

**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BEACHTOWN GALVESTON
A SUBDIVISION IN GALVESTON COUNTY, TEXAS**

**THE STATE OF TEXAS
COUNTY OF GALVESTON**

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KNOW ALL MEN BY THESE PRESENTS:

This Declaration ("Declaration"), is for the purpose of placing the property comprising the Beachtown Galveston Subdivision under one Master Declaration, and, therefore, it necessarily amends and supplants, in total, all Declarations, and their amendments, previously filed for Beachtown Galveston Village One, Section One, Beachtown Galveston Village One, Section Two, and Beachtown Galveston East Village and is made on the date hereinafter set forth, by **BEACHTOWN GALVESTON REAL ESTATE, LTD.**, in its capacity as successor in interest to and assignee of **BEACHTOWN GALVESTON VILLAGE ONE LTD.**, a Texas Limited Partnership, **BEACHTOWN GALVESTON TWO LTD.**, a Texas Limited Partnership, **BEACHTOWN GALVESTON EAST VILLAGE LTD.**, a Texas Limited Partnership, and **BEACHTOWN GALVESTON REAL ESTATE, LTD.**, a Texas Limited Partnership, hereinafter collectively referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property known as **BEACHTOWN GALVESTON**, comprising **BEACHTOWN GALVESTON VILLAGE ONE SECTION ONE**, a subdivision in Galveston County, Texas, according to the map or plat or replat thereof recorded in Volume 2004A, Pages 136-138 as well as the replat located in Volume 2004A, Pages 179-181 in the map records of Galveston County, Texas; **BEACHTOWN GALVESTON VILLAGE ONE SECTION TWO**, according to the map or final plat or replat there of recorded in Volume 2005A, Page 203-206 as well as the replat Beachtown Galveston Village One, Section One Blocks 7-8 and Beachtown Galveston Village One, Section Two, Block 1 (Lots 1-4), Blocks 2-5, Block 6 (Lots 1-4) recorded in Volume 2006A, Pages 8-9, all recorded in the map records of Galveston County, Texas; and **BEACHTOWN GALVESTON EAST VILLAGE** recorded in Volume 2006A, Pages 96-98 in the map records of Galveston County, Texas (hereinafter each section together collectively referred to as the "Property" or the "Subdivision");

WHEREAS, it is the desire of Declarant to place certain common restrictions, covenants and conditions, stipulations and reservations upon and against the Property, together with any other land and/or improvements which Declarant at its sole discretion may hereinafter add thereto, in order 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 both the present and future owners of lots in the Subdivision;

WHEREAS, Declarant desires to subject the Property, together with additional land as may hereinafter be made subject hereto, to the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof;

WHEREAS, Declarant has deemed it desirable for the enforcement of the Declaration and the efficient preservation of the amenities in said Subdivision to create the Beachtown Community Foundation Corp. (hereinafter the "Foundation") whose directors have established By-Laws by which the Foundation shall be governed through its Board of Directors, for the purpose of exercising the functions of the Foundation;

WHEREAS, the Declaration of Covenants, Conditions and Restrictions on file for Beachtown Galveston Village One, Section One, and all amendments thereto, the Declaration of Covenants, Conditions and Restrictions on file for Beachtown Galveston Village One, Section Two, and all amendments thereto, as well as the Declaration of Covenants, Conditions and Restrictions on file for Beachtown Galveston East Village, each all previously recorded, provide to each Section's respective Declarant the ability and authority for the Declarant to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record; and

WHEREAS, for convenience and ease of administration, the Declarant for Beachtown Galveston Village One, Section One, the Declarant for Beachtown Galveston Village One, Section Two, and the Declarant for Beachtown East Village, collectively, desire to amend all previously filed Declarations, and their amendments, for Beachtown Galveston Village One, Section One, Beachtown Galveston Village One, Section Two, and Beachtown Galveston East Village into one "Master Declaration" to govern the entire Beachtown Galveston Subdivision as it is currently comprised as well as such additions thereto as may be brought within the Subdivision as well as the jurisdiction of the Foundation;

NOW, THEREFORE, Declarant (joined herein by the lienholder upon the Property, if any) hereby adopts, establishes and imposes upon the Property, and declares the following uniform plan of development including reservations, easements, restrictions, covenants, assessments, pattern book (including the criteria adopted for constructing disaster resistant homes as promulgated by the Institute for Business and Home Safety {IBHS}), and conditions (sometimes referred to herein collectively as the “Covenants”) applicable thereto, all of which are designed to govern, control, preserve, enhance and protect the value, amenities, desirability and attractiveness of the Subdivision, which Covenants shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Property, or any part thereof, for the development, sale, use and enjoyment of the Property as a residential and mixed use development, and shall inure to the benefit of each owner thereof, their heirs, executors, administrators, guardians, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, now and at anytime hereafter.

**ARTICLE I.
Definition of Terms**

A. Definition of Terms: When used in this Declaration, the words set out below shall have the following meanings:

Section 1. “Association” and “Foundation” shall be interchangeable and shall both mean and refer to the Beachtown Community Foundation Corp. formerly known as Beachtown Galveston Homeowner’s Association, Inc., which is a Texas non-profit corporation, its successors, assigns and/or replacements, whose membership is composed of all of the owners of lots within the Subdivision, and its successors and assigns, as described in Article IV of this Declaration.

Section 2. “Owner” shall mean any person or persons, firm, corporation or other entity who is the record owner of a fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those who have such interest merely as security for the performance of an obligation. For purposes of membership in the Foundation, each lot shall only have one Owner, and if multiple parties own a Lot they shall designate the “Owner” for purposes hereof.

Section 3. "Property" or "Subdivision" shall mean and refer to the Property hereinbefore described, including Beachtown Galveston Village One, Section One, Beachtown Galveston Village One, Section Two, and Beachtown Galveston East Village, as well as such additions thereto as may hereafter be brought within the jurisdiction of the Foundation.

Section 4. "Subdivision Plat" shall mean and refer to the maps or plats of the Property, recorded in the Map Records of Galveston County, Texas, and any recorded replat thereof.

Section 5. "Lot" and/or "Lots" shall mean and refer to the Lots shown upon the Subdivision Plat (with the exception of the Common Properties).

Section 6. "Common Property" shall mean and refer to those areas of land within the Property as are now shown and identified in the Beachtown Galveston Subdivision on the collective Subdivision Plat as a park, Square, sidewalks, pedestrian walkways and/or Passages (such as Shiraz, Beachtown, etc.), greenbelts, public dune walkovers, open space reserves, open space reserve (beach access), parking reserves, lagoon walkovers, trails, private dune walkovers, landscape reserves and subdivision entrances and other subdivision amenities as may be created and/or added to the Subdivision which are not currently identified on the Subdivision plat including, but not limited to, recreational facilities which are to be maintained and regulated by the Foundation, together with such other property as the Foundation may, at any time or from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the Subdivision Plat, and/or by virtue of grants or dedications by Declarant or Declarant's successors in title. Declarant will have the right, but not the obligation, to construct and/or add a swimming pool, tennis courts, playground, community center, or any other facility erected for the community use or the common benefit of the members of the Foundation ("Common Facilities") to the Subdivision. Declarant further has the right, but not the obligation, to fund the construction and/or repair and maintenance of any Common Facilities added to the Subdivision by spending monies received and collected into the Maintenance Fund. Should Common Facilities be erected by use of the Maintenance Fund, it shall become a part of the Common Property. Declarant has the right to determine whether the Common Property (or any common structure including, but not limited to, bike racks, mailboxes, hike and bike trails, bird watching or nature preserve stands or structures, if any), or any portion thereof, will be made available to the general public or will be deemed private and available for use only by the members of the

Foundation. In that regard, Common Facilities may be erected and/or used in common with other structures located within or close to the Subdivision which may or may not be owned by the Declarant. An example of such an arrangement would include a hotel structure that includes a pool which may be used by both the guests of the hotel as well as members of the Foundation. References herein to "the Common Properties in the Subdivision" shall mean and refer to Common Properties as defined respectively in this Declaration and all Supplemental Declarations.

Section 7. "Town Architect" shall be an individual or entity, or a group of individuals and/or entities, appointed by Declarant or the Board of Directors of the Foundation to perform the functions set forth in Article VII hereof.

Section 8. "Declarant" shall collectively mean and refer to BEACHTOWN GALVESTON REAL ESTATE, LTD. as successor in interest to and assignee of BEACHTOWN GALVESTON VILLAGE ONE LTD., BEACHTOWN GALVESTON TWO LTD., BEACHTOWN GALVESTON EAST VILLAGE LTD., and BEACHTOWN GALVESTON REAL ESTATE, LTD., their successors, and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant, their successor, or their assigns and recorded in the Office of the County Clerk of Galveston County, Texas or by Declarant's successor or assigns by operation of Law.

Section 9. "Board of Directors" shall mean and refer to the Board of Directors of the Beachtown Community Foundation Corp., whether such Board of Directors be appointed by Declarant or elected by the Foundation in accordance with the provisions of this Declaration, or the body, regardless of name, designated to act on behalf of the Developer and Foundation.

Section 10. "Appointed Board" shall mean the initial Board of Directors who shall be appointed by the Declarant. Notwithstanding any other provision hereof, the Declarant hereby retains the unilateral right to appoint all Directors until such time as Declarant no longer owns any portion of the Property. From and after the time when Declarant no longer owns any portion of the Property, the Appointed Board shall serve until an election can be conducted to elect a new board pursuant to the By-Laws.

Section 11. "Beachtown Galveston Subdivision" shall mean that certain land both currently subdivided into Beachtown Galveston Village One, Section One, Beachtown Galveston Village One, Section Two, and Beachtown Galveston East Village which is, or will in the future

be, governed by the Beachtown Community Foundation Corp. as well as all future land subdivided into additional sections and added or annexed thereto in order to establish a uniform plan for development to be governed by the Beachtown Community Foundation Corp.

Section 12. "Pattern Book" shall mean the publication created by the Declarant and the Foundation which sets forth, among other things, the design guidelines and improvement criteria that is applied by the Town Architect to any change made to the Property including, but not limited to, new construction or modification to an existing structure, grading, excavation, tree removal, landscaping or other change to land or an improvement located within the Beachtown Galveston Subdivision. It may be referred to as the Beachtown Galveston Pattern Book, the Beachtown Pattern Book or any other label that may be placed upon it as amendments are made to the design guidelines and improvement criteria.

ARTICLE II. Reservations, Exceptions and Dedications

Section 1. Existing Easements. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such Subdivision Plat further establishes certain dedications, limitations, reservations, certain minimum setback lines, and restrictions applicable to the Property. All (i) dedications, limitations, restrictions, minimum setback lines, and reservations shown on the Subdivision Plat and (ii) grants and dedications of easements and related rights heretofore made by Declarant and/or Declarant's predecessors in title affecting the Property and currently of record in the Official Records of Galveston County, Texas and enforceable against the Property are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property, whether specifically referred to therein or not.

Restrictions relating to minimum setback lines are found in the Declarations, Pattern Book as well as on the Plat, as amended. With regard to any conflicts and discrepancies found between the Declarations, Pattern Book and Plat, as amended, with regard to the minimum setback lines allowed, the most stringent minimum set back guidelines established by the Declarations, Pattern Book or the Plat shall apply.

Section 2. Utility Easements and Rights-of-Way. Declarant reserves the easements and rights-of-way as shown on the Subdivision Plat (collectively called the "Easements") and the portion of the Property designated on the Subdivision Plat for Easements being hereinafter sometimes called the "Easement Property" for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph, cable television, arial telephone line or lines, water lines, sewers or any other utility Declarant sees fit to install in, across and/or under the Easement Property.

Section 3. Changes and Additions. Declarant reserves the right to make changes in and additions to the Easements for the purpose of most efficiently and economically installing landscaping, sidewalks, trails, as well as improvements and utilities within the Easement Property.

