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DECLARATION OF COVENANTS AND RESTRICTIONS
PELICAN BAY, SECTION TWO
(A Residential Subdivision)

REAL PROPERTY RECORDS

8633829

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

THIS DECLARATION, made on the date hereinafter set forth by LEFCO CORPORATION, a Texas corporation, hereinafter referred to as "Developer".

W I T N E S S E T H:

WHEREAS, Developer is the owner of that certain tract of land described on Exhibit "A" which is attached hereto, incorporated by reference herein and made a part hereof for all purposes, which tract of land has heretofore been platted into that certain subdivision known as "PELICAN BAY, SECTION TWO", being a subdivision of 9.580 acres of land situated in the Timothy Cude Survey, A-12, and being a partial replat of Unrestricted Reserve "C" of Pelican Bay, Section One, according to the plat of said Pelican Bay, Section Two, recorded in the office of the County Clerk of Montgomery County, Texas on the 7th day of August, 1986, after having been approved as provided by law, and being recorded in Cabinet E, Sheet 165 A and B, of the Map Records of Montgomery County, Texas (hereinafter referred to as "The Subdivision"); and

WHEREAS, Developer desires to create and carry out a uniform plan and scheme for the improvement, development, and sale of property in The Subdivision and to provide for the preservation of values and amenities in The Subdivision, and, to this end, desires to subject The Subdivision, except the areas marked "Remainder of Unrestricted Reserve C, Section One, being 3.128 acres on the recorded plat, to the covenants, restrictions, and reservations hereinafter set forth;

NOW, THEREFORE, the Developer declares that the real property hereinabove described and referred to as The Subdivision, except the areas marked "Remainder Unrestricted Reserve C, Section One" on the recorded plat, which areas are not restricted or affected in any manner whatsoever by this instrument, is and shall be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, restrictions, easements, charges and liens hereinafter set forth:

I.

General Provisions

1.01 Each Contract, Deed or Deed of Trust which may be hereinafter executed with respect to any property in The Subdivision shall be deemed and held to have been executed, delivered and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed or Deed of Trust, and whether or not referred to in any such instrument.

1.02 The utility easements, Common Areas and building set back lines shown on the plat referred to above are dedicated subject to the reservations hereinafter set forth. Provided, however, the areas marked "Remainder Unrestricted Reserve C, Section One" shall not be subject to the Reservations, Restrictions, and Covenants hereinafter set forth.

1.03 (a) The utility easements shown on the recorded plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Montgomery County, Texas, as well as for the benefit of the Developer and the property owners in The Subdivision to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, gas, water, sanitary sewers, storm sewers and any other utility or service which the Developer may find necessary or proper or which may be required by the Point Aquarius Municipal Utility District which has or will annex The Subdivision.

(b) The title conveyed to any property in The Subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities constructed by the Developer or public utility companies upon, under, along, across or through such public utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to the Developer, its successors and assigns.

(c) The right to sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the Developer.

(d) The Developer reserves the right to make minor changes in and minor additions to such utility easements for the purpose of more efficiently serving The Subdivision or any property therein.

(e) When necessary or convenient for the installation of any utility system or systems, the Developer or any utility company making such installation in utility easements dedicated on the above mentioned plat or dedicated herein or hereafter created in The Subdivision, may, without liability to the owner of the land encumbered by such utility easements, remove all or any trees and other vegetation within the utility easements. When necessary or desirable for the maintenance of such utility system or systems, Developer or a utility company may trim trees and shrubbery or roots thereof which overhang or encroach into such easements, without liability to the owner of such shrubbery or trees.

(f) An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles, and other service vehicles to enter upon the Properties in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees and management personnel to enter the Properties to render any service.

1.04 Duration. The provisions hereof, including the Reservations, Restrictions and Covenants herein set forth, shall run with the land and shall be binding upon the Developer, its successors and assigns, and all persons or parties claiming under it or them for a period of thirty-five (35) years from the date hereof, at which time all of such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of the initial period of thirty-five (35) years or a successive period of ten (10) years, the then owners of a majority of lots in The Subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such particular period be the aforesaid thirty-five (35) year period or any successive ten (10) year period thereafter.

1.05 Enforcement. In the event of any violation or attempted violation of any of the provisions hereof, including any of the Reservations, Restrictions or Covenants herein contained, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. It shall be lawful for the Developer or for any person or persons owning property in The Subdivision (or in any other Section of Pelican Bay) to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of such provisions.

