor plan to show the dimensions and locations of all rooms, patios, balconies, garages, driveways and structures at each level. Window sizes, electrical, gas and plumbing fixtures must also be shown.
- 3 Elevations. (1/4" - 1'0") An elevation of each side (4) is required to indicate exterior materials, floor and slab heights and roof slopes.
- 4 Specifications. List all specifications relating to slab design, structural framing, type of exterior materials, colors of all exterior surfaces including roof, textures and shapes, roof materials.

Approval of plans and specifications will be based, among other things, on adequacy of site dimensions, conformity and harmony with external design and location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites and conformity to both the specific and general intent of the restrictions.

**B Design**

- 1 Building setbacks are shown on the plat and in the restrictions for each section. No construction including roof overhangs, fences or air conditioning equipment may occur in the setbacks without specific approval by the ACC.
- 2 The sum total of all hard surfaces, including the building pad, garage, driveway, decks, pools, etc., should not exceed 75% of the net lot area (the net lot area is the area within the building setbacks) except Pirates Cove sections 1-5, or as approved by the ACC.
- 3 Driveways and paved areas from the public street should not occupy more than 60% of the lot frontage on non cul-de-sac lots.
- 4 All driveways and building slabs must be made of reinforced concrete.
- 5 The location and design of all skylights and solar collectors are subject to approval. Collectors must be of flat profile and conform to the slope of the roof. All stack vents and attic ventilators preferably shall be located on the rear slopes of roofs. All exposed metal roof accessories (such as stack vents, roof flashing,

attic ventilators, metal chimney caps, skylight curbs, solar collector frames, etc ) should match the color of the roofing material

- 6 No house, building or structure shall be more than two (2) stories of living area in height. Open decking or observation towers, will be permitted above the second level provided it is not excessive in height, or greater than one hundred fifty (150) square feet of enclosed tower space. Any open decking will be no more than forty percent (40%) of the square feet of the deck below, up to two hundred (200) square feet.
- 7 A structure may be disapproved by the ACC because of excessive height. No portion of a structure will be higher than fifty-five (55) feet above natural grade. No exterior aerial antenna, satellite dish, flagpole or other structure of any kind (except chimney) will project above the uppermost roof line of any structure on any lot.
- 8 All exterior lighting fixtures whether attached to the dwelling or remote, are subject to ACC approval as to location, style, size, color and level and direction of illumination.
- 9 All exterior material and color selections must be approved by the ACC. The architectural style of the dwelling, in most cases, will dictate the proper range of materials and colors. Materials and colors which are appropriate to one architectural style may be inappropriate to another.
- 10 Landscaping of vegetation native to Galveston or resistant to gulf conditions is greatly encouraged. Minimum landscape requirements are four (4) palm trees, a minimum height of ten (10) feet, per lot installed prior to occupancy.
- 11 Design of trash and mechanical equipment enclosures must be shown with the design plans and approved by the ACC. Where possible, they should be placed beside adjacent lot receptacles. All HVAC equipment must be screened from view.
- 12 Decks above grade which connect to boat houses shall not be wider than twelve (12) feet. Special enclosure considerations will be made for corner lots with limited water access.
- 13 Fences for front yards may not be higher than four (4) feet and may not be placed in front of the front building line. Open type fences are preferred, chain link is not allowed.

#### C Construction

- 1 Lots within the City of Galveston will be required to be constructed in accordance with the City of Galveston Building Codes. Lots within Galveston County but not within the City of Galveston city limits will be required to be constructed with the Galveston County building codes. Currently, both are requiring certification by an architect or professional engineer of the floor elevation and building anchoring system as a condition of the issuance of a building permit.
- 2 Owner permits or approvals may be required from City, County or other Governmental entities. It is the responsibility of the owner to obtain all City, County and other Governmental approvals as may be necessary.
- 3 Contractor is required to survey site and locate slab and/or/pile/pier placement as per plat and deed restrictions.
- 4 Construction signs will not exceed one (1) builder sign and (1) real estate sign not larger than twenty four inches by twenty four inches (24"x24") in size and will be removed upon completion of construction.
- 5 Construction material and trash must be kept within lot boundaries and controlled. Temporary fences or containers should be used to control trash.
- 6 Contractor or owner is required to utilize best management practices for containing soil and sediment on the lot during construction. At a minimum, this includes fifteen (15) feet of solid sod across the rear lots, adjacent to the bulkhead or rear lot line. Alternately, commercially available filter fabric may be substituted for sod, if approved by Architectural Control Committee.

D Building Inspections The following inspections are required

- 1 Site Inspection – Site surveyed and building corners staked The structural pile locations, driveways and walkways must also be staked The builder/owner must demonstrate to the inspector that improvements are accurately located in accordance with the approved plans and that encroachments are not to occur. The ACC makes no warranty or representation that any improvements are or will be located within set backs, and this inspection may occur before or after construction has started.
2. Final Inspection – Prior to occupancy, an inspection will take place after completion of construction Prior to occupancy, finished improvements shall include, but are not limited to decking, walkways, mechanical screens, trash enclosures, painting and landscaping

E. Maintenance

- 1 Maintenance of the residence and improvements on the lot is the responsibility of the homeowner See Restrictions for details
- 2 No structure of any type shall be constructed, placed or altered on any lot without the written approval of the ACC
- 3 Any change of colors or materials of any exterior improvement requires written approval of the ACC
- 4 Landscaping damaged or lost to storms or other reasons must be replaced within ninety (90) days Maintenance landscaping is an important part of the overall upkeep of a residential lot