Section 4. Easements and Appurtenances. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Property by contract, deed or other conveyance shall be subject to (a) the easements described in this Declaration for roadways or drainage, landscaping, private trails, water, sewer, storm sewer, electric light, electric power, telegraph, cable television, telephone or other utility purposes and such conveyance shall not convey any interest in pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto, constructed by or under Declarant or any easement owner, or their agents through, along or upon the Easement Property, or any part thereof, to serve the Property, and (b) the right of Declarant, its successors and assigns, to maintain, repair, sell or lease such appurtenances (subject to the provisions of this Declaration) to any municipality, or other governmental agency or to any public service corporation or to any other party (and such right is hereby expressly reserved). Should any utility facility or appurtenances thereto including, but not limited to meters, boxes, lines, etc., located on a Lot require relocation, an Owner of the Lot will bear sole responsibility and the full cost of the relocation. An Owner of a Lot must notify the Foundation prior to moving, modifying or relocating a utility facility or appurtenance thereto. The Foundation retains the right to determine the placement and location of fences relative to any easement, and such authority shall take precedence over the Pattern Book.

The Declarant and/or the Foundation reserves the right to allow public access to the private trail constructed, if any, upon the private trail easement. If the Declarant and/or the

Foundation choose to construct a trail on the private trail easement, the Foundation will remain responsible for the maintenance and upkeep of the trail notwithstanding its decision to allow public access upon the trail. All fences erected upon land containing the private trail easement must be erected behind the private trail easement and no obstruction, of any kind, may be constructed upon the private trail easement.

Section 5. Landscape. There is expressly created on the Subdivision Plat an easement upon, across, over and under portions of the Property for ingress, egress, and use of the surface area in connection with the installing, replacing, repairing and maintaining of certain landscaping that is to be common to the Subdivision. By virtue of this easement, it shall be expressly permissible for the Declarant and/or Foundation, and their agents and vendors, to install and maintain landscaping, sidewalks, lights, and/or trails or appurtenances thereto, on, across and under the portion of the Property upon which the landscaping easement lies. If the Declarant or Foundation installs landscaping, sidewalks, lights, and/or trails on the landscape easement located upon a Lot prior to the construction and placement of an improvement and driveway by the Owner, the Owner will be responsible for the replacement of all damage to the landscaping, lighting, sidewalks, and/or trails caused by the subsequent erection of the improvement and driveway. The Declarant or Foundation has sole discretion with regard to installing landscaping upon property contained within the landscape easement. If landscaping, sidewalks, lights, and/or trails are installed within portions of the landscape easement that is located upon a Lot, the Owner agrees to provide the access to the Foundation necessary to install and maintain the landscaping, sidewalks, lights, and/or trails. An Owner whose Lot contains a landscape easement in which no landscaping, sidewalks, lights, and/or trails have been installed by the Foundation may, upon receiving approval by the Foundation, install landscaping upon that portion of the landscaping easement and, upon installation, the Owner agrees to maintain same. The Foundation, however, even after providing approval to an Owner for landscaping to be placed within a portion of the Landscape Easement located upon a Lot, retains the right to, at any time, replace or alter any landscaping placed within the Landscape Easement.

Section 6. Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including but not limited to, water, sewer, telephones, electricity, gas, lighting, and appurtenances thereto. By virtue of this easement, it

shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, across and under the Easement Property and within any other public utility easements from time to time created, and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section 6 of Article II, no sewer, electrical lines, water lines, or other utilities or appurtenances thereto may be installed or relocated on the Property until approved by Declarant. The utility companies furnishing service shall have the right to remove all trees situated within the Easements shown on the Subdivision Plat, and to trim overhanging trees and shrubs located on the portions of the Property abutting such Easements. Neither Declarant nor any utility company using the Easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to mailboxes, fences, sidewalks, shrubbery, trees or flowers or other property, if any, situated on the land covered by said Easements.

Section 7. Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles, and other service vehicles to enter upon the Property (but not within buildings) in the performance of their duties. Further, an easement is hereby granted to the Foundation, its officers, agents, employees and management personnel to enter the Property (but not within buildings) to render any service.

Section 8. Electric System. An electric distribution system comprised of both underground and overhead lines, pedestals, and overhead transformer poles located throughout the Subdivision, has, or will be, installed in the entire Subdivision, to service all of the Lots which are platted in the Subdivision. The Owner of each Lot containing a single dwelling Lot, shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the 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 lines of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the Subdivision Plat or by separate recorded 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 Lot Owners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various Lot Owners to permit installation, repair and maintenance of each Lot Owner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling Lot, 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 Lot involved. For so long as service is maintained in the Subdivision, the electric service to each dwelling Lot therein shall be uniform in character.

The electric company has installed or will install the electric distribution system in the Subdivision at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Subdivision is being developed for both commercial and residential dwelling Lots, including homes, and if permitted by the restrictions applicable to such subdivision, townhouses, duplexes, condominiums, hotels, and apartment structures, mixed use structures, commercial structures, live-work units, all of which are designed to be permanently located where originally constructed (such category of dwelling Lots expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling Lot structures are wired so as to provide for separate metering to each dwelling Lot.

No provision of this Section 8 of Article II (the text of which is prescribed by the electric company) shall in any manner operate or be construed to permit the construction on any Lot of any type of residential structure other than a single family residence as provided in Section 1, of Article XI with the exception of those set forth in Article XI, Section 1 of this Declaration upon which residential multifamily housing may be erected.

Section 9. Surface Areas. The surface of Easement Property for underground utility services may be used for fencing and planting of shrubbery, trees, lawns, or flowers. However, neither the Declarant nor any supplier of any utility or service using any portion of the Easement Property shall be liable to any Owner or to the Foundation for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid

vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such Easement Property.

**ARTICLE III.
Property Subject to this Declaration**

Section 1. Description. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration consists of all of the Property, according to the Subdivision Plat (or any subsequently recorded plat thereof), which real property is sometimes hereinafter referred to as the "Existing Property".

Section 2. Mineral Exception. There is hereby excepted from the Property and Declarant will hereafter except from all its sales and conveyances of the Property, or any part thereof, including the Lots and Common Properties, all oil, gas, and other minerals, in, on, and under the Properties; but each such reservation shall be subject to the provision and requirements of Article XIII of this Declaration.

Section 3. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

(a) **Additions by Declarant.** The Declarant, and its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of development ("Additional Property") in its sole discretion. Any additions of Additional Property authorized under this and the succeeding subsection of this Declaration shall be made by filing of record in the Official Records of Galveston County, Texas, an amendment to this Declaration with respect to the Additional Property which shall extend the scheme of the Covenants of this Declaration to the Additional Property. Any such amendment to this Declaration must impose an annual maintenance charge assessment on the Additional Property, on a uniform, per lot basis, substantially equivalent to the maintenance charge and assessment imposed by this Declaration, and may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the Additional Property.

(b) **Mergers.** Upon a merger or consolidation of the Foundation with another association, the Foundation's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of

another association may be added to the properties, rights and obligations of the Foundation as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants established by this Declaration or any amendment thereto.

ARTICLE IV. The Owners' Foundation

Section 1. Organization. The Declarant has organized and formed the Foundation as a non-profit corporation under the laws of the State of Texas. The affairs of the Subdivision shall be administered by the Foundation.

Section 2. Purpose. The purpose of the Foundation in general is to provide for and promote the health, safety, and welfare of the members ("Members" or "Owners"), to collect the annual maintenance charges, to enforce the Restrictions set forth herein and in the By-Laws, and to administer the Maintenance Fund (as defined herein), to provide for the maintenance, repair, preservation, upkeep, and protection of the Common Property and such other purposes as are stated in the Articles of Incorporation and By-Laws consistent with the provisions of this Declaration and all amendments thereto. The Foundation shall have all rights, powers and duties of an "Association" as that term is used in the Texas Property Code.

Section 3. Directors. The Foundation shall act through a three (3) member Board of Directors, which shall manage the affairs of the Foundation. The initial Directors of the Foundation have been selected by Declarant and will be considered the Appointed Board as that term is defined in Article I, Section 10 of this Declaration. Each Director on the Appointed Board shall serve for a term of one (1) year from date of appointment, and thereafter, until his successor is duly appointed and qualified. Upon the expiration of the terms of the Directors on the Appointed Board, the Members shall elect a Board of Directors as provided for in the By-Laws. Any Director vacancy, from whatever cause, occurring in the Appointed Board shall be filled by appointment made by the Declarant and the person appointed to fill such vacancy shall serve for the remainder of the term. The Directors shall have the power to select one or more advisory directors from the residents of the Subdivision to serve for such periods of time as the Appointed Board or, later, the Board of Directors shall deem appropriate, for the purpose of

providing advice and counsel to the Board of Directors, provided that such advisory directors shall have no right to act on behalf of the Foundation. An officer, director, or committee member of the Board of Directors shall not be liable to the Foundation or any Owner for any action or omission occurring in such person's capacity as an officer, director, or committee member so long as such action or omission is made or taken in good faith or pursuant to the business judgment rule.

Section 4. Members. Each Owner, whether one or more persons or entities, of a Lot shall, upon and by virtue of becoming such Owner, automatically become a Member of the Foundation and shall remain a Member thereof until his ownership ceases for any reason, at which time his membership in the Foundation shall automatically cease, but there shall only be one (1) vote per Lot, except as stated below. Membership in the Foundation shall be appurtenant to and shall automatically follow the legal ownership of each Lot and may not be separated from such ownership. Whenever the legal ownership of any Lot passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of membership in the Foundation, and no certificate of membership will be issued.

The Foundation shall have two classes of membership.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to five (5) votes for each lot in the Subdivision in which it holds the interest required for membership by these Restrictions, Covenants and Conditions or any Supplemental Restrictions, Covenants, and Conditions;

Class A. Class A Member shall be all the Members of the Foundation, with the exception of the Declarant or the Class B Member. Class A Members shall be entitled to one vote for each Lot in the Subdivision in which they hold the interest required for membership by these Restrictions, Covenants and Conditions or any Supplemental Restrictions, Covenants, and Conditions; provided that the Class B membership shall cease and become converted to Class A membership on the happening of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;

(b) on January 1, 2019.

From and after the happening of whichever of these events occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot in the Subdivision in which it holds the interest required for membership by these Restrictions, Covenants and Conditions, or any Supplemental Restrictions, Covenant, or Conditions.

Section 5. Title to Common Property. The Declarant may retain the legal title to the Common Property until such time as: (i) Declarant no longer owns any portion of the Property; or (ii) in the sole opinion of Declarant, the Foundation is able to operate and maintain the same, whereupon title to the Common Property shall be conveyed to the Foundation. Until title to such Common Property has been conveyed to the Foundation by Declarant, Declarant shall be entitled to exercise all rights and privileges relating to such Common Property granted to the Foundation in this Declaration and all amendments thereto. The Common Property shall remain undivided and shall not be subject to an action for partition or division of the Owners thereof so long as the Subdivision is maintained as a Subdivision in accordance with the provisions hereof.

Section 6. Notice. Any notice permitted or required to be given to a Member of the Foundation and to an Owner may be delivered personally, by mail, email, facsimile or other electronic means, or by placing such notice in the mail. If delivery is made via mail, it shall be deemed to have been delivered when deposited in the U.S. mail postage prepaid, addressed to an Owner at its Lot or to such other address as the Owner may have given in writing to the Foundation for the purpose of services of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Foundation.

Section 7. Disputes. In addition to the other powers conferred by law or hereunder, the Board of Directors is hereby empowered to create procedures for resolving disputes between Owners and the Board of Directors or the Foundation, including appointment of committees to consider and recommend resolution of or to resolve any such dispute.

Section 8. Dispute Resolution. Except as set forth in Article VI, Section 9, no lawsuit between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners, Members; Board of Directors; officers of the Foundation; the Foundation; or the managing agent (if any).

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or

representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager ("P.C.A.M.") as certified by the Community Associations Institute, or a Certified Property Manager ("C.P.M.") as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board of Directors shall maintain a list of no less than five (5) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before mediation may be scheduled.

The provisions of this Declaration dealing with Alternative Dispute Resolution shall not apply to the collection of Assessments, enforcement of the declaration, and/or Rules and Regulations by the Foundation.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

ARTICLE V.