1.06 Partial Invalidity. In the event that any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provision hereof which was not thereby held invalid; and such other provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

1.07 Effect of Violations on Mortgagees. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any Mortgage or Deed of Trust presently or hereafter placed of record or otherwise affect the rights of the Mortgagee under any such Mortgage, holder of any such lien or beneficiary of any such Deed of Trust; and any such Mortgage, lien or Deed of Trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained, including said Reservations, Restrictions and Covenants.

II. Architectural Control

2.01 Basic Rule.

(a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made thereto or exterior alteration made therein after original construction, on any property in The Subdivision until the approval of the Architectural Control Authority (as hereinafter provided) of the construction plans and specifications or other improvements has been obtained. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, harmony of external design with existing and proposed structures and location with respect to topography and finished grade elevation.

(b) Each application made to the Architectural Control Authority (whether Developer or Architectural Control Committee) shall be accompanied by two sets of plans and specifications for all proposed construction to be done on such lot including plot plans showing the location on the lot and dimensions of all proposed walls, driveways, curb cuts and all other matters relevant to architectural approval.

(c) The Architectural Control Authority (whether Developer or Architectural Control Committee) shall have the power and authority to create, alter or amend building set-back lines, utility easement lines, and requirements as to design of buildings

and materials to be used in the construction thereof for any lot or lots within The Subdivision provided that such authority shall be exercised for the purpose of making the lot or lots so affected useful for the purpose for which they were designed or for the purpose of harmonizing and making esthetically attractive The Subdivision in which the lots so affected are located, as such matters may be determined in the good faith judgment of the Architectural Control Authority (whether Developer or Architectural Control Committee).

2.02 Architectural Control Authority.

(a) The authority to grant or withhold architectural control approval as referred to above is vested in the Architectural Control Authority (herein sometimes referred to as the "Authority"), which Authority shall be the Developer; except, however, that such authority of the Developer shall cease and terminate upon the election of the Pelican Bay Architectural Control Committee, in which event such authority shall be vested in and exercised by the Pelican Bay Architectural Control Committee (as provided in (b) below), hereinafter referred to, except as to plans and specifications and plats theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plats.

(b) At such time as all of the lots in The Subdivision and in all other Sections of Pelican Bay (as platted, from time to time hereafter) shall have been sold by the Developer, then the Developer shall cause a Statement of such circumstances to be placed of record in the Deed Records of Montgomery County, Texas. Thereupon, the lot owners in Pelican Bay may by vote, as hereinafter provided, elect a committee of three (3) members to be known as the Pelican Bay Architectural Control Committee (herein referred to as the "Committee"). Each member of the Committee must be an owner of property in some Section of Pelican Bay. Each lot owner shall be entitled to one (1) vote for each whole lot or building site owned by that owner. In the case of any building site composed of more than one (1) whole lot, such building site owner shall be entitled to one (1) vote for each whole lot contained within such building site.

The Developer shall be obligated to arrange for the holding of such election within sixty (60) days following the filing of the aforesaid Statement by the Developer in the Deed Records of Montgomery County, Texas, and give notice of the time and place of such election (which shall be in Montgomery County, Texas) not less than five (5) days prior to the holding thereof. Nothing herein shall be interpreted to require that the Developer actually file any such Statement so long as it has not subdivided and sold the entirety of the property heretofore or hereafter platted as Sections of Pelican Bay, nor to affect the time at which the Developer might take such action if, in fact, the Developer does take such action.

Votes of owners shall be evidenced by written ballot furnished by the Developer (or the Committee, after the initial election) and the Developer (or the Committee, after the initial election) shall maintain said ballots as a permanent record of such election for a period of not less than four (4) years after such election. Any owner may appoint a proxy to cast his ballot in such election, provided that his written appointment of such proxy is attached to the ballot as a part thereof.

The results of each such election shall promptly be determined on the basis of the majority of those owners then voting in such election.

The results of any such election and of any removal or replacement of any member of the Committee may be evidenced by the recording of an appropriate instrument properly signed and acknowledged in behalf of the Developer or by a majority of the then property owners voting in such election.

After the first such election shall have been held thereafter the Committee shall be obligated to arrange for elections (in the manner and after notice as set forth above) for the removal and/or replacement of Committee members when so requested in writing by twenty-five (25) or more lot owners in The Subdivision. Members of the Committee may, at any time, be relieved of their position and substitute members therefor designated by vote as set forth above.

Upon the death, resignation, refusal or inability of any member of the Committee to serve, the remaining members of the Committee shall fill the vacancy by appointment, pending an election as hereinabove provided for.

If the Committee should fail or refuse to take any action herein provided to be taken by the Committee with respect to setting elections, conducting elections, counting votes, determining results and evidencing such results, or naming successor Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgment of the Developer, then the Developer may validly perform such function).