See attached plan review application for information required to submit plans for architectural plan review

014-19-1600

**PLAN REVIEW APPLICATION**  
**PIRATES BEACH, PIRATES COVE & LAFFITES COVE**

All site or building construction or alterations or additions, thereto, require approval in writing from the Architectural Control Committee (ACC) prior to construction (See Restrictions and attached Architectural Control Standards for more detail)

Please fill out the attached application form and submit three (3) sets of complete plans and specifications in accordance with attached control standards together with applicable fee to:

Pirates' Property Owners' Association  
Attention Architectural Control Committee  
13450 FM 3005  
Galveston, Texas 77554

Please call Susan McKirahan with questions  
1-888-CKM-1514  
281-970-2862  
281-970-2864 (FAX)

Owner: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Builder: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Subdivision Pirates Beach/Pirates Cove/Laffites Cove Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_  
Description of Improvement: \_\_\_\_\_  
Exterior Materials: \_\_\_\_\_  
Exterior Colors(siding/trim): \_\_\_\_\_  
Roof Material/Color: \_\_\_\_\_  
Square Footage: \_\_\_\_\_ Start Date: \_\_\_\_\_ Projected Completion Date: \_\_\_\_\_

**A Filing Fee as follows must be attached to this application**

For New homes \$2000 (a portion is refundable)

For Exterior Remodels: \$1000 (a portion is refundable)

Review Fees listed below are included in the above referenced fees

**Pirates Beach**

Section 1-4 (no fee)

Section 6 - \$150\*

Section 7, 8 & 9 - \$200\*

Section 10 - \$200\*

Section 12 - \$200\*

**Pirates Cove**

Section 1-4 (no fee)

Section 5 - \$150\*

**Laffites Cove**

Section 6 - \$200\*

\*\$50 of the review fee is refundable upon receipt of Certificate of Completion by Owner issued by the ACC prior to occupancy The Filing fee refund will be exclusive of the It is mandatory to provide an "as built survey" of home and improvements prior to refund

- 1 Owner hereby acknowledges receipt of Architectural Control Standards dated 5/1/98 and hereby agrees to comply with all terms and conditions contained therein and to submit a Certificate of Completion as specified therein prior to occupancy
- 2 Owner hereby authorizes the Architectural Control Committee or its agents to enter upon and inspect the lot and structure thereon during regular business hours for the purpose of ascertaining whether said structure is in compliance with the restrictions, the standards and the approved plans and specifications Neither the Architectural Control Committee nor its agents shall be deemed to have committed a trespass by reason of such entry or inspection

014-19-1601

**PLAN REVIEW**  
(To be completed by ACC)

\_\_\_\_\_ **APPROVED** – Subject to.

- A On-site survey of lot and location of proposed structure prior to construction
- B Written approval of Architectural Control Committee (ACC) prior to slab pouring and/or pile placement. Call ~~281~~-970-2862
- C Planting of Trees, per Deed Restrictions
- D Receipt by ACC of Certificate of Occupancy issued by the City of Galveston, or County of Galveston, whichever is applicable.

\_\_\_\_\_ **NOT APPROVED** – Reason

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARCHITECTURAL CONTROL COMMITTEE**

By: \_\_\_\_\_ Date: \_\_\_\_\_

ACC Representative

**BUILDING/IMPROVEMENT INSPECTIONS**

APPROVED

DATE

SITE INSPECTION \_\_\_\_\_

FINAL INSPECTION \_\_\_\_\_

**CERTIFICATION OF COMPLETION:** \_\_\_\_\_

**PLAN REVIEW APPLICATION**  
**PIRATES BEACH & COVE**

Page 2 of 2

- 3 Owner agrees and understands that the approval of plans and specifications by the Architectural Control Committee shall not be relied upon by any person or entity as to the sufficiency, suitability, fitness, workmanship or quality of the design or construction of the improvements
- 4 The burning of brush, trees or construction materials will not be allowed in the Subdivision Construction dumping is not permitted in the Subdivision
- 5 The work site needs to be kept clean The contractor is to insure all trash and debris are removed before each weekend Debris must be contained to prevent it from going on other property.
- 6 Contractors are responsible for keeping mud, dirt, etc., off the roadway.
- 7 All improvements, modifications and alterations require ACC approval This covers new construction, as well as, but not limited to additions, fences, porches, storage buildings, pools and change in house colors
- 8 One portable toilet is required for each construction site requiring more than seven (7) days construction
- 9 Observe all posted speed limits and other signage
- 10 No dumping or cleaning of cement trucks allowed within the Subdivision
- 11 If construction is not completed after plans have been approved within six (6) months, an extension will need to be obtained, provided no changes have been made to the original design. If changes have been made to the original design, the Plan Review Application will have to be resubmitted
- 12 The Architectural Control Committee has fifteen (15) days from final submittal of plans and permits to approve the plans and authorize commencement of construction

The Architectural Control Committee, Pirates P O A , members, officers, directors, employees or agents, shall not be liable because of the approval or non-approval of any improvement

\_\_\_\_\_  
Builder's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Date

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY



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Patricia Ritchie, COUNTY CLERK  
GALVESTON, TEXAS