Property Rights in the Common Properties and Common Facilities

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article V, every Member shall have a common right and easement of enjoyment in and to the Common Property, and such right and easement shall be appurtenant to and shall pass with the title to each Lot.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Foundation, in its discretion, to make, publish, and enforce reasonable rules and regulations shall be binding upon, complied with, and observed by each Member. These rules and regulations may include provisions to govern and control the use of such Common Property by guests or invitees of the Members, including, without limitation, the number of guests or invitees who may use such Common Property or any part thereof at the same time; and

(b) The right of the Foundation to grant or dedicate easements in, on, under or above such Common Property or any part thereof to any public or governmental agency or authority or to any utility facility or equipment situated in any part of such Common Property and owned by the Foundation to any public or political authority or agency or to any utility company rendering or to render service to the Subdivision or any part thereof; and

(c) The right of the Foundation to enter into management and/or operating contracts or agreements relative to the maintenance and operation of such Common Property in such instances and on such terms as its Board of Directors may deem appropriate; and

(d) The right of the Foundation to suspend the voting rights of a Member or his right to use any recreational Common Property during the period he is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against his Lot; and to suspend such rights for a period not to exceed sixty (60) days for any infractions of its published rules and regulations; and the aforesaid rights of the Foundation shall not be exclusive, but shall be cumulative of and in addition to all other rights and remedies which the Foundation may have in this Declaration and any amendment thereto or in its By-Laws or at law or in equity on account of any such default or infraction; and

(e) The rights and easements existing, herein created or hereafter created in favor of others, as provided for in Article II and Article VIII hereof, in this Declaration and in all amendments thereto; and

(f) Any contract entered into by the Foundation with Declarant or any affiliate of Declarant shall be at market terms no less favorable to the Foundation than would be available from a third party. No contract with Declarant or any affiliate of Declarant shall be for a term in excess of one (1) year; and

(g) The Foundation, by provision of its By-Laws, may provide such additional rules and regulations for use of the Common Properties and Common Facilities as are necessary or desirable in the judgment of the Foundation for the operation of the Subdivision provided such by-Laws are not in conflict with this Declaration.

Section 3. Delegation of Use. Any member may delegate his right of use and enjoyment of the Common Property in the Subdivision, together with all easement rights granted to Members in this Declaration and all amendments thereto, to the members of his family, his tenants, guests (subject to Section 2 (a) above), or contract purchasers who reside on his Lot. The term "Member" is further defined to include and refer to the executors, personal representatives and administrators of any Member, and all other persons, firms or corporations acquiring or succeeding to the title of the Member by sale, grant, will, foreclosure, execution, or by any legal process, or by operation of law, or in any other legal manner. The Foundation retains the right to forcibly remove from the Subdivision, or its Common Property, any individual who has no legal right to use and enjoy the Common Property. The Foundation may prosecute such individuals as trespassers and pursue all legal process available to the Foundation, both civil and criminal, to affect their removal and prosecute same.

ARTICLE VI. Annual Assessments

Section 1. The Maintenance Fund. All funds collected by the Foundation from the common area maintenance charges provided for in this Article VI, together with all funds collected by the Foundation from the regular annual maintenance charges imposed on the Lots in the Subdivision by this Declaration and all amendments thereto, shall constitute and be known as the "Maintenance Fund". The Maintenance Fund shall be held, used, and expended by the Foundation for the common benefit of all Members for the following purposes, to-wit: to promote the health, safety, recreation, and welfare of the Members, including, without limitation, the creation, promulgation or enforcement of any rule, provision or restriction set forth within the Declaration or any dedicatory instrument governing the Foundation and/or the Property, the creation, promotion, and holding of social events including, but not limited to festivals, carnivals, etc. for the membership and, in the discretion of the Declarant and/or Foundation, non-members of the Foundation, the installation, construction, erection, maintenance and relocation of

improvements related to the enhancement and beautification of the Common Property, and any other areas provided by this Declaration or any amendment thereto to be developed or maintained by the Foundation, such as shrubbery, trees, walkways and street lights, dune structures and walkovers, side walks, bridges including foot bridges, beach equipment, landscaping, irrigation, retaining walls, fences, jogging trails, trolley track and stations, etc. and the construction, repair, maintenance and replacement of properties, services, improvements and facilities devoted to such purposes and related to the use and enjoyment of the Subdivision by the Members including, but not limited to, swimming pools, tennis courts, community centers, and any other facility erected for community use or the common benefit of the members of the Foundation ("Common Facilities"). The Beachtown Galveston Subdivision encompasses and/or is a part of beach front property located in Galveston, Texas. In an effort to promote the recreation of the membership, the Maintenance Fund may be used to construct beach facilities, purchase beach equipment, and promote beach activities and recreation including, but not limited to, the construction, creation and management of beach equipment rental facilities, entering into relationship with vendors who offer recreational beach activities (e.g. jet skiing, fishing charters, scuba diving, etc), and any other thing that, in the sole discretion of the Declarant and/or the Foundation would be of common benefit to the membership of the Foundation. The Maintenance Fund may also be used to reimburse the Town Architect, Declarant, or any agent acting on behalf of the Foundation for monies expended in connection with the Architectural Control and approval process for individual applications of construction review as well as funds expended in connection with the design of the Beachtown Galveston Subdivision. In that regard, if the cost of the Architectural Control Process exceeds the fees charged by the Town Architect for performing the functions prescribed in Article VII of this Declaration, the Maintenance Fund may be used to pay for the additional costs incurred by the Town Architect in connection with the review and/or processing of a particular application.

The Foundation may, in its sole discretion, give one or more of the purposes set forth in this Section 1 of Article VI preference over other purposes, and it is agreed that all expenses incurred and expenditures and decisions made by the Foundation in good faith are presumed reasonable and shall be binding and conclusive on all Members.

Section 2. Covenant for Assessments. Subject to the provisions set forth below in Sections 3 and 4 of this Article VI relating to the rate at which the maintenance charge and

assessments imposed herein shall be paid on unimproved Lots, each and every Lot is hereby severally subjected to and impressed with a regular annual maintenance charge or assessment in the amount of Nine Hundred Eighty and No/100 Dollars (\$980.00) per annum per Lot (herein sometimes referred to as the "Maintenance Charge") which shall run with the land, subject to increase and decrease and payable as provided in Section 5 below. Upon the construction of a swimming pool and/or any Common Facilities (as defined in Article VI, Section 1) in the Beachtown Galveston Subdivision, the regular annual maintenance charge will increase an additional Two Hundred and No/100 Dollars (\$200.00) per annum per Lot over and above the regular Annual Maintenance Charge being assessed at the time of the construction of the swimming pool and/or other Common Facilities. The additional \$200.00 per annum per Lot increase to the Maintenance Charge will be invoiced to each owner upon construction of the swimming pool and/or Common Facilities, and same, together with the Maintenance Charge the \$200.00 increase was added to, will become the new regular Maintenance charge to be assessed annually upon each and every Lot, subject to increase and decrease and payable as provided in Section 5 below. Notwithstanding anything to the contrary contained herein, Owners of vacant or unimproved Lots shall be charged and shall pay an additional mowing fee of One Hundred Fifty and No/100 Dollars (\$150.00) per annum for each year that their Lot is unimproved. The Declarant shall not be assessed the Maintenance Charge or Assessment of \$980.00 per annum nor the additional \$200.00 increase contemplated upon the construction of a swimming pool and/or Common Facilities upon the Lots or reserves which are owned by Declarant; however Declarant will be assessed the annual mowing charge of \$150.00 for each unimproved Lot or reserve owned by Declarant.

Each Owner of a Lot, by his claim or assertion of ownership or by accepting a deed to any such Lot, whether or not it be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Foundation, its successors or assigns, each and all of the charges and assessments against his Lot and/or assessed against him by virtue of his ownership, thereof, as the same shall become due and payable, without demand. The charges, assessments interest, costs, late fees and reasonable attorney fees 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 assessment, together with interest, costs, late fees and reasonable attorneys' fees, shall also be the personal obligation of the

person who was the Owner of the Lot at the time the obligation to pay such assessment accrued, but no Member shall be personally liable for the payment of any assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such charge or assessment by waiver of the use or enjoyment of the Common Properties, or any part thereof, or by abandonment of his Lot or his interest therein.

Section 3. The Annual Maintenance Charge. The annual assessments provided for herein shall commence on the date of sale from the Declarant or upon substantial completion of the roads and underground utilities servicing that particular section of the Property (i.e. Beachtown Galveston Village One, Section One, Beachtown Galveston Village One, Section Two, and Beachtown Galveston East Village, and/or any future sections added to the Beachtown Galveston Subdivision), whichever is later. The first annual assessment shall be payable on the day fixed for commencement. The assessments for each calendar year, including the first year, shall be due and payable to the Foundation in advance, in quarter-annual installments, on the 1st day of January, April, July, and October of each year. Provided, however, that, upon the purchase of their Lot (as evidenced by the date of the contract of sale or deed, or their occupancy, whichever is earlier), each Member shall be obligated to pay to the Foundation a pro rata part of the applicable percentage (as determined pursuant to the terms hereof) of the regular annual maintenance charge assessed on such Lot, which shall bear the same ratio to the applicable percentage of the full annual maintenance charge as the number of full calendar months remaining in the current quarter year of the year of purchase bears to three (3), and which shall be payable in full upon such purchase.

The Board of Directors or the Appointed Board may decrease or increase the amount of the regular annual maintenance charge or assessment provided for herein at any time and from time to time by the adoption of a resolution for such purpose, but no resolution increasing or decreasing the annual maintenance charge assessment shall become effective prior to the expiration of ninety (90) days from the date of its adoption, and the Owner of each Lot shall, within thirty (30) days from such effective date, pay to the Foundation or be credited by the Foundation for the proportionate part of such increase or decrease for the balance of the year in which such resolution is adopted; provided, however, that no resolution of the Board of Directors or the Appointed Board which fixes the amount of the regular annual maintenance charge or assessment at less than eighty-five percent (85%) of the amount assessed in the preceding

calendar year, or in excess of one hundred fifteen percent (115%) of the amount assessed in the preceding calendar year, shall become effective unless and until such resolution is ratified by the written assent of seventy-five percent (75%) of a quorum of Members present and voting in person or by proxy at a special meeting of the Foundation membership called for this purpose. The written assent or the vote of the Membership must be given prior to the effective date of the resolution of the Board of Directors or the Appointed Board. No increase or decrease in the annual maintenance charge or assessment shall take effect retroactively.

If any resolution of the Board of Directors or the Appointed Board which requires ratification by the assent of the Members of the Foundation as above provided shall fail to receive such assent, then the amount of the regular annual maintenance charge or assessment last in effect shall continue in effect until duly changed in accordance with the above provisions.

Section 4. Quorum for any Action Authorized Under Section 3. The Quorum required for any action authorized by Section 3 of this Article VI hereof shall be as follows:

At the first meeting called, as provided in Section 5 of this Article VI hereof, the presence at the meeting of Members, or of proxies, entitled to cast twenty percent (20%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called and the required quorum at any such subsequent meeting shall be one-half (1/2) the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

Section 5. Special assessment for Capital Investments. In addition to the annual assessments authorized above, the Foundation may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Duties of the Board of Directors. The Board of Directors or the Appointed Board 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 for 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 Foundation and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Foundation (or its agent) shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Foundation, 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.

Section 7. Liens to Secure Assessments. 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 Foundation and all Members. 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, 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 lien, 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 and the improvements thereon, if improved, when the same is purchased, or for any part of the cost of construction, repairing, adding to, or remodeling the residence and appurtenances situated on any Lot.

Any foreclosures 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 Foundation has been made a party, shall cut off and extinguish the liens securing maintenance charges or assessments which become due and payable prior to such foreclosure date, but no such foreclosure shall free any Lot from the liens securing assessments thereafter becoming due and payable, nor shall the liability of any Member personally obligated to pay maintenance charges or assessments which become due prior to such foreclosure, be extinguished by any foreclosure.