(c) The members of the Committee shall be entitled to such compensation for services rendered and reimbursement for reasonable expenses incurred as may, from time to time, be authorized or approved by the Developer. All such sums payable as compensation and/or reimbursement shall be payable only out of the "Maintenance Fund", hereafter referred to.

2.03 Effect of Inaction. Approval or disapproval as to architectural control matters as set forth in the preceding provisions shall be in writing. In the event that the Authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plat submitted to it in compliance with the preceding provisions within thirty (30) days following such submission, such plans and specifications and plat shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plat and all of the other terms and provisions hereof.

2.04 Effect of Approval. The granting of the aforesaid approval shall constitute only an expression of opinion, whether by the Developer or the Committee, that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plat; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plat or in the event that such building and/or improvements are constructed in accordance with such plans and specifications and plat, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Exercise of any such prerogative of one (1) or more members of the Committee in their capacity as such shall not constitute action by the Developer after the election of such Committee members, notwithstanding that any such Committee member may be a Director of the Developer.

III.

Designation of Types of Lots

3.01 All lots in The Subdivision having a common boundary with the lake known as "Lake Conroe" as shown on the recorded plat are hereby designated as "Lakefront Lots."

3.02 All lots in The Subdivision not being Lakefront Lots are hereby designated as "Town and Country Lots".

IV.

General Restrictions

4.01 No building shall be erected, altered or permitted to remain on any lot other than one (1) detached single-family residential dwelling not to exceed two (2) stories in height and a private garage (or other covered car parking facility) for not more than three (3) automobiles and other than bona fide servants' quarters; provided, however, that the servants' quarters structure shall not exceed the main dwelling in area, height or number of stories. For purposes of this instrument, the word "lot" shall not be deemed to include any portion of the following areas shown on the recorded plat; any Reserve or Unrestricted Reserve; and any unrestricted area shown on the plat.

4.02 The living area of the main residential structure (exclusive of porches, whether open or screened, garage or other car parking facility, terraces, driveways and servants' quarters) shall be not less than the following respective amounts for each of the designated particular types of lots:

Lakefront Lots: 1300 sq. ft. for a one-story dwelling; 1500 sq. ft. for a two-story dwelling, with 1000 sq. ft. thereof on the first floor provided that the aforesaid first-floor minimum area requirements may be reduced by the Architectural Control Committee if it determines that the contour of such Lakefront lots makes such a reduction advisable or necessary or if required by any governmental or regulatory authority.

Town and Country Lots: 1200 sq. ft. for a one-story dwelling; 1500 sq. ft. for a two-story dwelling, with 1000 sq. ft. thereof on the first floor.

The exterior materials of the main residential structure and any attached garage (or other attached car-parking facility) on all lots shall be not less than fifty-one percent (51%) masonry, unless a deviation or waiver of this provision is granted by the Architectural Control Authority. A detached garage (or other car-parking facility) may be of wood.

4.03 No building shall be located on any lot nearer to the front line or nearer to any street side line than the minimum building set-back lines shown on the aforesaid plat nor upon or within any portion of any easement. Subject to the provisions of Paragraph 4.04, no building shall be located nearer than three (3) feet to an interior side lot line. No main residence building nor attached garage shall be located on any Lakefront Lot nearer than ten (10) feet to the lot line having a common boundary with the lake known as "Lake Conroe". For the purpose of this covenant, eaves, steps, decks and unroofed terraces shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of the construction on a lot to encroach upon another lot. For the purposes of this Paragraph and other provisions of these Restrictions, the "front line" of each particular type lot (as referred to herein) shall be as follows:

- (a) Lakefront Lots: The common boundary of such Lot with a street.
- (b) Town and Country Lots: The common boundary of any such Lot with a street, and in the case of a corner lot (with a common boundary on two streets or one street and a cul-de-sac) the boundary line from which the building set back distance is larger.

All houses built in this Subdivision shall face the front line of the lot on which each such house is built unless a deviation from this provision is provided by a specific provision of these Reservations, Restrictions and Covenants, or unless a deviation is approved by the Architectural Control Authority (whether Developer or Architectural Control Committee).

4.04 Any owner of one or more adjoining lots (or portions thereof) may consolidate such lots or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case side set-back lines shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building set-back line of not less than the minimum frontage of lots in the same block. Any such composite building site (or building site resulting from the remainder of one or more lots having been consolidated into a composite building site) must be of not less than seven thousand five hundred (7,500) square feet in area (and this shall supersede any contrary provision in The Subdivision plat). Any modification of a building site (changing such building site from either a single lot building site or from a multiple whole lot building site), whether as to size or configuration, may be made only with the prior written approval of the Developer until the Committee is selected and thereafter only with the prior written approval of the Committee. Upon any such required approval having been obtained, such composite building site shall thereupon be regarded as a "lot" for all purposes hereunder, except, however, that for purposes of voting for the Committee (as provided under Paragraph 2.02(b) above) an owner shall be entitled to one (1) vote for each whole lot within such owner's building site.

4.05 All lots in The Subdivision shall be used only for single-family residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood. No lot in The Subdivision shall be used for any commercial, business or professional purpose nor for church purposes. The renting or leasing of any improvements thereon or portion thereof, without the prior written consent of Developer, is prohibited. No tent, house trailer, camper trailer, camper vehicle or motor vehicle (or portion thereof) shall be lived in on any lot.

4.06 No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, except, however, that a garage may contain living quarters for bona fide servants and except also that a field office, as hereinafter provided, may be established.

Until the Developer has sold all other lots in Pelican Bay (and during the progress of construction of residences in The Subdivision), a temporary field office for sales and related purposes may be located and maintained by the Developer (and/or other parties authorized by Developer). The location of such field office may be changed, from time to time, as lots are sold.

The Developer's right to maintain or allow others to maintain such field office (or permit such field office to be maintained) shall cease when all lots in Pelican Bay except the lot upon which such field office is located, have been sold. No building may be used as a field office without the prior consent of the architectural control authority (whether Developer or Architectural Control Committee).

4.07 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept as household pets provided they are not kept, bred or maintained for commercial purposes and provided they do not constitute a nuisance and do not, in the sole judgment of the Developer constitute a danger or potential or actual disruption of other lot owners, their families or guests.

4.08. Where a wall, fence, planter or hedge is not specifically prohibited under the Special Restrictions set forth in V below, the following (as to any permitted wall, fence, planter or hedge) shall apply: No wall, fence, planter or hedge in excess of two (2) feet high shall be erected or maintained nearer to the front lot line than the front building set-back line, nor on corner lots nearer to the side lot line than the building set-back line parallel to the side street. No rear fence, wall or hedge and no side fence, wall or hedge located between the side building line and the interior lot line (or located on the interior lot line) shall be more than six (6) feet high.

No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by intersecting street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines (or extensions thereof) shall be placed, planted or permitted to remain on corner lots.

4.09. The drying of clothes in public view is prohibited, and the owners or occupants of any lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the lot is visible to the public, shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view.

4.10. All lots shall be kept at all times in a sanitary, healthful and attractive condition, and the owner or occupant of all lots shall keep all weeds and grass thereon cut and shall in no event use any lot for storage of material or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. All clothes lines, yard equipment or storage piles shall be kept screened by a service yard, drying yard or other similar facility as herein otherwise provided, so as to conceal them from view of neighboring lots, streets or other property. Boats, trailers and other parked vehicles are to be stored in a location no closer to the front of the lot than the front building set-back line, or in the case of a corner lot the side building line facing the street.

In the event of default on the part of the owner or occupant of any lot in observing the above requirements or any of them, such default continuing after ten (10) days written notice thereof, the Developer (until the Committee is selected, and thereafter, the Committee) may, without liability to the owner or occupant in trespass or otherwise, enter upon (or authorize one or more others to enter upon) said lot, and cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said lot in a

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neat, attractive, healthful and sanitary condition, and may charge the owner or occupant of such lot for the reasonable cost of such work and associated materials. The owner or occupant, as the case may be, agrees by the purchase or occupation of the property to pay such statement immediately upon receipt thereof; however, the payment of such charge is not secured by any nature of lien on the property.

4.11. No sign, advertisement, billboard or other advertising structure of any kind may be erected or maintained on any lot in The Subdivision without the prior approval of the Developer; and any such approval which is granted by the Developer may be withdrawn at any time by the Developer, in which event, the party granted such permission shall immediately remove such structures.

The Architectural Control Authority (whether Developer or the Committee) shall have the right to remove and dispose of any such prohibited sign, advertisement, billboard or advertising structure which is placed on any lot, and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal nor in any way be liable for any accounting or other claim by reason of the disposition thereof.

4.12. The digging of dirt or the removal of any dirt from any lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on such lot. No trees shall be cut or removed except to provide room for construction of improvements or to remove dead or unsightly trees.

4.13. No outside aerial, pole or other device shall project above the highest ridge of the house by more than fifteen (15) feet.

4.14. No lot or other portion of the Subdivision shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring.

4.15. Driveways shall be entirely of concrete (except however, some other material may be used with the prior permission of the Developer or of the Committee after it is chosen) and shall be constructed with a minimum width of nine (9) feet with expansion joints not more than twenty (20) feet apart, with one joint at the back of the street curb. The width of each driveway may flair to a minimum of sixteen (16) feet and the curb shall be broken in such manner that the driveway may be at least four (4) inches thick at its end toward the street paving, and this extreme shall be poured against a horizontal form board to reduce the unsightly appearance of a raveling driveway.