Section 8. Effect of Non-Payment of Assessment. If any such annual charge or assessment is not paid within thirty (30) days from the 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, a late fee, established by the Foundation, may be charged, 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 Foundation an additional reasonable amount as attorney's fees. The Foundation, as a common expense of all Members, may institute and maintain an action at law or in equity against any defaulting Member 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 Foundation and may be maintained and prosecuted by the Foundation in a like manner as an action to foreclose the lien of a mortgage or deed of trust on real property.

Section 9. Collection and Enforcement. In order to secure payment of the Assessments levied hereunder and other sums due hereunder (including interest, late fees, attorneys fees, reimbursements, delinquency, and other charges made by the association), an assessment lien and superior title shall be and is hereby reserved in and to each Lot and assigned to the Foundation, without recourse, which lien shall be enforceable as hereunder set forth by the Declarant, Foundation, the Board of Directors or the Appointed Board on behalf of the Foundation, or any Owner on behalf of the Foundation. The liens described in this section and the superior title herein reserved shall be deemed subordinate to any Mortgage for the purchase or improvement of any Lot and any renewal, extension, rearrangement or refinancing thereof.

Each Owner, by acceptance of a deed to its Lot, grants a power of sale to the Foundation to sell such property upon default in payment of any amount owed, and hereby expressly recognizes the existence of such lien as being prior to its ownership of such Lot. Each Owner, by acceptance of a deed to its Lot hereby vests in the Board of Directors, the Appointed Board or its agents the right and power to bring all actions against such Owner (or Owners) personally for the collection of such unpaid assessments, and other sums due hereunder as a debt and to enforce the aforementioned lien by all methods available for the enforcement of such liens, both judicially and by non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code (as same may be amended or revised from time to time hereafter).

In addition to and in connection therewith, by acceptance of the deed to its Lot, each Owner expressly GRANTS, BARGAINS, SELLS AND CONVEYS in the President of the Foundation from time to time serving as trustee (and to any substitute or successor trustee as hereafter provided for) such Owner's Lot and all rights appurtenant thereto, for the purpose of

securing the said Assessments, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time.

It is the intent of this Subsection to comply with the Texas Property Code regarding non-judicial sales by power of sales provisions.

Each Member, 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 Foundation, and in its officers and agents, the right, power and authority to take all action which the Foundation shall deem proper for the collection of assessments and/or for the enforcement and foreclosure of the liens securing the same. THE PROVISIONS OF CHAPTER 209 OF THE PROPERTY CODE OF THE STATE OF TEXAS, as amended from time to time, shall be complied with by the Foundation.

The collection of such Assessments and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs, late fees and attorney's fees, shall be chargeable to and be a personal obligation of such defaulting Owner. Notice of the lien referred to above may, but shall not be required to, be given by the recordation in the Official Public Records of Real Property of Galveston County, Texas of an affidavit, duly executed, sworn to and acknowledged by an officer of the Foundation or its duly authorized employee or agent, setting forth the amount owed, the name of the Owner (or Owners) of such Lot, according to the books and records of the Foundation, the legal description of such Lot, or in such other manner as may be specified by the Texas Property Code.

Failure by the Board of Directors or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

ARTICLE VII. Architectural Control

Section 1. Approval of Plans. No building, structure, dune walkover, fence, wall, or other improvements shall be commenced, erected, constructed, placed or maintained upon a Lot, nor shall any exterior addition to or change or alteration therein be made until the detailed plans

and specifications therefore shall have been submitted to and approved in writing as to compliance with minimum structural and mechanical standards, location and situation on the Lot, and as to harmony of external design or location in relation to property lines, building lines, easements, grades, surrounding structures, walks, and topography (including the orientation of the front and rear of any such building with respect to the Lot lines), and full compliance with the Pattern Book and by the Town Architect. Before written approval for a proposed improvement and/or modification will be provided, all appropriate Applications must be submitted and all fees owed to the Foundation or Town Architect must be paid in full. In addition, the Town Architect may reasonably require structural, mechanical, electrical, and plumbing detail and the nature, kind, shape, height, exterior color scheme, materials to be incorporated into, and location of the proposed improvements or alterations thereto which will insure compliance of any proposed improvement or alteration with the Pattern Book. Without limitation of the powers herein granted, the Town Architect shall have the right to specify requirements for each Lot as follows: minimum setbacks; the location, height, and extent of fences, walls, or other screening devices; color schemes; and the orientation of structures with respect to garage access and major entry and frontage.

The Town Architect also shall have full power and authority to reject any plans and specifications that do not comply with the Pattern Book and the restrictions herein imposed or meet its minimum construction requirements, including that criteria adopted for building disaster resistant homes (i.e. the Institute for Business and Home Safety {IBHS}). THE TOWN ARCHITECT MAY REJECT ANY PLANS SUBMITTED FOR REVIEW THAT, IN ITS SOLE DISCRETION, DO NOT SATISFY THE ARCHITECTURAL DESIGN REQUIREMENTS OR THAT MIGHT NOT BE COMPATIBLE WITH THE DESIGN OR OVERALL CHARACTER AND AESTHETICS OF THE PROPERTY.

The Town Architect may require a reasonable fee for performing the functions herein prescribed, and may disapprove plans, specifications, designs and plot plans for failure to pay such fee. During the period of Declarant control, the Town Architect shall be appointed by the Declarant.

The primary goal of the Town Architect and Architectural Control is to review applications, plans, specifications, materials and samples submitted by Owners in order to determine if the proposed improvement or modification conforms in appearance and design with

the standards and policies set forth. The Declarant, the Foundation and the Town Architect do not assume responsibility for the following:

1. The structural adequacy, capacity or safety features of the proposed improvement or structure.
2. Soil erosion or unstable soil conditions.
3. Compliance with any or all building codes, safety requirements, or state laws, regulations or ordinances.
4. Performance or quality of construction performed by any applicant or his subcontractor(s).
5. Marketability of the product.
6. The Financial Solvency of any builder and/or architect.
7. The approval of or satisfaction from any plans or designs submitted by a recommended builder and/or architect.
8. The accuracy of current base flood elevations or the possibility that base flood elevations may change in the future.

Section 2. Replacement. During the period of Declarant control, in the event of death, termination by Declarant, or resignation by any of the individuals or entities acting as Town Architect, the Declarant or the Appointed Board of the Foundation shall, within thirty (30) days of the death, termination or resignation, appoint a successor Town Architect, and until such successor Town Architect has been so appointed, no one shall have authority to approve or disapprove plans, specifications and plot plans submitted. Following the period of Declarant control, in the event of death, termination by the Board of Directors, or resignation by any of the individuals or entities acting as Town Architect, the Board of Directors of the Foundation shall, within thirty (30) days of the death, termination or resignation, appoint a successor Town Architect, and until such successor Town Architect has been so appointed, no one shall have authority to approve or disapprove plans, specifications and plot plans submitted.

Section 3. Changes to the Pattern Book. Upon the recommendation of the Town Architect and the approval of a majority of the Board of Directors or Appointed Board, the Pattern Book may be amended. The Pattern Book in current place (and all amendments thereto) at the time an Owner submits an application for construction review of an improvement to the Town Architect will be the version utilized in the architectural control process. IT IS AN

OWNER'S RESPONSIBILITY TO ACQUIRE THE APPLICABLE CURRENT VERSION OF THE PATTERN BOOK BEFORE DESIGNING ANY IMPROVEMENT AND/OR MODIFICATION AND TO PROVIDE SAME TO AN OWNER'S CHOSEN ARCHITECT. TO FACILITATE THIS PROCESS, AN OWNER AGREES TO PROVIDE TO THE TOWN ARCHITECT THE NAME AND CONTACT INFORMATION FOR THE OWNER'S CHOSEN ARCHITECT AND BUILDER BEFORE INSTIGATING THE DESIGN PROCESS.

Section 4. Variances. Where circumstances, such as topography, location of property lines, location of trees, or other matters require, the Town Architect may allow reasonable variances as to any requirement of the Pattern Book on such terms and conditions as he or she shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property. The approval by the Town Architect of any plans and specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of same, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent. Any variance granted shall be applicable only to the factual basis and specific instance giving rise to it and may not be used by any Owner as a basis for a variance for a different Lot.

ARTICLE VIII. Other Easements

Section 1. The rights and duties of the Owners of Lots within the Property with respect to sanitary sewer and water, electricity, telephone and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer house connections and/or water house connections or electricity, or telephone and cable television lines or drainage facilities are installed within the Property, which connection lines or facilities or any portion thereof, lie in or upon Lots owned by the Foundation or any entity other than the Owner of a Lot served by said connections, lines or facilities, such Owners of Lots served shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots in or upon which said connections, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below.

(b) Wherever sanitary sewer house connections and/or water house connections or electricity, telephone or cable television lines or drainage facilities are installed within the Property, which connections serve more than one (1) Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections which service his Lot.

Section 2. Easements over the Lots and Common Property for the installation and maintenance of electric, telephone, cable television, water, sidewalks and pedestrian walkways, sanitary sewer lines and drainage facilities within the Easement Property are hereby reserved by Declarant, together with the right to grant and transfer same.

Section 3. Public Streets. All Lots within the Subdivision shall abut and have access to a public street, lane, drive, or road, as set forth on the Subdivision Plat, as amended.

ARTICLE IX. Utility Bills, Taxes and Insurance

Section 1. Obligations of the Owners.

(a) Each Owner shall have his separate electric, gas (if and when available) and water meter and shall directly pay at his own cost and expense for all electricity, gas (if and when available), water, sanitary sewer service, telephone service, cable television and other utilities used or consumed by him on his Lot. Each Owner acknowledges that, during construction, a temporary electric box and water tap must be obtained from the appropriate service providers and that a fine, commensurate with the nature of the offense, will be imposed upon any Owner who uses water or electricity without setting up their own service. Each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority with respect to the occupancy and use of its Lot and with the provisions hereof, and the By-Laws.

(b) Each Owner shall directly render for taxation his own Lot and improvements thereon, and shall at his own expense and cost directly pay all taxes levied or assessed against or upon his Lot and his improvements and property thereon.

(c) Each Owner shall be responsible at his own cost and expense for his own property insurance on the building and contents of his own residence, and his additions and improvements thereto, including decorations, furnishings and personal property therein; and also for his

personal liability not covered by liability insurance for all Owners which may be obtained by the Foundation as part of the common expense in connection with the Common Property. Nothing shall be done in or kept in or on any Lot that will increase the rate of insurance on the Subdivision or any other Lot over that applicable to residential Lots, or result in uninsurability of the Subdivision, or any part thereof, or the cancellation, suspension, modification or reduction of insurance in or on or covering the Subdivision or any part thereof. If, by reason of the occupancy of any Lot, by an Owner in contravention of the Restriction set forth herein, or in the By-Laws, the rate of insurance on all or any portion of the Subdivision shall be increased, such Owner shall immediately cease any such use and shall be personally liable to the Subdivision for such increase caused thereby and such sum shall be payable to the Subdivision upon presentation to such Owner by the Subdivision of a statement thereof.

Section 2. Obligation of the Foundation.

(a) The Foundation shall pay as a common expense of all Owners, for all water, electricity and other utilities used in connection with the enjoyment and operation of the Common Property or any part thereof. The Foundation shall maintain the Property shown and identified on the Subdivision Plat as a park, Square, sidewalks, pedestrian walkways and Passages, greenbelts, public dune walkovers, beaches, open space reserves, private dune walkovers, trails, lighting, lagoon walkovers, restrooms, mailboxes, beach access, parking reserves, landscape reserves and subdivision entrances and other subdivision amenities as may be created and/or added to the Subdivision which are not currently identified on the Subdivision plat including, but not limited to, swimming pools, tennis courts, community centers, and any other facility erected for community use or the common benefit of the members of the Foundation ("Common Facilities") and shall pay the cost of such maintenance as a common expense of all Owners. Declarant will have the right, but not the obligation, to construct and/or add Common Facilities to the Subdivision. Declarant further has the right to affect a relationship with the owner of other facilities placed within other structures located within or close to the Subdivision (which may or may not be owned by Declarant) such that the membership of the Foundation may utilize these facilities. An example of such an arrangement would include a hotel structure that includes a pool which may be used by both the guest of the hotel as well as members of the Foundation. In such instance the additional \$200 maintenance fee as set forth in Article VI Section II, may be charged directly by the Foundation and, along with other monies

held within the maintenance fund, be used as compensation paid to any hotel operator, or other third party entity, for allowing the membership to utilize recreational facilities, including but not limited to, swimming pools, which may be placed within the hotel facility or any other facility owned by a party other than the Foundation. Declarant further has the right, but not the obligation, to fund the construction and/or repair and maintenance of any Community Facility added to the Subdivision by charging a fee to use any Common Facility and, in such instance, the maintenance charge assessed to all owners of Lots within the Beachtown Galveston Subdivision will not include any fees associated with the expense of the Common Facility.