4.16. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any water body. No septic tank or other means of sewage disposal may be installed unless approved by the proper governmental authorities having jurisdiction with respect thereto and the Developer.

4.17. No oil drilling, oil development operations, oil refining, or mining operations of any kind shall be permitted upon any lot, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil, or natural gas, shall be erected, maintained or permitted on any building site. At no time shall the drilling, usage or operation of any water well be permitted on any lot.

4.18. Neither the Developer, nor its successors or assigns, shall be liable for any loss of use of or damage done to any

shrubbery, trees, flowers, improvements, bulkheads, piers (or any vessels attached thereto), fences, walls or buildings of any type or the contents thereof on any lot whatsoever in The Subdivision (whether or not any part thereof lies between said elevations) caused by changes in the water level of Lake Conroe.

V.

Special Restrictions

5.01. In addition to being approved by the Architectural Control Authority, all plans for buildings and improvements on Lakefront Lots must also satisfy the requirements of and be approved in writing in the form of a permit by the San Jacinto River Authority, and no such building or improvement shall be erected or permitted on any such lot unless same complies strictly with the plans and specifications which have been approved as aforesaid.

5.02. In addition to the General Restrictions set forth in IV above, the following restrictions shall apply to Lakefront Lots:

(a) No pier or other structure which does not comply with the specifications set out in Subparagraphs (b) and (c) below shall be constructed on any lot or which projects beyond the lot line or into the water of Lake Conroe (whether within or outside of the lot line), unless written approval of such pier or structure is given by the Architectural Control Authority.

(b) A boat slip may be constructed at an indentation into a lot, or a dock may be constructed at the water's edge, (which dock, if constructed, may extend not more than fifteen (15) feet beyond the existing bulkhead) provided that the plans and specifications for such boat slip or dock have been approved by the Architectural Control Authority and that the requirements of the San Jacinto River Authority have been met and a permit for such construction has been issued. For purposes of this Article, the term "water's edge" shall mean the contour line which lies along the existing bulkhead on the boundary of the property in common with Lake Conroe.

(c) Any garage must be attached to the main residence and must be no nearer to the rear lot line than ten (10) feet. This requirement for an attached garage supersedes any contrary requirement in IV above.

(d) No wall, fence, planter, hedge or other improvement extending over four feet (4') above grade level except a drying yard shall be constructed or permitted between the rear of the house and the rear lot line.

(e) No pier, bulkhead, deck, boatlift, ramp or any other structure that projects into the water of Lake Conroe shall be constructed, without written approval of the Architectural Control Committee. No pier, deck, boatlift or any other structure shall be higher than an elevation of 203 msl.

In addition to being approved by the Architectural Control Authority, all plans for buildings and improvements on these lots must also satisfy the requirements of and be approved in writing in the form of a permit by the San Jacinto River Authority ("SJRA"); and no such building or improvement shall be erected or permitted on any such lot unless same complies strictly with plans and specifications which have been approved as aforesaid.

VI.

Maintenance Fund

6.01 Each lot (or residential building site) in The Sub-division shall be and is hereby made subject to an annual Maintenance Charge, except as otherwise hereinafter provided.

6.02 The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund", which shall be used as herein provided and such charge shall also include amounts relating to certain recreational facilities in Pelican Bay; and each such Maintenance Charge shall (except as otherwise hereinafter provided) be paid by the owner of each lot (or residential building site) to the Developer or, if established, to the Property Owner's Association, monthly, in advance, on or before the first day of each calendar month, beginning with the first day of the second full calendar month after the date of purchase of the lot or residential building site.

6.03 The exact amount of each maintenance charge will be determined by the Developer during the month preceding the due date of said maintenance charge. All other matters relating to the assessment, collection, expenditure and administration of the Maintenance Fund shall be determined by the Developer, subject to the provisions hereof.

In addition to the maintenance charge herein referred to, each lot shall be subject to a monthly charge for street lighting services, beginning on the date on which street lighting is extended to the street adjoining each lot (or to the street adjoining the access easement of those lots which have no adjoining street). Such charge will be included in the monthly bill for residential electric services from Gulf States Utilities Company to each lot owner and shall be in addition to all other charges which such lot owner may incur for electric service. The exact amount of the street lighting charge will be determined by Gulf States Utilities Company.

6.04 The maintenance charge shall not, without the consent of the Developer, apply to lots owned by the Developer or owned by any person, firm, association or corporation engaged primarily in the building and construction business which has acquired title to any such lots for the sole purpose of constructing improvements thereon and thereafter selling such lots; however, upon any such sale of such lots by such person, firm, association or corporation to a purchaser whose primary purpose is to occupy and/or rent and/or lease such lot (and improvements thereon, if any) to some other occupant, then the maintenance charge shall thereupon be applicable to such lot; and the Developer hereby consents to the applicability of the maintenance charge to each such lot under the circumstances herein stated. Any transfer of title to any lot by any such person, firm, association or corporation engaged primarily in the building and construction business shall not result in the applicability of the maintenance charge to such lot owned by the transferee or any succeeding transferee primarily engaged in the building and construction business without the consent of the Developer. The Developer reserves the right at all times, in its own judgment and discretion, to exempt any lot in The Subdivision from the maintenance charge, and exercise of such judgment and discretion when made in good faith shall be binding and conclusive on all persons and interests. The Developer shall have the further right at any time, and from time to time, to adjust, alter or waive said maintenance charge from year to year as it deems proper; and the Developer shall have the right at any time to discontinue or abandon such maintenance charge, without incurring liability to any person whomsoever by filing a written instrument in the office of the County Clerk of Montgomery County, Texas, declaring any such discontinuance or abandonment.

6.05 The maintenance charges collected shall be paid into the Maintenance Fund to be held and used for the benefit, directly or indirectly, of The Subdivision; and such Maintenance Fund may be expended by the Developer for any purposes which, in the judgment of the Developer will tend to maintain the property values in The Subdivision, including, but not by way of limitation: providing for the enforcement of the provisions of this instrument, including the aforesaid Reservations, Restrictions and Covenants, reasonable compensation and reimbursement to the Developer and members of the Committee with respect to services performed by such Developer and Committee members incident to their duties hereunder; for the maintenance, operation, repair, benefit and welfare of any recreational facilities which might hereafter be established in Pelican Bay; and generally for doing any other thing necessary or desirable in the opinion of the Developer to maintain or improve the property of The Subdivision. The use of the Maintenance Fund for any of these purposes is permissive and not mandatory, and the decision of the Developer with respect thereto shall be final, so long as made in good faith.

6.06 These provisions as to the Maintenance Charge and Maintenance Fund shall continue in effect unless changed in the manner and at the time or times hereinabove provided for effecting changes in the restrictive covenants hereinabove set forth.

6.07 There shall be a Street Maintenance Charge levied upon each lot, the sum to be determined by the Developer or if established, the Pelican Bay Owners Association for the maintenance of streets in The Subdivision. The Street Maintenance Charges, if and when collected, shall be paid into the Street Maintenance Fund to be held and used for the benefit, directly or indirectly, of The Subdivision and such Street Maintenance Fund may be expended by the Developer for any purpose or purposes which, in the judgment of the Developer, will tend to maintain the Private Streets and any sidewalks adjacent thereto, in The Subdivision, including, without limitation: For the maintenance, repair or patching of any Private Streets or sidewalks built in The Subdivision. The use of the Street Maintenance Fund for any of these purposes is permissive and not mandatory, and the decision of the Developer with respect thereto shall be final, so long as made in good faith.

The Street Maintenance Charge and the Street Maintenance Fund shall continue until the latter to occur of:

(a) The permanent assumption of the duties of maintenance and repair of all streets in The Subdivision by Montgomery County or another public governmental unit; and

(b) The termination of these Restrictions pursuant to the terms hereof.

Upon the termination of the Street Maintenance Charge and the Street Maintenance Fund, all funds remaining in the Street Maintenance Fund shall be disbursed to the Common Area Maintenance Fund created herein, and shall be held and expended as part of that Fund pursuant to the terms hereof.

6.08 The Board of Trustees of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Owner for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The

416-31-2014

Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

6.09 The regular annual maintenance charges or assessments, as hereinabove provided for, shall 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 Property Owners' Association and all Members. Subject to the conditions that the Association be made a party to any court proceeding to enforce any lien hereinafter deemed to be superior, the lien hereby created shall be subordinate and inferior to

(a) all liens for taxes or special assessments levied by the City, County, and State governments, or any political subdivision or special district thereof, and

(b) all liens securing amounts due or to become due under any term Contract of Sale dated, or any mortgage, vendor's lien, or deed of trust filed for record, prior to the date payment of any such charges or assessments become due and payable, and

(c) all liens, including, but not limited to, vendor's liens, deeds of trust, and other security instruments which secure any loan made by any lender to an Owner for any part of the purchase price of any Lot when the same is purchased from a builder or for any part of the cost of constructing, repairing, adding to, remodeling the residence and appurtenances situated on any Lot to be utilized for residential purposes.