(b) The Foundation shall render for taxation and, as part of the common expenses of all Owners, shall pay all taxes levied or assessed against or upon the Common Property and the improvements and the property appertaining thereto.

(c) The Foundation and/or Board of Directors and/or Appointed Board and/or Declarant shall have authority to obtain and continue in effect as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Property and the contents thereof and the Foundation against the risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, in such limits as the Foundation deems proper, and said insurance may include coverage against vandalism and such other coverage as the Foundation may deem desirable.

The Foundation shall also have the authority to obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Foundation, its Board of Directors or Appointed Board, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the Common Property.

The Foundation shall also have the authority to obtain comprehensive general liability insurance in such limits as it shall deem desirable, insuring the Foundation against claims for personal injury or death or property damage suffered by the public or any Owner, the family, agent, employee or invitee of any Owner, occurring in, on or about the Common Property or upon, in or about the driveways, roadways, lagoons, walkways and passageways, or other areas on or adjoining the Subdivision, which general liability and property damage insurance policy shall be in amounts as the Board of Directors or Appointed Board shall deem desirable.

The Foundation shall also have the authority to obtain such worker's compensations insurance as may be necessary to comply with applicable laws.

The Foundation shall also have the authority to obtain liability insurance insuring the Board of Directors or Appointed Board, the Town Architect, or officers of the Foundation against any claims, losses, liabilities, damages or causes of action arising out of or in conjunction with or resulting from an act or omission in their representative capacity.

(d) All costs, charges and premiums for all utility bills, taxes, and any insurance to be paid by the Foundation as hereinabove provided shall be paid out of the Maintenance Fund as a common expense of all Owners and shall be a part of the maintenance assessments.

(e) Each Owner and the Foundation hereby agree to waive any rights of subrogation against the Declarant and each other.

ARTICLE X. Maintenance and Repairs

Section 1. By the Owners. It shall be the duty, responsibility and the obligation of each Owner at his own cost and expense to care for, maintain and repair the exterior and interior of his residence house and improvements on his Lot and the fixtures, appliances, equipment and other appurtenances thereto and also including the private dune walkover and the private driveway appurtenant to his residence house and situated on his Lot. The Foundation shall have no duty or obligation to any Owner in this regard. It shall be the duty, responsibility and the obligation, financial or otherwise, of each Owner at his own cost and expense to repair all Common Property, whether deemed by the Foundation to be public or private, for all damages to the Common Property, including common sidewalks located on an Owner's Lot, caused by the Owner, any occupant of his Lot, or guest. An Owner is responsible for the curb cuts into the portion of the sidewalk that occupies his Lot, and no Owner may place anything on a sidewalk which obstructs egress or ingress and may not cover same. All fences erected by an Owner following architectural approval shall be located behind the sidewalk so that same is maintained as a common pedestrian thoroughfare.

Section 2. By the Foundation. The Foundation, as a common expense of all Owners, shall perpetually care for, maintain and keep in good repair the Common Property and all parts thereof, including but not limited to, any entrance structures, public dune walkovers and any facilities owned by the Foundation, except that it shall be the obligation of each Owner, and not the obligation of the Foundation, to pay for the cost of repair and maintenance of private

driveways, and fence or fences which are located upon his Lot. The Foundation shall pay for the cost of repair and maintenance of sidewalks located on Lots and will be responsible only for the repair of ordinary wear and tear. Each Owner of a Lot that contains a sidewalk shall be responsible for notifying the Foundation of the sidewalk's need for repair.

**ARTICLE XI.
Restrictions of Use**

Section 1. Single Family Residential Construction.

A. Beachtown Galveston Village One, Section One. With the exception of structures to be built upon Reserves (whether designated as commercial, parking or other) shown upon the filed plat, as amended and/or replatted, for Beachtown Galveston Village One, Section One, or Block Seven (7), Block Nine (9), Block Ten (10) {Lots 3-7} and Block Eleven (11) upon which residential multifamily complexes may be erected, no building shall be erected, altered or permitted to remain on any single lot or lots located within Beachtown Galveston Village One, Section One, other than one detached single-family residential dwelling and a carriage house as provided for in the Pattern Book. No such residence shall be constructed on less than the equivalent of two (2) full lots as defined or shown on the filed plat, as amended, for Beachtown Galveston Village One, Section One. A single family residence will be permitted to be placed or constructed on a single lot for the following lots located within Beachtown Galveston Village One, Section One: Block Ten (10) {Lots 1-2}. A one lot townhouse will be permitted to be placed or constructed on one (1) lot or lots located within Block Seven (7), Block Nine (9), Block Ten (10) {Lots 3-7} and Block Eleven (11) located within Beachtown Galveston Village One, Section One. With respect to the Reserves shown on the filed plat, as amended, for Beachtown Galveston Village One, Section One, the Owner may use such property for the uses provided for, and build any structure allowed, under Sections 29-100 of the Zoning Standards of the City of Galveston (1999), as it may be amended from time to time. Lots located within Beachtown Galveston Village One, Section One platted for commercial use may be used for residential purposes and may include residential improvements if the residential structure adheres to the guidelines promulgated in the Pattern Book. Commercial and special use districts may include multifamily residential units.

B. Beachtown Galveston Village One, Section Two. With the exception of structures to be built upon Reserves (whether designated as commercial, parking or other) shown

upon the filed plat, as amended and/or replatted, for Beachtown Galveston Village One, Section Two, or Block One (1) {Lots 1-4} (formerly known as Commercial Reserve A and replatted as set forth in the map records of Galveston County Volume 2006A, Pages 8-9) and Block Six (6) {Lots 1-4} (formerly known as Commercial Reserve L and replatted as set forth in the map records of Galveston County Volume 2006A, Pages 8-9) upon which residential multifamily complexes may be erected, no building shall be erected, altered or permitted to remain on any single lot or lots located within Beachtown Galveston Village One, Section Two, other than one detached single-family residential dwelling and a carriage house as provided for in the Pattern Book. No such residence shall be constructed on less than the equivalent of two (2) full lots as defined or shown on the filed plat, as amended, for Beachtown Galveston Village One, Section Two. A single family residence will be permitted to be placed or constructed upon a single lot for the following lots located within Beachtown Galveston Village One, Section Two: Block One (1) {Lot 6}. A one lot townhouse will be permitted to be placed or constructed on one (1) lot or lots located within Blocks One (1) {Lots 1-4} and Six (6) {Lots 1-4}, as replatted, located within Beachtown Galveston Village One, Section Two. With respect to the Reserves shown on the filed plat, as amended, for Beachtown Galveston Village One, Section Two, the Owner may use such property for the uses provided for, and build any structure allowed, under Sections 29-100 of the Zoning Standards of the City of Galveston (1999), as it may be amended from time to time. Lots located within Beachtown Galveston Village One, Section Two platted for commercial use may be replatted for residential purposes and may include residential improvements if the residential structure adheres to the guidelines promulgated in the Pattern Book. Commercial and special use districts may include multifamily residential units.

C. Beachtown Galveston East Village. With the exception of structures to be built upon Reserves (whether designated as commercial, parking or other) shown upon the filed plat, as amended, for Beachtown Galveston East Village, or Block Seven (7) {Lots 1-6 and 9-16}, Block Nine (9) {Lots 1-3}, Block Ten (10) {Lots 1-3}, Block Eleven (11) {Lots 1-3}, Block Twelve (12) {Lots 1-5}, Block Thirteen (13) {Lots 1-15}, Block Fourteen (14) {Lots 1-15} and Block Fifteen (15) {Lots 1-7} upon which residential multifamily complexes may be erected, no building shall be erected, altered or permitted to remain on any single lot or lots located within Beachtown Galveston East Village, other than one detached single-family residential dwelling and a carriage house as provided for in the Pattern Book. No such residence shall be constructed

on less than the equivalent of two (2) full lots as defined or shown on the filed plat, as amended, for Beachtown Galveston East Village. A single family residence will be permitted to be placed or constructed on a single lot for the following lots located within Beachtown Galveston East Village: Block Seven (7) {Lots 7-8} and Block Eighteen (18) {Lot 10}. The Declarant reserves the right, but not the obligation, to construct Common Facilities, as defined in this Declaration, on Block Five (5) {Lots 1-3} located within Beachtown Galveston East Village. With respect to the Reserves shown on the filed plat, as amended, for Beachtown Galveston East Village, the Owner may use such property for the uses provided for, and build any structure allowed, under Sections 29-100 of the Zoning Standards of the City of Galveston (1999), as it may be amended from time to time. Lots located within Beachtown Galveston East Village platted for commercial use may be replatted for residential purposes and may include residential improvements if the residential structure adheres to the guidelines promulgated in the Pattern Book. Commercial and special use districts may include multifamily residential units.

Section 2. Commercial Use. No part of the Property, except that portion of the Property shown on the Plat, as originally created or later amended, as a Reserve (whether designated as commercial, parking or other) shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purposes by an Owner, the Board of Directors or Appointed Board, or the Foundation. The Declarant further reserves the unilateral right to replat any of the Reserves located within the Property (whether designated as commercial, parking or other) to residential use.

No trade or business may be conducted in or from any Lot, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential Lot use within a Lot so long as (a) the existence or operation of the business is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (c) there is no business invitees or door-to-door solicitation of the residents of the Subdivision and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of other residents, as may be determined in the sole discretion of the Declarant, the Board of Directors or Appointed Board. By way of illustration but not limitation, a day-care facility, a real estate

office, church, nursery, home day care facility, beauty parlor, barber shop, pre-school, or other similar facilities are expressly prohibited. This Section does not apply to any activity conducted by the Declarant with respect to its development and sale of the Property including, but not limited to, the placement, erection, or maintenance of a real estate office for sale of Lots and residences within the Property.

Section 3. Number of Dwellings and Driveway. With the exception of residential multifamily complexes (including townhouses) which may be erected in accordance with Article XI, Section 1, no more than one (1) single family dwelling and accompanying carriage house shall be built on any two (2) Lots. One single family residence may be erected on the following Lots as each of the following listed Lots is larger in area than the ordinary sized Lot found within the subdivision: Block Ten (10) {Lots 1-2} located within Beachtown Galveston Village One, Section One; Block One (1) {Lot 6} located within Beachtown Galveston Village One, Section Two; Block Seven (7) {Lot 7-8} and Block Eighteen (18) {Lot 10} located within Beachtown Galveston East Village. Each single family dwelling and accompanying carriage house must be served by a private driveway off of a public roadway shown upon the Subdivision Plat. If a residence is constructed upon two (2) Lots and garage access for the residences is from a road and/or a drive (rather than a lane), the residence may have one (1) driveway accessing the garage. If a residence is constructed upon three (3) Lots and garage access for the residence is from a road and/or a drive (rather than a lane), the residence may have two (2) driveways. If a townhome is constructed such that a garage access is from a road and/or a drive and not a lane (front loaded), the townhome may have one (1) driveway per Lot.

Section 4. Prohibition of Offensive Activities. No noxious or offensive trade or activity shall be conducted, whether for profit or not, on any Lot. No activity which may become an annoyance or nuisance to the other Owners, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective dwelling Lot, or which shall in any way increase the rate of insurance, or which will degrade property values, or distract from the aesthetic beauty of the Subdivision, shall be conducted.

Section 5. Temporary Structures. No structures of a temporary character, trailer, tent, shower, garage, barn, construction trailer, or other outbuilding shall be constructed, erected, altered, placed or permitted to remain on any Lot at any time as a residence or other use, either temporarily or permanently except such buildings or structures as may be hereafter permitted.