Any foreclosure of any such superior lien under the power of sale of any mortgage, deed of trust, or other security instrument, or through Court proceedings in which the Property Owners' Association has been made a party, shall cut off and extinguish the liens securing maintenance charges or assessments which became due and payable prior to such foreclosure date, but no such foreclosures shall free any Lot from the liens securing assessments thereafter becoming due and payable, nor shall the liability of any lot owner personally obligated to pay maintenance charges or assessments which become due prior to such foreclosure, be extinguished by any foreclosure.

6.10. If any annual charge or assessment is not paid within thirty (30) days from the due date thereof, the same shall bear interest from the due date until paid at the highest interest rate allowed under the laws of the State of Texas, and, if placed in the hands of an attorney for collection or if suit is brought thereon or if collected through probate or other judicial proceedings, there shall be paid to the Developer or the Property Owners' Association an additional reasonable amount, but not less than fifteen percent (15%) of the amount owing, as attorney's fees. The Developer or the Property Owners' Association, as a common expense of all lot owners may institute and maintain an action at law or in equity against any defaulting lot owner to enforce collection and/or for foreclosure of the liens against his Lot. All such actions may be instituted and brought in the name of the Developer or the Property Owners' Association and may be maintained and prosecuted by the Association in a like manner as an action to foreclosure the lien of a mortgage or deed of trust on real property.

6.11 Each lot owner, by his assertion of title or claim of ownership or by his acceptance of a deed to a Lot, whether or not it shall be so recited in such deed, shall be conclusively deemed

to have expressly vested in the Developer or the Property Owners' Association, and in its officers and agents, the right, power and authority to take all action which the Developer or the Property Owners' Association shall deem proper for the collection of assessments and/or for the enforcement and foreclosure of the liens securing the same.

VII.

Transfer of Functions of the Developer

7.01 The Developer may at any time hereafter cause a non-profit corporation to be organized under the laws of the State of Texas for the purpose of exercising all or any of the duties and prerogatives of the Developer hereunder (including the matters relating to Maintenance Charges and all Maintenance Funds). Any such delegation of authority and duties shall serve automatically to release the Developer from further liability with respect thereto and vest such duties and prerogatives in such non-profit corporation. Any such delegation shall be evidenced by an instrument amending this instrument, placed of record in the Deed Records of Montgomery County, Texas, and joined in by the Developer and the aforesaid non-profit corporation but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in The Subdivision, a lienholder, mortgagee, Deed of Trust beneficiary or any other person.

VIII.

Binding Effect

8.01 All of the provisions hereof shall be covenants running with the land thereby affected. The provisions hereof shall be binding upon and inure to the benefit of the owners of the land affected and the Developer and their respective heirs, executors, administrators, successors and assigns.

LEPCO CORPORATION

DEVELOPER:

BY *[Signature]*
Philip Lefevre, President

NORTHWEST BANK & TRUST

LIENHOLDER:

BY *[Signature]*
Robert M. Dunson, Jr -Exec. Vice President

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day appeared *Philip Lefevre*, President of LEPCO CORPORATION, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11th day of August, 1986.

[Signature]
Notary Public, State of Texas
[Signature]

416-01-2016

STATE OF TEXAS §
 HARRIS
COUNTY OF ~~HARRIS~~ §

BEFORE ME, the undersigned authority, on this day appeared Robert M. Dunson, Jr., Executive Vice President of NORTHWEST BANK & TRUST, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of Northwest Bank & Trust.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8th day of August, 1986.



Elizabeth A. Kubena
Notary Public, State of Texas
Elizabeth A. Kubena
Harris County
Commission Expires: 10/01/88

FILED FOR RECORDED
1986 AUG 11 PM 4:11

Roy Harris
COUNTY CLERK

STATE OF TEXAS
COUNTY OF MONTGOMERY }
(hereby certify that this instrument, was filed
in the Public Records at its date and as the
same complied hereto by me, and was duly RECORDED,
in the official Public Records of that County of
Montgomery County, Texas)

AUG 11 1986

Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

99000840

FIRST SURETY TITLE COMPANY
GF# 9805393C

480-00-2428
PELICAN BAY, SECTION TWO
ARCHITECTURAL CONTROL AUTHORITY
AMENDMENT OF BUILDING LINE

1. **Parties.** The parties to this instrument are CHARLES EMERSON and wife, JEANNIE EMERSON (the "Sellers"), LARRY LOWRY and wife, PAM LOWRY (the "Buyers") and all of the members of the Architectural Control Authority of PELICAN BAY, SECTION TWO, a subdivision of 9.58 acres in the T. Cude Survey, A-12, Montgomery County, Texas, according to the map thereof recorded in Plat Cabinet E, Sheets 165 A&B, Map Records, Montgomery County, Texas (the "Subdivision").