Section 6. Animal Husbandry. Dogs, cats, or usual and ordinary household pets (excluding horses or livestock) may be kept in any dwelling Lot upon a Lot, (not to exceed a total of two (2) pets, provided they are not kept, bred, or maintained for any commercial purpose.) Notwithstanding the foregoing, no animals or fowl may be kept on the Property which results in any annoyance or are obnoxious to residents' of the Subdivision.

Section 7. Parking or Storage of Automobiles, Boats, Trailers, Other Vehicles and Equipment. No motorcycle, moped, boat, boat and trailer, jet ski, trailer, house trailer, mobile home, recreational vehicle, camper or any other similar transportation vehicle or device shall be parked on any roadway overnight. No such vehicle shall be allowed to be stored within any lot unless within a garage and shielded from view.

No mobile home, trailer, camper, boat, truck larger than a three-quarter (3/4) ton pickup, or similar equipment shall be parked or stored permanently or semi-permanently on any street, right-of-way or on driveways. Permanent or semi-permanent storage of such vehicles or items must be screened from public view or kept within a garage. The Board of Directors of the Foundation may adopt rules for the regulation of the admission and parking of vehicles within the Common Property, including the assessment of charges to Owners who violate, or whose invitees violate, such rules. Under no circumstances may repairs to any vehicles or equipment be made on the Property except when screened from public view within a garage.

Section 8. Visual Screening on Lots. The drying of clothes in public view is prohibited. Similarly, all yard equipment, woodpiles or storage piles shall be kept screened by a service yard or other similar facility as herein otherwise provided, as to conceal them from view from neighboring Lots.

Section 9. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupants of all improved Lots shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of material and 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 except by use of an incinerator approved by Declarant, and then only during such condition as is permitted by law. The Foundation shall be responsible for mowing all unimproved Lots. The expense of such mowing shall be paid by the Foundation from the \$150.00 fee paid by the Owner of each unimproved Lot pursuant to Article

VI, Section 2. In the event of default on the part of the Owner or occupant of any improved Lot in observing the above requirements, or any of them, such default continuing for ten (10) days after the mailing of written notice thereof to the Owner at the address for the Owner shown on the Foundation's records, the Declarant, the Foundation, or its assignee or designee, may without liability to the Owner or occupant, in trespass or otherwise, enter upon said Lot, cut, or cause to be removed, such grass, weeds, garbage, trash and rubbish, or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant, as the case may be, for said services, and the Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's lien is herein and hereby retained against the Property in favor of Declarant or their assignee but inferior to purchase money liens or mortgages. Such vendor's lien shall be applicable and effective whether mentioned specifically in each deed or conveyance by Declarant or not.

Section 10. Removal of Dirt and Trees. 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, except to provide room for construction of improvements or to remove dead or unsightly trees. Any landscaping placed, planted, and/or installed by Declarant or the Foundation within the landscape easement (including, but not limited to, trees, soil, flowers, etc) may not be removed from same without the written permission of the Foundation or the Declarant.

Section 11. Right of Inspection. During reasonable hours and after reasonable notice, the Foundation shall have the right to enter upon and inspect the Property or any portion thereof and the exterior portions of improvements thereon for the purpose of ascertaining whether or not the provisions of this Declaration are being complied with and shall not be deemed guilty of trespass by reasons thereof.

Section 12. New Construction. All buildings or structures on the Property shall be constructed of new or like new materials. All buildings or structures, except for commercial buildings which may be built upon the Reserves (whether designated as commercial, parking or other) shown upon the Subdivision Plat, as created or amended, must be completed within one (1) year of start of construction or such reasonable time thereafter, subject to force majeure. The

“start of construction” for purpose of this paragraph is defined as an Owner of a Lot in receipt from the Town Architect, the Foundation or any governmental body of all written approvals required from same prior to beginning the construction of an improvement upon a Lot including, but not limited to, written architectural approval as well as some physical evidence on the Lot that construction of a residence has begun. All buildings and structures on the Property, except for commercial buildings which may be built upon the Reserves (whether designated as commercial, parking or other) must have begun their construction within two (2) years from the initial date of purchase from the Declarant of the Lot and/or Lots upon which the improvement shall be erected or within two (2) years from the date of the substantial completion of the Property; i.e. the date upon which the City of Galveston accepts the Property, and its facilities, sufficient to allow the issuance of building permits, whichever is later. Failure to begin construction of a residential improvement within two (2) years of the above designated dates will result in the imposition by the Foundation of a cumulative \$1,000.00 per Lot, per year fine (exclusive of the annual maintenance fee assessment) upon the Owner of the Lot and/or Lots until the construction of a residential improvement upon the Lot and/or Lots. Failure to begin construction of a residential improvement within three (3) years of the above designated dates will result in an additional cumulative \$2,000.00 per Lot, per year fine (added to the prior accumulating fine, being a total of \$3,000.00 per Lot, per year and exclusive of the annual maintenance fee assessment) until the construction of a residential improvement upon the Lot and/or Lots. Failure to begin construction of a residential improvement within four (4) years of the above designated dates will result in the imposition of an additional cumulative \$3,000.00 per Lot, per year fine against the Owner of a Lot and/or Lots (added to the prior accumulating fines, being a total of \$6,000.00 per Lot, per year and exclusive of the annual maintenance fee assessment) until the construction of a residential improvement upon the Lot and/or Lots. Every year thereafter, an additional cumulative \$4,000.00 per Lot, per year fine shall be imposed (added to the prior accumulating fine, being a total of \$10,000.00 per Lot, per year and exclusive of the annual maintenance fee assessment) until construction of a residential structure is initiated. The above noted fines imposed per Lot are cumulative and in addition to the annual maintenance fee assessed, are due and payable with first quarter assessments, and will be enforced in accordance with the procedures established in Article XII, and are secured by the lien described in Article XI. The Declarant, its successors or assigns shall be exempt from the fines and time

requirements established for erecting a residential improvement and commercial structures. Prior to the completion of a building or structure on a Lot or Lots located within the Subdivision a fence must be erected on the Lot or Lots consistent with the requirements set forth in the Pattern Book. The Contractor shall furnish trash containers and, at all times, keep the premises free from accumulation of trash and scrap caused by construction. Prior to construction beginning on any Lot, the storage locations of any trash receptacles, portable toilets, and any building materials must be predetermined and approved by the Foundation and/or its agents. All trash receptacles, portable toilets, and any building materials to be utilized during the construction of an improvement upon a Lot must be located within the parameters of the Lot at the preapproved location. Should a Lot Owner and/or builder fail to keep the construction items noted above at the predetermined location, the Foundation may, without any penalty of trespass, enter and remove from the Lot or any location within the subdivision, all construction materials including, but not limited to, trash receptacles, portable toilets, and any building materials to be utilized in the construction of an improvement on a Lot. An Owner and the builder shall be solely responsible for any and all damage which occurs to existing sidewalks, lights and landscaping during the construction process and same shall repair and/or replace, or pay for the repair or replacement of, any common element damaged during the construction. Prior to construction, a builder must submit to the Foundation, the Town Architect, or any of its agents, all documentation required by the Foundation and, before beginning construction, a builder must obtain written approval from the Foundation. Construction activities shall not take place before noon on Saturdays, Sundays and Holidays. Radios and domestic animals are not allowed on construction sites.

Section 13. Rental of Dwellings. Dwellings may be rented, subject only to rules and regulations established by the Beachtown Community Foundation Corp. Rental of such dwellings will only be allowed if managed by a professional rental agency.

Section 14. Declarant's Use for Sales. Notwithstanding any other provisions of Article XI, the Declarant may make such use of the Common Properties and Common Facilities and Lots as is reasonably necessary to facilitate and complete the improvements to the Land, construction of the Building, the operation of Declarant's sales efforts and the showing of the Lots and any unsold Lots within the Subdivision, providing space for the closing of sales transactions covering other unsold Lots owned by Declarant and the placing of signs or other

advertising materials in or about such unsold Lots. The provisions of this subsection shall not prohibit the use by the Foundation of all Common Properties and Common Facilities in any reasonable manner necessary in connection with the operation and maintenance of the Subdivision.

Section 15. Signage. No billboards, sign boards, unsightly objects, or advertising displays of any kind shall be installed, maintained or permitted to be erected and/or remain on any Lot, commercial or residential, located within the Subdivision except those pre-approved or pre-designed by the Foundation or the Declarant. Sales and/or rent information of any kind is not permitted on any signage within the Subdivision on and for the residential (including townhomes) Lots. The Foundation retains the right to create common signage, to be utilized throughout the Subdivision, for any purpose, and each Owner shall be required to both pay for the signage and place same on their Lot within the Subdivision. The Foundation retains the right to remove, without any penalty in trespass, all signs erected within the Subdivision that are not approved by the Foundation. The Owner and/or builder will be solely responsible for all costs incurred in connection with the removal of the non-approved signage.

ARTICLE XII. General Provisions

Section 1. Rules and Regulations. The Declarant and/or the Foundation may adopt, create, amend, repeal and enforce rules and regulations as may, in their sole discretion, be deemed necessary or desirable with respect to the implementation of the provisions of this Declaration, the operation of the Foundation, the use and enjoyment of the Common Area (including any beach property owned by the Foundation or Declarant), and the use of any other property, facilities or improvements owned or operated by the Foundation and/or the Declarant.

Section 2. Enforcement. The Foundation or any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Foundation or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

A. Fines. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner enforceable and collectable in the manner established in Article VI of this Declaration and to suspend an Owner's right to vote or any person's right to use the Common Area, for violation of any duty imposed under the Declaration, the By-Laws, or any rules and regulations duly adopted hereunder. In the event that any occupant, guest or invitee of a Lot violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant, guest, or invitee; provided, however, if the fine is not paid by the occupant, guest or invitee within the time period set by the Board, the Owner shall pay the fine upon notice from the Foundation. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter. The Board shall not impose a fine (a late charge shall not constitute a fine) unless and until the following procedure is followed:

(1) **Notice.** Prior to imposition of a fine hereunder, the Board or its delegate shall serve the alleged violator with written notice, sent by certified mail, describing (a) the nature of the alleged violation, (b) the proposed fine to be imposed, (c) a period of not less than thirty (30) days within which the alleged violator may present a written request to the Board of Directors for a hearing and (d) a statement that the proposed fine shall be imposed as contained in the notice unless a challenge is begun within thirty (30) days of the notice. If a timely challenge is not made, the fine stated in the notice shall be imposed.

(2) **Hearing.** If a hearing is requested within the allotted thirty (30) day period, the hearing shall be held in an executive session of the Board of Directors of the Foundation affording the alleged violator a reasonable opportunity to be heard. Proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The Board of Directors may, but shall not be obligated to, suspend any proposed fine if the violation is cured within the thirty (30) day period. Such suspension shall not constitute a waiver of the right to fine future violations of the same or other provisions and rules by any Owner, occupant, guest or invitee.

(3) Appeal. Following a hearing before the Board of Directors, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Foundation within thirty (30) days after the hearing date.

B. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Foundation, acting through the Board of Directors, may elect to enforce any provision of the Declaration, By-Laws, or the rules and regulations of the Foundation by suspending an Owner's right to vote or any Person's right to use the Common Areas, or by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

Section 3. Severability. Invalidation of any one of these covenants or restrictions shall be deemed independent and the invalidity or partial invalidity in no way may affect any other provision, which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by a vote or an agreement memorialized in an instrument signed by no less than seventy-five percent (75%) of the Owners, and thereafter by an instrument signed by not less than sixty-seven percent (67%) of the Owners. Any written amendment to this Declaration must be signed and certified by the duly authorized officers of the Foundation, attesting to the proper adoption of such amendment and containing the text thereof, and then be recorded with the Official Public Records of Real Property of Galveston County, Texas to be effective.

An action to challenge the validity of an amendment to the Declaration adopted by the Foundation under this Section must be brought before the first anniversary of the date the amendment is recorded.

Section 5. Amendments by Declarant. The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, to bring into compliance with any applicable governmental statute, rule or regulation, or judicial determination, to enable any reputable title insurance company to issue title insurance coverage on the Lots, if required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Foundation or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots, or if necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidence by the Declaration, and shall not impair or affect the vested property or other rights of any Owner or his mortgagee unless the Owner shall consent thereto in writing.

The Declarant further reserves the unilateral right to amend this Declaration for any purpose at any time prior to the election of the fully elected Board of Directors.

The By-Laws of the Foundation may be amended from time to time as set out in the By-Laws.

Section 6. Books and Records. The books and records of the Foundation shall, during reasonable business hours, be subject to reasonable inspection by any member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any member or members will not become burdensome to nor constitute harassment of the Foundation. The Declaration, the Articles of Incorporation and the Bylaws of the Foundation shall be available for inspection by any member at the principal office of the Foundation where copies may be purchased at reasonable cost.

Section 7. Conflict Between Provisions. In the event of any conflict among the terms and provisions of this Declaration, the Articles of Incorporation of the Foundation, the By-Laws, or between any of them, the Articles of Incorporation shall control over the By-Laws; this Declaration shall control over the Articles of Incorporation, and the applicable law shall control over all of the foregoing.

Section 8. Declarant's Restriction Upon Sale of Residence Lots. During the first five (5) years after the sale of the first Lot by Declarant, the Declarant hereby reserves the right to restrict the sale of a Lot by an Owner, such that said Lot offered by an Owner shall not be offered for sale at a price below the current purchase price established by Declarant for Lots owned by Declarant.

A. Right of First Refusal.

(1) **Notice of Lot Owner.** Any Lot Owner who receives a bona fide offer for the purchase of his Lot during the first five (5) years after the sale of the first Lot by Declarant at a price below the current purchase price established by Declarant for Lots owned by Declarant (hereinafter called "Outside Offer") which he intends to accept, shall give written notice to the Declarant of such offer and of such intention, the name and address of the proposed grantee and such other information as the Declarant may reasonably require.

(2) **Offer to Declarant.** The Owner shall thereupon offer to sell such Lot to the Declarant or its designee, corporate or otherwise, on behalf of the Owners of all other Lots in the Property, on the same terms and conditions as contained in such outside offer; however, if the terms and conditions provide for a mortgage at the time of transfer, the Declarant may, at its option, pay for the Lot in cash. The time for closing by the Declarant may be extended up to fifteen (15) days beyond the election of the Declarant to so purchase the Lot.

(3) **Representation by Owner.** The giving of such notice shall constitute a warranty and representation by the Owner who has received such offer, to the Declarant on behalf of the other Owners, that such Owner believes the outside offer to be bona fide in all respects and that he intends to accept it.

(4) **Election by Declarant.** Within fifteen (15) days after the receipt of such notice, the Declarant may elect, by notice to such Owner, to purchase such Lot or to cause the same to be purchased by its designee, on the same terms and conditions as contained in the outside offer.

B. Failure to Accept Offer. In the event the Declarant shall fail to accept such offer within the above-described fifteen (15) day period, as foresaid, the offering Lot Owner shall be free to contract to sell such Lot to the outside offeror, on the terms and conditions set forth in the notice of such outside offer. Declarant's right of first refusal extends to each and every offer to purchase a Lot and/or Lots which is bona fide and memorialized in a written contract. Each bona fide written offer to purchase a Lot and/or Lots, whether same arises between parties to an earlier

failed or terminated outside offer, is a counter offer, or is the result of an amended or supplemental outside offer, shall be subject to Declarant's right of first refusal.

C. **Violation.** Any purported sale of any Lot in violation of this provision shall be voidable within five (5) years from date of recording the document evidencing such sale at the election of the Declarant, and the Declarant may take such other action against the parties to such transaction as permitted by law.

SECTION 9. NOTICES. OWNERS OF LOTS ARE ADVISED THAT DECLARANT OWNS LAND ADJACENT TO THE PROPERTY. OWNERS OF LOTS HEREBY AGREE TO HOLD HARMLESS THE DECLARANT AND THE FOUNDATION (AS DEFINED HEREIN), AND THEIR SUCCESSORS AND ASSIGNS, AND RELEASE THEM FROM ANY LIABILITY FOR THE PLACEMENT, CONSTRUCTION, DESIGN, OPERATION, MAINTENANCE AND REPLACEMENT OF ANY IMPROVEMENT AND/OR ANY USE DECLARANT MAY CHOOSE FOR SAID ADJACENT PROPERTY. OWNERS FURTHER GRANT AN EASEMENT TO THE DECLARANT AND THE FOUNDATION FOR ANY INCIDENTAL NOTICE, LIGHTING, ODORS, PARKING AND/OR TRAFFIC WHICH MAY OCCUR IN THE NORMAL OPERATION OF ANY IMPROVEMENT AND/OR USE WHICH MAY BE PLACED UPON SAID ADJACENT PROPERTY. OWNERS FURTHER GRANT AN EASEMENT TO THE DECLARANT AND THE FOUNDATION FOR ACCESS TO SAID ADJACENT PROPERTY. OWNERS HEREBY ACKNOWLEDGE THAT DECLARANT HAS MADE NO REPRESENTATIONS, WARRANTIES, AGREEMENTS, STATEMENTS, OR EXPRESSIONS OF OPINION, ORAL OR WRITTEN, NOR HAS OWNER RECEIVED FROM ANY PERSON OR ENTITY WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DECLARANT, ANY REAL ESTATE AGENT OR BROKER, PROPERTY MANAGER, TENANT, GOVERNMENTAL OFFICIAL, OR SELLER, ITS FIDUCIARIES, AGENTS, ATTORNEYS, PRINCIPALS, OR PERSONAL REPRESENTATIVES ANY REPRESENTATIONS, WARRANTIES, AGREEMENTS, STATEMENTS, OR EXPRESSIONS OF OPINION, ORAL OR WRITTEN, AS TO ANY FUTURE USE OF SAID ADJACENT PROPERTY UPON WHICH ANY OWNER HAS RELIED TO BASE THE DECISION TO PURCHASE A LOT. OWNERS FURTHER ACKNOWLEDGE

THAT DECLARANT HAS NO DEFINITIVE PLAN(S) AS TO ANY EXPECTED USE OF SAID ADJACENT PROPERTY, AND OWNERS ARE PURCHASING A LOT WITH THE UNDERSTANDING THAT SAID ADJACENT PROPERTY MAY BE USED IN ANY NUMBER OF WAYS, INCLUDING WITHOUT LIMITATION, A USE THAT IS NOT PRESENTLY CONTEMPLATED BY DECLARANT ON THE DATE THIS DECLARATION IS RECORDED IN THE REAL PROPERTY RECORDS OF GALVESTON COUNTY, TEXAS.

SECTION 10. WETLANDS AND LAGOONS.

USE OF AND ACCESS TO THE WETLANDS AND LAGOONS IS RESTRICTED. NO MEMBER OR INDIVIDUAL MAY ACCESS OR USE THE WETLANDS AND LAGOONS EXCEPT THROUGH THE MEANS AND ACCESS PROVIDED BY THE FOUNDATION, IF ANY.

(a) The Property contains a number of manmade, natural, and environmentally sensitive areas, including the Wetlands and Lagoons (the "Natural Areas"), that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes and other reptiles, alligators, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and Occupant of any Lot, and every person entering the Subdivision: (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within or through the Subdivision; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Subdivision.

(b) The natural areas and lagoons, as defined on Plat(s) for the Beachtown Galveston Subdivision, described in subsection (a) above may also contain creeks, lagoons, ponds, or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. The Foundation shall have the right to impose rules and regulations governing the use of the Natural Areas. No Owner of a Lot shall enter upon, or permit their guests or any other person acting on their behalf to enter upon the Wetlands and Lagoons in any way without the Foundation's or Declarant's prior written approval or in accordance with the Foundation's rules and regulations. Any Owner who violates the foregoing restrictive covenants shall be responsible for the cost of restoring the affected Natural Area to the satisfaction of the Foundation, Declarant, and any

Governmental Authority having jurisdiction thereof, and the Foundation shall have the right to prohibit the offending party from further use or enjoyment of the Natural Areas, if any is allowed, after prior notice and hearing before the Board.

(c) Declarant, acting in its discretion, retains the right, but not the obligation, to engage in wildlife and fishery management plans, coastal management plans, mitigation plans, and practices within the Property to the extent that such practices are permitted by applicable state and federal law. For the purpose of illustration and not limitation, this includes the right to manage and control any populations of wildlife through a variety of techniques. Declarant may, in its discretion, commission environmental studies and reports relating to the Property and the wildlife habitats located thereon, and may elect to follow or disregard any recommendations resulting from such studies. Declarant may assign these management rights to the Foundation in which event the expenses of such activities shall be funded by the Foundation.

(d) BECAUSE THESE AREAS ARE TO BE RETAINED IN THEIR NATURAL STATE, SUCH AREAS SHOULD BE CONSIDERED HAZARDOUS FOR RECREATIONAL ACTIVITIES, OTHER THAN BIRD WATCHING, HIKING, FISHING AND OTHER PASSIVE, ZERO-IMPACT ACTIVITIES, IF ANY IS ALLOWED BY THE FOUNDATION.

IF ACCESS INTO THE WETLAND AND LAGOON AREAS ARE ALLOWED, NEITHER THE FOUNDATION, NOR DECLARANT, NOR ANY OF THEIR AFFILIATES, HAS ANY OBLIGATION TO PROVIDE SECURITY OR SUPERVISION FOR ANY PERSON USING A NATURAL AREA, AND ALL PERSONS USING A NATURAL AREA DO SO AT THEIR OWN RISK.

NEITHER THE FOUNDATION NOR DECLARANT, DECLARANT'S AFFILIATES NOR ANY PREDECESSOR DECLARANT, SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CONDITION OF A NATURAL AREA OR ANY INJURY OR DEATH OCCURRING THEREON.

IF ANY NATURAL AREA, OR THE TREES OR VEGETATION THEREON, ARE DAMAGED OR DESTROYED BY FIRE, WINDSTORM, FLOOD, DISEASE, OR OTHER NATURAL OR MANMADE EVENT, NEITHER THE FOUNDATION, NOR DECLARANT, NOR ANY DECLARANT AFFILIATE, SHALL HAVE ANY

OBLIGATION TO REPAIR OR RESTORE THE DAMAGE OR DESTRUCTION, OR TO REMOVE ANY DEAD OR DAMAGED TREES OR OTHER VEGETATION.

IF ACCESS INTO THE NATURAL AREAS IS ALLOWED, AN OWNER AGREES TO ASSUME ANY AND ALL RISK INVOLVED IN ACCESSING THE NATURAL AREA INCLUDING, BUT NOT LIMITED TO, INJURY, ILLNESS, DAMAGE TO PERSONAL PROPERTY, EMOTIONAL TRAUMA, AND DEATH ARISING FROM THE NATIVE PLANTS, WILDLIFE, AND NATURAL OR MAN MADE TERRAIN AND WATERWAYS. OWNER ACKNOWLEDGES THE RISKS, HAZARDS, OR DANGERS INVOLVED AND AGREES TO RELEASE FULLY THE FOUNDATION, DECLARANT, AND ANY OF ITS AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, SUCCESSORS AND ASSOCIATES FROM ANY AND ALL CLAIMS, DEMANDS OR ACTIONS THAT MAY ARISE IN CONNECTION WITH ENTRY INTO THE NATURAL AREAS.

**ARTICLE XIII.
Reservation of Minerals**

There is hereby excepted from the land encompassed by the boundaries of this Subdivision, and Declarant will hereafter except from all its sales and conveyances of said land, or any part thereof, including the Common Property, all oil, gas and other minerals, provided that Declarant hereby retains and reserves and by each conveyance will retain and reserve the right, if any, to pool the land with other lands; however, Declarant hereby waives the right to use the surface of the Property, or any part thereof, for development of oil, gas and other minerals. Such exceptions and such retained rights and reservations, if any, shall inure to the benefit of Declarant and their heirs, executors, administrators, successors, and assigns and this waiver of surface rights by Declarant shall be effective even if Declarant fails to so state in any instrument or deed conveying an interest in the Property.

IN WITNESS WHEREOF, the undersigned, being the Declarant and Lienholder(s), has hereunto set their hand this 12 day of July, 2006.

BEACHTOWN GALVESTON VILLAGE ONE, SECTION ONE, DECLARANT

BEACHTOWN GALVESTON REAL ESTATE, LTD.
A Texas Limited Partnership, in its capacity as
successor in interest to and assignee of
BEACHTOWN GALVESTON VILLAGE ONE LTD.

By: Beachtown Galveston Corporation
Its: General Partner


By: TOFIGH SHIRAZI
Title: President


DECLARANT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this day personally appeared TOFIGH SHIRAZI, President of Beachtown Galveston Corporation, in its capacity as General Partner of BEACHTOWN GALVESTON REAL ESTATE, LTD., 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, and in the capacity therein stated, and as the act and deed of said association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of July, 2006.




Notary Public in and for the State of Texas

BEACHTOWN GALVESTON VILLAGE ONE, SECTION TWO, DECLARANT

BEACHTOWN GALVESTON TWO LTD.
A Texas Limited Partnership

By: Beachtown Galveston Corporation
Its: General Partner

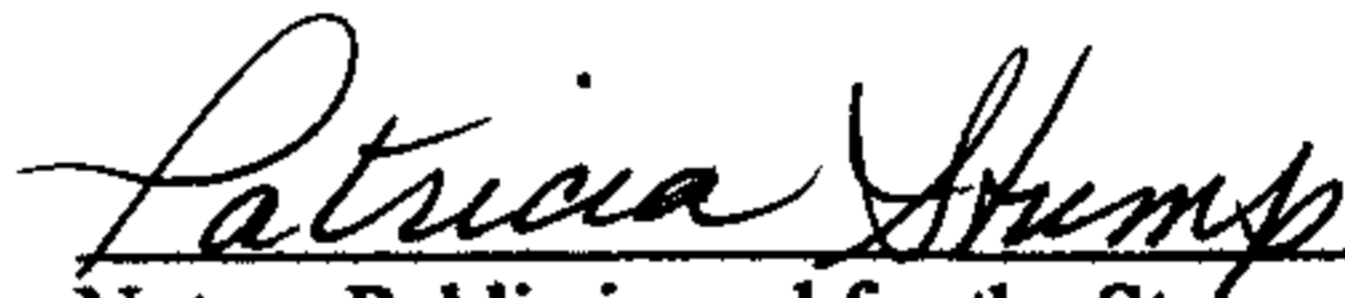

By: TOFIGH SHIRAZI
Title: President

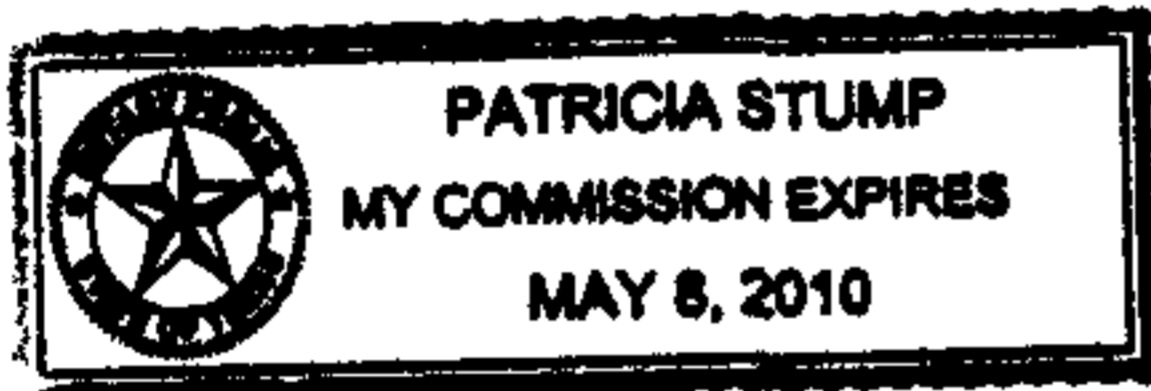
DECLARANT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this day personally appeared TOFIGH SHIRAZI, President of Beachtown Galveston Corporation, in its capacity as General Partner of BEACHTOWN GALVESTON TWO LTD., 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, and in the capacity therein stated, and as the act and deed of said association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of July, 2006.


Notary Public in and for the State of Texas



BEACHTOWN GALVESTON REAL ESTATE, LTD.
A Texas Limited Partnership

By: Beachtown Galveston Corporation
Its: General Partner

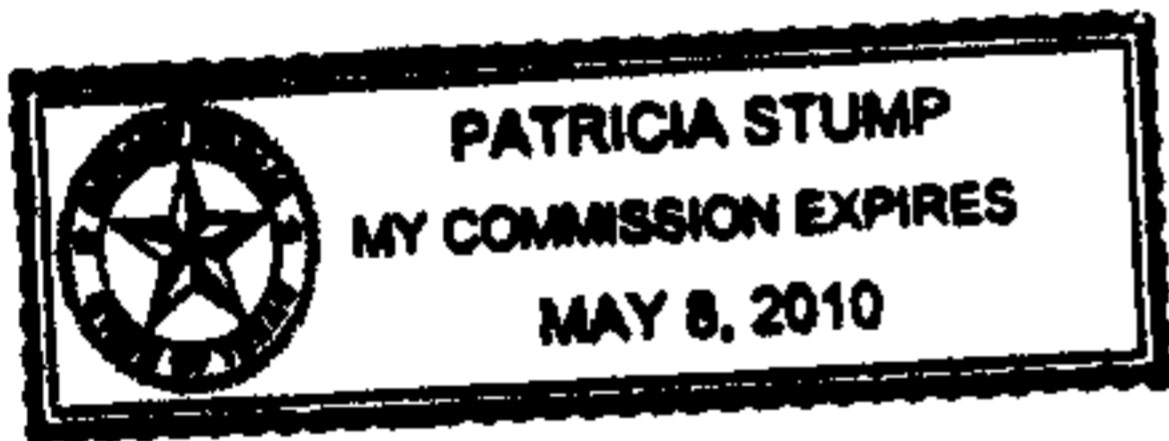

By: TOFIGH SHIRAZI
Title: President

DECLARANT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this day personally appeared TOFIGH SHIRAZI, President of Beachtown Galveston Corporation, in its capacity as General Partner of BEACHTOWN GALVESTON REAL ESTATE, LTD., a Texas Limited Partnership, 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, and in the capacity therein stated, and as the act and deed of said association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of July, 2006.




Notary Public in and for the State of Texas

BEACHTOWN GALVESTON VILLAGE ONE, SECTION TWO, LIENHOLDER

ENTERPRISE BANK

Michael J. Peery

By: MICHAEL J. PEERY
Title: Senior Vice President

LIENHOLDER

THE STATE OF TEXAS

§
§
§

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared MICHAEL J. PEERY, Senior Vice President of Enterprise Bank, a state banking 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, and in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 13th day of July, 2006.

Kathy Stewart

Notary Public in and for the State of Texas



BEACHTOWN GALVESTON EAST VILLAGE, DECLARANT

BEACHTOWN GALVESTON EAST VILLAGE LTD.
A Texas Limited Partnership

By: Beachtown East General, L.P.

Its: General Partner

By: Beachtown Galveston Corporation

Its: General Partner


By: TOFIGH SHIRAZI
Title: President

DECLARANT

THE STATE OF TEXAS


§
§
§

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared TOFIGH SHIRAZI, President of Beachtown Galveston Corporation, in its capacity as General Partner of Beachtown Galveston East General L.P., in its capacity as General Partner of BEACHTOWN GALVESTON EAST VILLAGE LTD., 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, and in the capacity therein stated, and as the act and deed of said association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of July, 2006.




Notary Public in and for the State of Texas

BEACHTOWN GALVESTON REAL ESTATE, LTD.
A Texas Limited Partnership

By: Beachtown Galveston Corporation
Its: General Partner

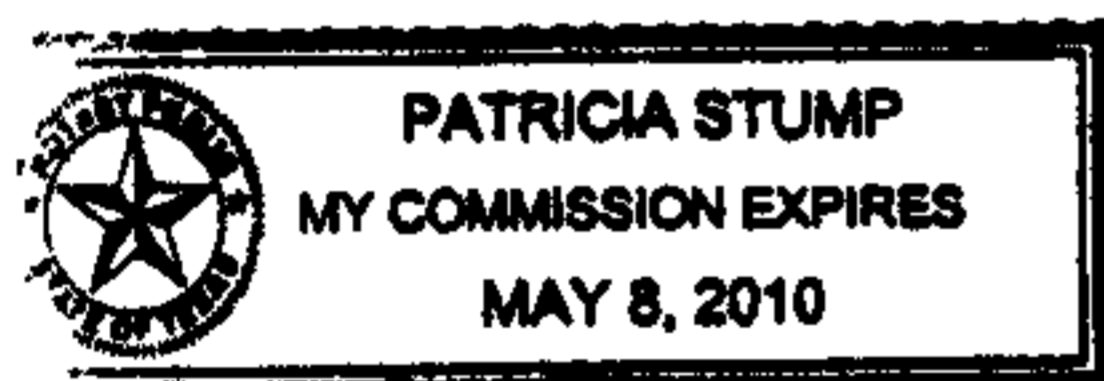

By: TOFIGH SHIRAZI
Title: President

DECLARANT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this day personally appeared TOFIGH SHIRAZI, President of Beachtown Galveston Corporation, in its capacity as General Partner of BEACHTOWN GALVESTON REAL ESTATE, LTD., a Texas Limited Partnership, 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, and in the capacity therein stated, and as the act and deed of said association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of July, 2006.




Notary Public in and for the State of Texas

BEACHTOWN GALVESTON EAST VILLAGE, LIENHOLDER

STERLING BANK

Mike Huss
By: MIKE HUSS

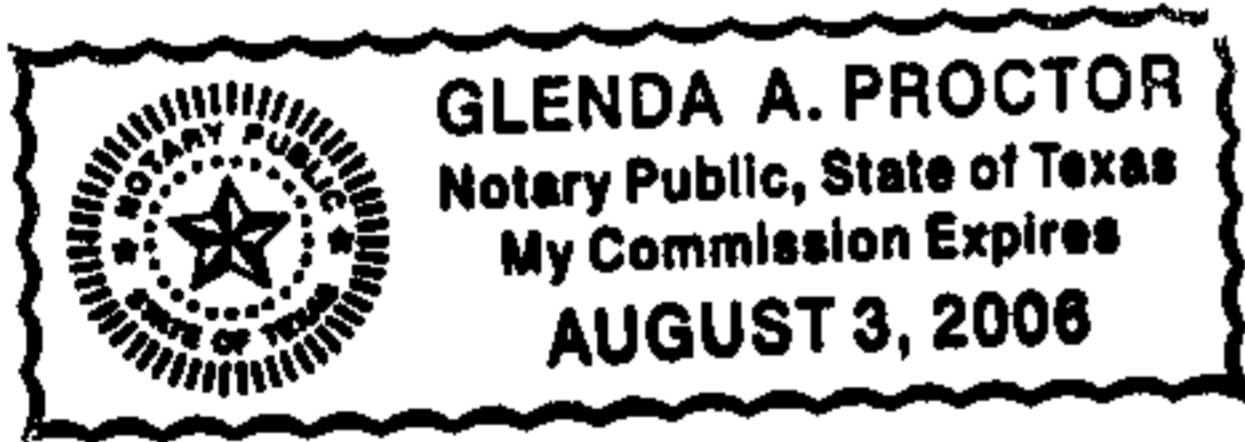
LIENHOLDER

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this day personally appeared MIKE HUSS, Sterling Bank, a state banking 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, and in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 13th day of July, 2006.

Glenda Proctor
Notary Public in and for the State of Texas



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY

Mary Ann Daigle
2006 JUL 14 10:56 AM 2006046960
JOHN_S \$232.50
Mary Ann Daigle, COUNTY CLERK
GALVESTON, TEXAS