2. **Property.** The Sellers and the Buyers have agreed upon the sale of the following lot:

Lot 38 of PELICAN BAY, Section 2, a subdivision of 9.580 acres located in the Timothy Cude Survey, Abstract No. 12, of Montgomery County, Texas, according to the map or plat thereof recorded in Cabinet E, Sheet 165A of the Map Records of Montgomery County, Texas (the "Property").

3. **Amendment of Set Back Line.** At the request of the Sellers and Buyers, the ARCHITECTURAL CONTROL AUTHORITY OF PELICAN BAY, SECTION TWO, whose members are named below, have determined in good faith that the building set-back line that runs along and inside the North boundary line of the Property should be amended and reduced from five feet (5.0') in width to four feet (4.0') in width for the purpose of harmonizing and making esthetically attractive the improvements on the Property for the Subdivision.

4. **Extent of Amendment.** This Amendment shall be considered a covenant running with the Property and shall be binding not only on the present owners, the Sellers, but also the Buyers and all persons holding under them for the duration of the Restrictive Covenants of PELICAN BAY, SECTION TWO, which are filed of record in the Real Property Records of Montgomery County, Texas at Clerk's File No. 8633829.

Signed in multiple originals this 4 day of JANUARY, 1999 in Montgomery County, Texas.

Charles Emerson
CHARLES EMERSON

by his agent and attorney in fact,
Gary W. Emerson

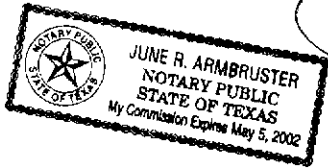
Jeannie Emerson
JEANNIE EMERSON

by her agent and attorney in fact,
Gary W. Emerson

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on JANUARY 4, 1999 by **CHARLES EMERSON and wife, JEANNIE EMERSON**, by and through their duly authorized agent and attorney in fact, Gary W. Emerson



June R. Armbruster
Notary Public, State of Texas

480-00-2430

Signed in multiple originals this 4 day of JANUARY, 1999 in
Montgomery County, Texas.

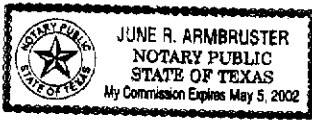
Larry Lowry
LARRY LOWRY

Pam Lowry
PAM LOWRY

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on JANUARY 4, 1999,
by LARRY LOWRY and wife, PAM LOWRY.



June R. Armbruster
Notary Public, State of Texas

480-00-2431

Signed in multiple originals this 3 day of JANUARY, 1999 in Montgomery County, Texas.

ARCHITECTURAL CONTROL AUTHORITY
PELICAN BAY, SECTION TWO,
MONTGOMERY COUNTY, TEXAS

BY: Z. C. Pospisil
NAME: ZEFERIN C. POSPISIL
TITLE: ACC Dir

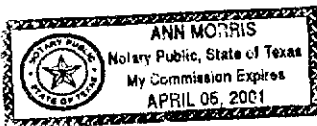
BY: L. L. Yearbick
NAME: L. L. Yearbick
TITLE: ACC Director

BY: J. Ann Morris
NAME: J. Ann Morris
TITLE: Chairman Acc - Board

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on January 3, 1999
by Z. C. Pospisil and L. L. Yearbick
members of the ARCHITECTURAL CONTROL AUTHORITY OF
PELICAN BAY, SECTION TWO.



Ann Morris
Notary Public, State of Texas

AFTER RECORDING RETURN TO:
First Surety Title Company
2040 North Loop 336 West, Ste. 200
Conroe, Texas 77304

GP82803323

PELICAN BAY, SECTION TWO
ARCHITECTURAL CONTROL AUTHORITY
AMENDMENT OF BUILDING LINE - PAGE 4

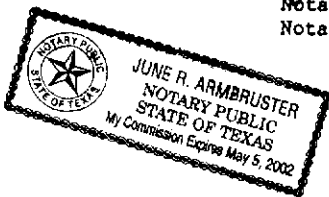
Acknowledgments

STATE OF Texas

COUNTY OF Montgomery

This instrument was acknowledged before me on January 4, 1999 by J. Harry Morris, President of Architectural Control Authority of Pelican Bay, Section Two.

June R. Armbruster
Notary Public, State of _____
Notary's Printed Name: _____
Notary's Commission Expires: _____



FILED FOR RECORD
99 JAN -5 PH 1:12
MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS
[Signature] DEPUTY

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the official Public Records of Real Property of
Montgomery County, Texas.

JAN - 5 1999



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS