

Cameron County
Joe G Rivera
County Clerk
Brownsville, TX 78520



70 2008 00031089

Instrument Number: 2008-00031089

Recorded On: July 03, 2008

As
Real Property

Parties:

To

Billable Pages: 11

Number of Pages: 12

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Real Property	56.00
Total Recording:	56.00

***** DO NOT REMOVE THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2008-00031089

Receipt Number: 433436

Recorded Date/Time: July 03, 2008 03:14:42P

Book-Vol/Pg: BK-OR VL-15222 PG-119

User / Station: J Acevedo - Cash Station # 5

Record and Return To:

DAVID WHITE INVESTMENT ACCOUNT
5250 COFFEE PORT RD
BROWNSVILLE TX 78521

I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Official Public
Records in Cameron County, Texas



Joe G. Rivera
Cameron County Clerk

**BYLAWS OF
HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC.
BROWNSVILLE, TEXAS
STATED PURPOSE OF BYLAWS**

HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC., which is the owners association for LOTS 1 THROUGH 30, BLOCK 1 and LOTS 31 THROUGH 51, BLOCK 2, HERON COVE ESTATES according to the map or plat thereof recorded in Volume 1, Page 48, of the Map Records of Cameron County, Texas (hereinafter "Declaration") and the said Association having been incorporated as a Texas non-profit corporation named HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC. (hereinafter sometimes called "Corporation"), the following Bylaws are to implement the stated purposes of the Association (as incorporated) is to represent and act on behalf of all of the lot owners of HERON COVE ESTATES, Cameron County, Texas, as the same are dedicated pursuant to the said Declaration, to provide administration and management services for the said subdivision, to provide maintenance of the Common Area thereof as the same are described in the said Declaration of Covenants, Conditions and Restriction Affecting Lots 1 through 31, inclusive, Block 1, and Lots 31 through 51, inclusive, Block 2, Heron Cove Estates, in Cameron County, Texas, and to establish rules and regulations for the use of the said Common Area. These Bylaws are adopted pursuant to the said Declaration and are supplemental thereto. In the event of any conflict between the Bylaws and the Declaration, the Declaration shall control. The terms "Association" and "Corporation" are hereafter used interchangeably.

ARTICLE I. - GENERAL PROVISIONS

1.01 All present and future owners, mortgagees and lessees of any Lot in the project and their employees, agents, and assigns, and any other person who may use the facilities described in the said Declaration in any manner are subject to the Declaration, to these Bylaws, and to all rules and regulations promulgated by the Association and the Administrators of the Corporation. The acceptance of a Deed or conveyance or the entering into of a lease or the act of use of a lot, its appurtenant property or any of the Common Area of the Subdivision shall constitute an agreement that these Bylaws, the Declaration and the rules and regulations of the Administrators presently, or as they are from time to time amended, are accepted and ratified, and will be complied with.

PRINCIPAL OFFICE

1.02 The principal office of the Corporation in the State of Texas shall be located in Cameron County, Texas.

REGISTERED OFFICE AND REGISTERED AGENT

1.03 The Corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal office of the Corporation in the State of Texas, and the address of the registered office may be changed from time to time by the Administrators.

**ARTICLE II. - MEMBERS
MEMBERS OF CORPORATION**

2.01 Each person who shall be the owners and holder of record of the legal title to a Lot located in HERON COVE ESTATES in Brownsville, Cameron County, Texas, as above described, shall for the duration of such ownership be a member of the Corporation, save and except that any lienholder or

mortgagee, Trustee under a Deed of Trust, and any holder or owner of any right-of-way easement or similar interest, shall not, as such, be deemed to be the owner of record of the legal title of a portion of the subject property and shall not be reason of any such interest owned or held or acquired by them be or become a member of the Corporation.

ANNUAL MEETINGS

2.02 There shall be a regular annual meeting of the Members of the Corporation, which annual meeting shall be known as the annual meeting of the Members. The annual meeting of the Members shall be held at a time and place to be determined by the ADMINISTRATORS. The first annual meeting of the Members shall be on July 15, 2006.

SPECIAL MEETINGS

2.03 Special meetings of the Members may be called by the President, a majority of the ADMINISTRATORS, or by Members representing at least twenty percent (20%) of the total voting capacity of the Members as set forth in subsection 2.06 hereof.

NOTICE OF MEETINGS

2.04 Written notice of all Members' meetings, including the annual meeting, shall be given by or at the direction of the Secretary of the Board (or other persons authorized to call the meeting) by mailing or by personally delivering a copy of such notice at least ten (10), but not more than thirty (30) days before such meeting to each Member entitled to vote at such meeting, addressed to the Members' addresses last appearing in the records of the Corporation, or supplied by such Member to the Corporation for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and in case of a special meeting, the nature of the business to be undertaken.

ACTION WITHOUT MEETING

2.05 Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members and filed with the Secretary of the Board.

PROXIES

2.06 Votes allocated to a Lot may be cast at all meetings under a written proxy duly executed by a Lot owner. If a Lot is owned by more than one (1) person, each owner of the Lot may vote or register protest to the casting of votes by the owners of the Lot through a proxy duly executed by the Lot owners. A Lot owner may not revoke a proxy given under this section except by giving actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or if it purports to be revocable without notice. A proxy terminates one (1) year after its date unless it specifies a shorter or longer time. All proxies shall be filed with the Secretary of the Board. Every proxy shall automatically be invalid upon conveyance by the Member of his interest in his Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of such Member.

VOTE

2.07 (a) Each member of the Association shall have such voting rights as are set forth in the Declaration. Voting shall be on the basis of one (1) vote per Lot.

(b) In the event of a tie vote of the members present at a meeting in person or by proxy, the tie shall be broken by vote of the President of the ADMINISTRATORS, or in the absence of the President, by the Vice President, or in the absence of the Vice President, by the secretary of the Board.

(c) In the event a Lot is owned by more than one (1) person, and if only (1) of the multiple owners of such Lot is present at a meeting of the Association, that person may cast the vote or votes allocated to that Lot. If more than one (1) of the multiple owners is present, the vote or votes allocated to that Lot may be cast only in accordance with the owner's unanimous agreement if one (1) of the multiple owners casts the votes allocated to a Lot and none of the other owners makes prompt protest to the person presiding over the meeting.

(d) Except as otherwise provided by statute, the Declaration or these Bylaws, the vote of fifty-one percent (51%) of the Lots represented at an annual or special meeting of the Members at which there is a quorum shall decide any question brought before such meeting.

QUORUM

2.08 A quorum for any regular or special meeting of the Members shall be a majority of the owners of Lots entitled to vote personally present or represented by proxy. In the absence of a quorum at a meeting of Members, a majority of those Members present in person or by proxy may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the meeting date.

REQUIRED VOTE

2.09 The vote of the majority of the votes entitled to be cast by the Lots present or represented by proxy, at a meeting at which a quorum is present shall be the act of any meeting of the Members, unless the vote of a greater number is required by statute, by the Declaration or by these Bylaws.

ARTICLE III - ADMINISTRATORS

3.01 The number of Administrators of the Corporation shall be Four (4). The Administrators shall be elected at the annual meeting. Administrators must be Members of the Association. Any Administrator may be removed from the ADMINISTRATORS at any time by the vote of a majority of the Members represented in person or by proxy at an annual or special meeting at which a quorum is present as hereinafter provided. Such removal may only be made at the annual meeting of the Members or at a special meeting of Members called for that purpose.

CLASSIFICATION OF ADMINISTRATORS: TERMS OF OFFICE

3.02 (a) Each Administrator of the ADMINISTRATORS shall have a term of office of three (3) years, commencing on the date of the annual meeting at which they are elected by the Members, and terminating on the date of the annual meeting three (3) years from such date and when their successor has been elected. A person must be a Member of the Corporation, as set out in Section 2.01 of these By-Laws in order to be a member of the ADMINISTRATORS. Election of the Administrators shall take place every year at the annual meeting of the members for those Administrators whose terms expire or whose offices are vacant as of such meeting. In the event a Administrator resigns or is removed from office, a replacement Administrator may be elected by the ADMINISTRATORS to serve until the next annual meeting of the Members at which time an election will be held for such office. Administrators of the Corporation incumbent prior to the adoption of these bylaws shall serve as Administrators of the Corporation until elections are held for Administrators at the first annual meeting. If no quorum is

present at any annual meeting and no Administrators are elected, the incumbent Administrators shall continue in office until an election is held.

(b) At the first annual meeting, the ADMINISTRATORS shall be initially divided into three (3) classes by the drawing of straws, or such other means as the members may deem advisable, with one (1) class consisting of two (2) Administrator to be designated to serve for a term of three (3) years and one (1) class consisting of one (1) Administrator to be designated to serve for a term of two (2) years, and the remaining class consisting of one (1) Administrator to serve for a term of one (1) year. Thereafter, a member of each respective class shall be elected for three (3) year terms upon the expiration of the respective initial term of office. The Association may increase the number of Administrators at any annual meeting, so long as the number of Administrators does not exceed five (5).

POWER AND DUTIES

3.02 The ADMINISTRATORS shall have the powers and duties necessary for the administration of the affairs of the Corporation and may do all such acts and things as allowed by law, by the Declaration or by these Bylaws. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the following:

- (a) Care, upkeep, maintenance, and operation of the Common Area.
- (b) Determination of assessments and collection of assessments from Lot owners as authorized by the Declaration.
- (c) To enter into contractual arrangements with third parties to carry out the management, maintenance, security and operation of the Common Elements and Limited Common Elements. The Board may delegate managerial powers and duties to such third parties which may include the collection of assessment, the enforcement of the Declaration, Bylaws, and Rules of the Association, the maintenance, care, upkeep, and repair of the common area, the formulation of a budget for the Association, and any other powers and duties which the Board deems in the best interest of the Association. As provided for in the Article 1, Section 8 of the Declaration, Coastal Realty shall serve as the initial Manager.
- (d) Adoption and amendment of rules not inconsistent with these Bylaws, covering the details of operation and use of the property.
- (e) Establishment of bank accounts in the name of the Corporation and authorization of signatories therefor.
- (f) Procuring of all types of insurance for the Common Elements and as authorized in the Declaration, including but not limited to Administrators' and Officers' liability insurance.
- (g) Contracting for repairs of and additions and improvements to the Common Area and as otherwise authorized by the Declaration, and for repairs to and restoration of the property in accordance with the provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (h) To employ certified public accountants or bookkeepers to maintain books of account and financial records for the Corporation.

(i) To make rules for its own administration and for the administration of the Corporation; to prescribe and enforce penalties for violations of the rules and Bylaws of the Association; to assess and fix regular and special assessments to be levied against the members of the Corporation; and to exercise such other powers as may be necessary or proper to attain the objectives of the Corporation.

(j) The ADMINISTRATORS shall have the responsibility and authority to employ such employees as the affairs of the Association shall require, and may delegate to any such employee so much of its authority as it shall deem advisable. The ADMINISTRATORS may engage the services of a Manager who shall manage and operate the general and limited common elements for the members, upon such terms and for such compensation and with such specific duties and authority as the ADMINISTRATORS may approve and delegate to such Manager. The compensation paid to such Manager shall be deemed to be a part of the common expenses for which the members shall be assessed.

ANNUAL MEETING

3.03 An annual meeting of the ADMINISTRATORS shall be held each year immediately following the adjournment of the annual meeting of the members, and at the same place as the annual meeting of the Members, and no notice of such annual meeting of the ADMINISTRATORS shall be required.

REGULAR MEETINGS

3.04 The ADMINISTRATORS may provide by resolution the time and place, either within or without the State of Texas, for the holding of additional regular meetings of the Board without other notice than such resolution.

SPECIAL MEETINGS

3.05 Special meetings of the ADMINISTRATORS may be called by or at the request of the President or any two (2) Administrators. The person or persons authorized to call special meetings of the Board may fix any place, either within or without the State of Texas, as the place for holding any special meetings of the Board called by them.

QUORUM

3.06 A Quorum for any Regular and Special Meeting of the Administrators shall be a majority of the Administrators personally present. In the absence of a quorum at a meeting of Administrators, a majority of those Administrators present in person may adjourn the meeting until such time as a quorum is established.

ACTIONS WITHOUT A MEETING

3.07 Any action required or permitted to be taken at a meeting of the ADMINISTRATORS may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the ADMINISTRATORS. Such consent shall have the same force and effect as unanimous vote at a meeting, any may be stated as such in any document or instrument filed with the Secretary of State. Meetings of the ADMINISTRATORS may be conducted by telephone conference pursuant to Article 1396, 9.11, Texas No-Profit Corporation Act.

COMPENSATION

3.08 Administrators shall not receive any stated salaries for their services, but by resolution of the ADMINISTRATORS expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board; but nothing herein contained shall be construed to preclude any Administrator from serving the Corporation in any other capacity and receiving compensation therefor.

ADMINISTRATORS

3.09 The ADMINISTRATORS, by resolution adopted by a majority of the Administrators in office, may designate and appoint one (1) or more committees, each of which shall consist of one (1) or more Administrators, which committees, to the extent provided in said resolution shall have and exercise the authority of the ADMINISTRATORS in the management of the Corporation. However, no such committee shall have the authority of the ADMINISTRATORS in reference to amending, altering, or repealing the bylaws; electing, appointing, or removing any member of any such committee or any Administrator or officer of the Corporation; amending the Articles of Incorporation; adopting a plan of merger or adopting a plan of consolidation with another Corporation; authorizing the sale, lease, exchange, or mortgage of all of substantially all the property and assets of the Corporation; authorizing the voluntary dissolution of the Corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the Corporation; or amending, altering, or repealing any resolution of the ADMINISTRATORS which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the ADMINISTRATORS, or any individual Administrator of any responsibility imposed on it or such Administrator by law.

OTHER COMMITTEES

3.10 Other committees not having and exercising the authority of the ADMINISTRATORS in the management of Corporation may be designated by a resolution adopted by a majority of the Administrators present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the Corporation, and the President of the Corporation shall appoint the members thereof. Any members thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interest of the Corporation shall be served by such removal.

TERM OF OFFICE

3.11 Each member of a committee shall continue as such until the next annual meeting of the ADMINISTRATORS of the Corporation unless the committee shall be sooner terminated, or such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

CHAIRMAN

3.12 One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

VACANCIES

3.13 Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

QUORUM

3.14 Unless otherwise provided in the resolution of the ADMINISTRATORS designating a committee, a majority of the whole committee shall constitute a quorum and the act of majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

RULES

3.15 Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the ADMINISTRATORS.

ACTIONS WITHOUT A MEETING

3.16 Any action required or permitted to be taken at a meeting of the Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the Committee. Such consent shall have the same force and effect as a unanimous vote at a meeting. Meetings of the Committee may be conducted by telephone conference.

ARTICLE IV. - OFFICERS

4.01 The officers of the Corporation shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. All officers must be members of the Association. The ADMINISTRATORS may elect or appoint such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the ADMINISTRATORS. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

ELECTION AND TERM OF OFFICE

4.02 The officers of the Corporation shall be elected annually by the ADMINISTRATORS at the regular annual meeting of the ADMINISTRATORS. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter at any meeting of the ADMINISTRATORS. Each officer shall hold office until his successor shall have been duly elected.

REMOVAL

4.03 Any officer elected or appointed by the ADMINISTRATORS may be removed by the ADMINISTRATORS whenever in its judgment the best interest of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

VACANCY

4.04 A vacancy in any office because of death, resignation, disqualification or otherwise, may be filled by the ADMINISTRATORS for the unexpired portion of the terms.

PRESIDENT

4.05 The President shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. The President shall preside at all

meetings of the members and of the ADMINISTRATORS. The President may sign, with the Secretary or any other property officer of the Corporation authorized by the ADMINISTRATORS, any deeds, mortgages, bonds, contracts, or other instruments which the Association or the ADMINISTRATORS have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the ADMINISTRATORS or by these bylaws or by statute to some other officer or agent of the Corporation; and in general the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the ADMINISTRATORS from time to time.

VICE PRESIDENT

4.06 In the absence of the President or in the event of his death, illness, adjudicated incompetence or inability otherwise to act, the Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him by the President or ADMINISTRATORS.

TREASURER

4.07 If required by the ADMINISTRATORS, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the ADMINISTRATORS shall determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article V of these bylaws; and in general perform all the duties incident to the office of the Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President or by the ADMINISTRATORS.

SECRETARY

4.08 The Secretary shall keep the minutes of the meetings of the ADMINISTRATORS in one (1) or more books provided for that purpose; give all notices in accordance with the provisions of these bylaws or as required by law; be custodian of the corporate records and of the seal of the Corporation to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these bylaws; perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the ADMINISTRATORS.

ARTICLE V. - CONTRACTS AND BANKING

5.01 The ADMINISTRATORS may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances.

CHECKS AND DRAFTS

5.02 All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the ADMINISTRATORS. In the absence of such determination by the ADMINISTRATORS, such

instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Corporation.

DEPOSITS

5.03 All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the ADMINISTRATORS may select.

ARTICLE VI. - ADMINISTRATION FISCAL YEAR

6.01 The fiscal year of the Corporation shall be a calendar year unless otherwise determined by the ADMINISTRATORS.

SEAL

6.02 The Seal of the Corporation shall be circular in form and shall contain the name of the Corporation, the year of its incorporation, and the words "Texas" and "corporation seal" or an image of the Lone Star. The seal may be used by causing it or a facsimile to be impressed or affixed or in any other manner reproduced. The corporate seal may be altered by order of the ADMINISTRATORS at any time.

NOTICES

6.03 Whenever any notice is required to be given under the provisions of the Texas Non-Profit Corporation Act or under the provisions of the Articles of Incorporation or the Bylaws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE VII. DISSOLUTION

7.01 In the event of the dissolution of the Corporation, the assets and funds of the Corporation shall be distributed equally to the Association of HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC. as the same is defined in the Declaration.

ARTICLE VIII. - AMENDMENT

These Bylaws may be amended at any annual or special meeting of the Members at which a quorum is present by majority vote of the said Members present at the meeting in person or by proxy.

ARTICLE IX. - ENFORCEMENT OF DECLARATION, BYLAWS AND RULES

Failure to comply with the Declaration and these Bylaws or any duly adopted rules and regulations of the Association (Corporation) shall be grounds for legal relief, which may include, without limitation, an action for damages and injunctive relief or any combination thereof. Any attorney's fees, expenses and court costs expended by the Corporation to enforce the provisions of the Declaration and/or Bylaws or any of the rules and regulations of the Corporation shall be recoverable by the corporation from any Member or other person(s) in violation of the same.

CERTIFICATION

I certify that the foregoing are the Bylaws of HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC. as the same were adopted at a meeting of the ADMINISTRATORS of the Corporation on the 22 day of April, 2005.

HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC.

By: [Signature], President

STATE OF TEXAS

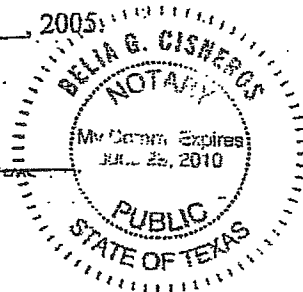
COUNTY OF CAMERON

§
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§

Before me, the undersigned authority, on this day personally appeared David Wilhite, President of HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office, this the 22 day of April, 2005.

[Signature]
Notary Public in and for the State of
Bella G. Cisneros



After Recording Return to:
HERON COVE ESTATES HOA

Prepared in the Law Office of:
THE RENTRO FAULK LAW FIRM LLP
185 E RUBEN M TORRES SR BLVD
BROWNSVILLE TEXAS 78520

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR
HERON COVE ESTATES
IN CAMERON COUNTY, TEXAS

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF CAMERON

§

David Wilhite, being the Developer of the hereinafter described subdivision does hereby declare that the reservations, restrictions and covenants hereinafter set out shall be; and the same are hereby made applicable to the following named subdivision, to wit:

50.50 acre of land, more or less, comprised of 13.748 acres out of Lot 3 and all of Lot 4, Block 114 and 1.217 acres out of Lot 1 and 34 sq. ft. out of Lot 2, Block 214, all out of El Jardin Resubdivision in Cameron County, Texas, according to the Map recorded in Volume 4, Page 48, Map Records of Cameron County, Texas, being more particularly described on attached Metes and Bounds Exhibit "A".

The Restrictions and Reservations herein contained shall govern and control the erection of improvements on lots shown on said Subdivision Map of which Lots Numbers One (1) through Fifty-One (51) are hereby designated "RESIDENTIAL".

1. **LAND AND USE BUILDING TYPE.** No building shall be erected, altered or permitted to remain on any Residential lot other than one detached single-family dwelling, (not to exceed two-story in height), a private garage or carport (for not more than three cars) and attached guest quarters.

2. **ARCHITECTURAL CONTROL.** No building shall be erected, or altered on any residential lot until the construction plans, specifications, and a plot plan showing the location of the building, walls, fences, driveways, walks, trees, shrubs and all other improvements, have been approved by the Architectural Control Committee as to quality of workmanship and quality and type of materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No statues, sculptures, fountains, clocks, towers, antennae, satellite dishes or ornamental objects shall be visible from the street unless approved by the Architectural Control Committee. No fence or wall shall be erected, placed or altered on any residential lot nearer to any street than the minimum setback line as required by Paragraph 6 unless similarly approved. Approval shall be as provided in Paragraph 15.

3. **DWELLING QUALITY AND SIZE.** The ground floor area of the main structure of a one-story dwelling, exclusive of open porches and garages, shall be no less than 2,000 square feet for Lot Thirty-One (31) through Lots Fifty-One (51) and 2,500 square feet for Lots One (1) through Thirty (30), both inclusive. The ground floor area for the main structure for a two story dwelling, exclusive of open porches and garages shall be not less than 1,500 square feet for all lots. All buildings shall be constructed on a closed concrete foundation suitable to support the structure.

No less than Seventy-five (75%) percent of all exterior walls, not including windows and doors, shall be constructed of brick, brick veneer or stucco. Brick veneer shall not be less than Two and Three-quarters (2 ¾ ") inches thick. All roofs that are visible from the street must be covered with either standing seam metal, concrete tile, clay tile, wood shingles or composition shingles. The composition shingles must have a minimum weight of Two Hundred and Eighty (280 lbs.) pounds of shingles used to cover an area of One Hundred (100 sq. ft.) square feet.

4. **BUILDING LOCATION.** No dwelling shall be located on any residential lot nearer than 30 foot minimum or 70 foot maximum to the front lot line, or nearer than 10 feet to any side street line, or nearer than 6 feet to an interior line, or nearer than 10 feet to the rear lot line. Except that Lots 31 and 51 shall have a rear set back of no less than 6 feet. For the purposes of this covenant, garages, utility rooms, storage rooms, open porches and any enclosed area of a free-standing outbuilding shall be considered as a part of a dwelling.

5. LOT AREA AND WIDTH. No lots shall be re-subdivided into building sites smaller than shown on the recorded plat. If one structure is constructed on a homesite consisting of one or more lots and part or parts thereof, the combined area shall be considered as one lot.

6. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the road ways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any residential lot within ten (10') feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7. REAR AND SIDE LINE FENCES AND WALLS. A wooden fence has been erected by the Developer inside the South property line of Lot One (1) and along the East property line of the subdivision. The wooden fences on the East ROW line of Wildbird Lane in front of Lots 1 - 4 and along the South property line of Lot 1 shall be maintained by the Heron Cove Estates Home Owners Association. The wooden fence installed by the developer throughout the rest of the project along Lots 30, 31, 32, 44, 45, 46, 49, 50 and 51, belong to the respective lot owners who shall be responsible for maintenance thereof. Said lot owners shall not change the design, color, texture, etc. of the fence and shall have the fence insured under their homeowner's policy.

8. SIDEWALKS. The construction of a concrete sidewalk Forty-eight (48") inches in width and Four (4") inches in thickness, reinforced with 6x6x6 gauge steel wire mesh shall be required, such sidewalks to be installed a minimum of sixty (60") inches from and parallel to the back of curbs and extending across the entire width of lots front line as reflected on the plat throughout the Subdivision, except that Lots 21, 30, 39, 40 and 48 shall construct said sidewalk along all street frontages. They shall have a dummy joint every ten (10') feet and an expansion joint every forty (40') feet. Such sidewalks shall be installed simultaneously with erection of a house or building on said Subdivision lot or lots and maintained by lot owner.

9. FENCES/BULKHEADS. Any fence that is visible from the street shall be constructed of wood, masonry (concrete block stuccoed and painted) or wrought iron (iron or aluminum). Types of fences that are not allowed to be visible from the street are chain link and wire. No fence or wall shall be built or maintained nearer than Thirty (30') feet to the front street lot line. Bulkheads shall be no higher than 2' off the water level, (as set by the overflow inlet located at the Resaca crossing by the main entrance), and be constructed of concrete, fiberglass or wood with no exposed rip wrap.

10. TREES. A minimum of Two (2) Live Oak (*Quercus Virginiana*) Trees per lot, on all lots with a minimum caliper of Three inches (3") shall be planted and maintained by each lot owner. These trees are to be planted simultaneously with the erection of a dwelling on said Subdivision lots. Lot owners shall obtain approval from the Architectural Control Committee prior to cutting down any native trees.

11. GAS METERS. No gas meter shall be located nearer than thirty (30') feet to the front lot line. All gas meters must be located on the side of the dwelling. All lot owners are encouraged to take advantage of the natural gas provided to each lot and install gas water heaters, cooking stove, clothes dryer, etc.

Texas Gas Service will be the provider of natural gas for all of Heron Cove Estates. Each new building constructed within the Property shall be furnished with at least one major gas appliance. All gas appliances installed in new buildings on the Property shall be installed in accordance with all applicable governmental requirements and regulations. Developer agrees to cause the Architectural Committee or other authority established in any other restrictive covenants recorded for the property to require, as a condition of approval of plans and specifications, that the plans and specifications for any residence to be constructed on any lot require the installation of at least one major gas appliance. The parties acknowledge and confirm that the installation of such major gas appliance is necessary to make the installation of gas distribution facilities economically feasible for Texas Gas Service.

12. CONSTRUCTION TIME. The time interval between the commencement of construction, construction of the main dwelling, and the issuance of a Certificate of Occupancy by the City of Brownsville shall not exceed Two Hundred and Seventy (270) days. Copies of both permits shall be delivered to the Architectural Control Committee after issued. In the event more than 270 days is required to construct the main dwelling an

extension must be obtained in writing from the Architectural Control Committee otherwise a \$200.00 per day penalty will be assessed against the property until the main dwelling is complete and a Certificate of Occupancy is issued by the City of Brownsville.

Enforced

13. **UTILITY SERVICE LINES.** Electrical lines from dwelling or appurtenant buildings to the main power line serving the property must be installed underground. No power lines, telephone lines, T.V./Cable, or any other type of overhead lines or wires shall be permitted in the Subdivision.

14. **ARCHITECTURAL CONTROL COMMITTEE,** sometimes hereinafter referred to as "The Committee" is composed of:

Position One: David Wilhite	, Brownsville, Texas
Position Two: Mark Barnard	, Brownsville, Texas
Position Three: Vivian Celaya	, Brownsville, Texas
Position Four: Blanca Castañeda	, Brownsville, Texas

A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant except as provided for in Article III, Section 2, Paragraph "C" of the Heron Cove Estates Home Owners Association attached hereto. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore it to any of its powers and duties.

15. **PROCEDURE.** The committee's approval or disapproval (a majority vote required) as required in these covenants shall be in writing. In the event the Architectural Control Committee disapproves of any such plans, specifications, and/or plot plans, notice of such disapproval shall be by delivery in person or by registered or certified letter, addressed to the party submitting the same at an address which must be supplied with the submission. Any such notice must set forth in detail the elements disapproved, and the reason or reasons therefore. The judgment of the Architectural Control Committee in this respect, in the exercise of its discretion, shall be final and conclusive. If said Committee fails to approve or disapprove said plans, specifications, and plot plans within fifteen (15) days after the same have been submitted to it, it will be presumed that the same have been approved.

16. **TERM.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for three periods often (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

17. **ENFORCEMENT.** Enforcement shall be by proceedings at law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

18. **SEVERABILITY.** Invalidation of anyone of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

19. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.

20. **FIREARMS.** The use or discharge, of firearms is expressly prohibited within the Subdivision.

21. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently, nor shall any building be occupied either temporarily or permanently until completion of construction of said building in substantial conformity with said plans and specifications.

22. **STORAGE OF MATERIALS.** No building material of any kind or character shall be placed or stored upon the property until owner is ready to commence improvements, and then such material shall be placed within the property lines of the parcel of land upon which the improvements are to be erected, and shall not be placed in the streets or between the curb and property line.

23. **UNSIGHTLY STORAGE.** No unsightly storage shall be permitted therein that is visible from the street. No boats, trucks, motor homes or unsightly vehicles shall be kept or stored on any lots or drives, except in enclosed garages or storage facilities protected from the view of the public or other residents of the Subdivision. No outside clothesline shall be placed on any lot unless it is screened from the view of the public and other residents of the Subdivision.

24. **OFF STREET PARKING.** Both prior to and after the occupancy of dwelling on any lot, the owner shall provide appropriate space for the off-the-street parking for any vehicles belonging to residents of the dwelling. Street parking is to be limited to visitors. ✓

25. **SUBORDINATION.** No breach of any of the conditions herein contained or reentry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the subdivision or any unit therein; provided, however, that such conditions shall be binding on any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

26. **SEWERAGE.** No outside toilets will be permitted, except City approved portable septic cans during construction of buildings.

27. **GARBAGE AND TRASH DISPOSAL.** No lot shall be used as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary containers. Any incinerator or other equipment for the storage or disposal of such material shall be kept in a clean, sanitary and sightly condition, and shall conform to the requirements of the ordinances of the City of Brownsville, Texas.

28. **ANIMALS AND LIVESTOCK.** No animals or livestock of any kind shall be raised, bred, or kept on any residential lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. ✓

29. **SIGNS.** No sign of any kind shall be displayed to the public view on any residential lot except one professional sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. ✓

30. **EASEMENTS.** Easements as shown on the recorded plat of the subdivision are reserved over and across the lots in the subdivision for the installation, repair and maintenance of electric lines, electric transformers, street lights, water, sewerage, drainage, telephone and other utility facilities and service for all the lots and properties in the subdivision. The easements reserved and dedicated shall be for the benefit of and may be used by the Developer or the City of Brownsville, or any public or private utility company entering into and upon property for the purpose aforesaid. Neither the Developer nor the City of Brownsville, nor any utility company using the easements herein referred to, shall be liable for any damage done by them or their successors, assigns, their agents or employees to shrubbery, trees or flowers or other improvements of the owner situated on land covered by said easements.

31. **OIL AND MINING OPERATION.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil, or natural gas shall be erected, maintained or permitted upon any lot.

32. **HERON COVE ESTATES HOME OWNERS ASSOCIATION**

ARTICLE 1. : DEFINITIONS

Section 1.1. "Association" shall mean and refer to Heron Cove Estates Home Owner's Association, its successors, and assigns.

Section 1.2. "Common Area" shall mean the garden entry area located along the Heron Cove Lane Right of Way and includes the park area adjacent to Lot 30 and the island boulevard in front of Lots 21 and 22, Heron Cove Estates.

- Section 1.3. "Member" shall mean every person or entity who holds membership in the association.
- Section 1.4. "Mortgage" shall mean a mortgage or a Deed of Trust.
- Section 1.5. "Mortgagee" shall mean a holder of a mortgage or a beneficiary under or holder of a Deed of Trust.
- Section 1.6. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.
- Section 1.7. "Subdivision" shall mean the subdivided real property hereinbefore described.
- Section 1.8. "Manager and Manager Fees" Woodmill shall be the initial Manager as provided for under Article 3.02 of the By-Laws. The Manager Fees shall be based on 10% of the monthly assessments plus any collection fees provided for in Article III, of this Declaration. The fee structure and/or the Manager may be changed by a majority vote of the Architectural Control Committee.
- Mr. For
10%*

ARTICLE II. MEMBERSHIP IN ASSOCIATION: VOTING RIGHTS

- Section 2.1. Every owner of a lot shall be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a lot.
- Section 2.2. All members shall be entitled to one vote for each lot owned. When more than one person holds an interest in a given lot, all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot.
- Section 2.3. The Architectural Control Committee shall also serve as the Heron Cove Estates Home Owner's Association Administrators. The Administrators shall oversee the Manager who will collect and disburse funds, and the ongoing duties for the association. An annual financial report shall be provided to the members.
- Section 2.4. By-Laws - The Association shall be governed by the By-Laws which have been adopted by the Administrators of the HERON COVE ESTATES HOME OWNER'S ASSOCIATION, INC, hereinafter sometimes referred to as "The Association". The By-Laws so adopted are attached to this Declaration and are incorporated herein by reference for all purposes material hereto. Such By-Laws shall control and shall be enforceable unless amended, altered, deleted or changed in accordance with the terms of such By-Laws at the time of such amendment, alteration, deletion or change.

ARTICLE III - ASSESSMENTS AND LIENS

- Section 3.1 Liability for Common Expenses. Each Lot owner, by acceptance of the Deed to such owner's Lot is deemed to covenant and agree to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. Each Lot owner shall be personally liable for a proportionate share of the common expenses, such share being 1/51st undivided share in the common area which is appurtenant to the Lots as set forth in the Declaration to the extent that the same shall be assessed against the owners from time to time by the Association. The common expenses shall include, but not be limited to, all expenses incurred by the Association and its Administrators in performing its duties obligations and services as authorized or required hereby or by the Association or its Administrators. Common expenses include administrative expenses of the Association and its Administrators, contingency reserves, all expenses or expenditures incurred by the Association for repair, replacement, construction, acquisition, maintenance or operation of the common areas, reserves for proper Association purposes, costs of enforcing this Declaration and the Bylaws, rules and regulations of the Association or its members, professional fees (including managers' fees, accountants fees and attorneys fees), necessary utilities and such other expenses as shall be authorized by the Association or its Administrators.

- Section 3.2(a) Regular Assessments. The Association shall have the power to assess the owners of the Lots for their respective shares of common expenses, and otherwise as herein provided. This power of assessment shall be delegated to the Administrators of the Association. The Administrators shall estimate the net charges to be paid during such year, including a reasonable provision for contingencies and replacements with adjustments made for

any expected income and surplus from the prior year's fund. Such estimated cash requirement shall be assessed to each owner according to the percentage interest which such owner's Lot or Lots bears to the entire project (i.e., 1/51st per lot.) Each owner is obligated to pay such assessments to the Administrators in Annual installments. Regular assessments shall commence on the date designated by the Administrators. If the Administrators fail to estimate the net charges to be paid during any year and failed to promulgate the assessments for any year, the assessments shall remain the same as for the previous year until such time as they are changed by the Administrators.

Section 3.2(b) Special Assessments. If the Administrators determine that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements on the Common Area, or for any other reason. It shall make a special assessment for the additional amount needed. Such special assessment shall be levied and collected in the same manner as regular assessments, except that such special assessments shall be due and payable in full within thirty (30) days of mailing of notice of the same to the owners.

Section 3.2(c) Making and Collection of Assessments. The making and collection of regular and special assessments against Lot owners for common expenses shall be subject to the following provisions:

(1) **Share of Common Expenses.** Each Lot owner shall be liable for and shall pay a proportionate share of the common expenses to the extent that the same shall be assessed against the owners from time to time by the Association, and shall share in the common fund, if any, such shares being the same as the undivided share in the general common elements which is appurtenant to the Lots owned by such owner.

(2) **Penalty: Application of Payments.** Delinquent assessments may bear a penalty in an amount to be set by the Administrators. Such penalty, in the discretion of the Administrators, may be a sum certain or a percentage of the delinquent assessment, and may increase according to the period of the delinquency. All payments upon account shall be first applied to the penalty and then to the assessment payment first due.

(3) **Attorney's Fees and expenses: Lien for Expenses.** If the Association shall incur any expense whatsoever, including but not limited to attorney's fees, court costs, title company expenses, or any other expense required to enforce any rights of the Association against a Lot owner, including but not limited to, collection of delinquent assessments, breach of this Declaration or the Bylaws, or violation of any rule or regulation promulgated by the Association or the Administrators, such Lot owner shall be liable to the Association for such expenses and the Association may recover the same. All such expenses shall constitute a lien in favor of the Association against the Lot of the owner causing such expenses to be incurred, and such lien may be foreclosed pursuant to Chapter 51, Texas Property Code, against the offending Lot in the same manner as a contractual Deed of Trust lien for such assessments as herein provided.

(4) **Voting Rights Forfeited.** Any owner whose assessments are delinquent for more than sixty (60) days shall forfeit the right to vote in the Association. ✓

(5) **No Waiver of Use of Common Area.** No owner may become exempt from liability for assessments or any other obligations to the Association by waiver of the use and enjoyment of any of the Common Areas or by abandonment of such owner's Lot.

(6) **Lots Owned by Association.** Any Lots owned by the Association, if any, shall not be subject to assessments while owned by the Association.

Section 3.3 Lien for Assessments.

Section 3.3(a) The Association shall have a lien upon each Lot and the interest in the common areas and common fund appurtenant thereto to secure the payment by the owner(s) of such Lot of the Lot's proportionate share of all assessments required or permitted to be levied hereunder or by law, and any other sums which shall become due and owing from such owner to the Association and such lien shall also secure all other expenses including reasonable attorney's fees, incurred by the Association incident to the collection of such assessment or enforcement of such lien. Such lien shall be subordinate to a first vendor's lien or first deed of trust lien recorded before the date on which the assessment sought to be enforced becomes delinquent.

Section 3.3(b) The Association shall also have a lien in the manner of a Vendor's Lien as the same is understood pursuant to Texas law, which lien shall also secure the assessments and the expenses and matters as set forth in Section 3.2 hereof.

Section 3.4 Foreclosure of Liens.

Section 3.4(a) By the purchase of a Lot in the HERON COVE ESTATES, LOTS 1 THROUGH 51 and/or by virtue of the ownership of such a Lot, the owner purchases and/or owns the said Lot subject to the rights of the Association to collect assessments through non-judicial foreclosure against the Lot pursuant to Chapter 51, Texas Property Code. This Declaration constitutes a binding contract between HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC., and the Owner(s) of each Lot in the project. This Section of the Declaration operates as a valid and binding Deed of Trust Lien securing the payment of assessments on each Lot.

Section 3.4(b) The appointment of a Trustee is necessary to conduct the foreclosure of the said liens for unpaid assessments pursuant to this Declaration and Chapter 51 of the Texas Property Code and therefore WILLIAM A. FAULK, JR. of Brownsville, Cameron County, Texas is hereby appointed Trustee for the purposes of giving notice and conducting Trustee's sales of Lots in the Subdivision upon which assessments are in default pursuant to this Declaration and Article 51.002, Texas Property Code.

Section 3.4(c) If there is a default by Owner(s) in any payment of assessments or part thereof pursuant to this Declaration then the Trustee, when requested so to do by the President or the Administrators after such default, shall sell the Lot at public auction to the highest bidder for cash, between the hours often o'clock a.m. (10:00 a.m.) on the first Tuesday in any month, at the door of the Courthouse in Cameron County, Texas after advertising the time, place, and terms of said sale and the Lot to be sold by posting, or causing to be posted, at least twenty-one (21) consecutive days prior to the date of said sale, written or printed notice thereof at the Courthouse door in Cameron County, Texas, (such notice shall designate Cameron County, Texas where the Lot will be sold), in addition, at least twenty-one (21) days preceding the date of sale, written notice of the proposed sale shall be served by Certified Mail on each person obligated to pay such obligation, according to the records of Association. Service of such notice shall be completed upon deposit of the notice enclosed in a prepaid wrapper, properly addressed to such person at the most recent address as shown by the records of the Association or the Cameron County Appraisal District, if different, in a Post Office of official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service. Owner(s) authorize and empower the Trustee to sell the Lot and any and all interests appurtenant thereto, as the Trustee shall deem expedient to execute and deliver to the purchaser or purchasers thereof good and sufficient deeds of conveyance thereto by fee simple title, with covenants of general warranty (and the title of such purchaser, or purchasers, when so made by the Trustee, Owner(s) bind themselves to warrant and forever defend) and to receive the proceeds of said sale which shall be applied as follows, in the following order: (i) to all reasonable costs and expenses of the sale, including but not limited to reasonable trustee's fees and attorney's fees and costs of title evidence; (ii) to all sums owed the Association; and (iii) the excess, if any, such other person or persons entitled thereto by law. At any time during the bidding, the Trustee may require a bidding party to identify himself or herself (full name, state and city of residence, occupation, and specific business office location) and the name and address of the principal whom he or she is representing (if applicable), and to demonstrate reasonable evidence of such owner's or her financial ability (of if applicable, the financial ability of the principal), as a condition to such owner's or her submitting bids at the foreclosure sale. If any such bidding party (the "Questioned Bidder") declines to comply with the Trustee's requirement in this regard or if such Questioned Bidder does respond but the Trustee in such owner's or her sole and absolute discretion deems the information or the evidence of the financial ability of the Questioned Bidder to be inadequate, then the Trustee may continue the bidding with reservation; and in such event, (a) the Trustee shall be authorized to caution the Questioned Bidder concerning the legal obligations to be incurred in submitting bids, and (b) if the Questioned Bidder is not the highest bidder at the sale, or if having been the highest bidder, the Questioned Bidder fails to deliver the cash purchase price payment promptly to the Trustee, all bids by the Questioned Bidder shall be disregarded and all bids by the ultimate purchaser shall be disregarded for such period of the bidding when the only bidding parties were one or more Questioned Bidders and the ultimate purchaser.

Section 3.4(d) The Association shall have the additional right, upon the commencement of any action to enforce the lien herein given, (which is not required but only an option) to have appointed by the court in which said action is instituted, a receiver to take possession of the premises and collect any rents, and profits arising from the Lot. This

provision is a right created by this Declaration and is cumulative of, and is not to affect in any way, the right of the Association to the appointment of a receiver given the Association by law.

Section 3.4(e) If default be made in the payment of assessments, or any part thereof (other than the fault of the Association) then the Association shall have the option to proceed with foreclosure in satisfaction of such unpaid assessments, either through the courts or by directing the Trustee to proceed as if under a foreclosure, conducting the sale as herein provided.

Section 3.4 (f) In case of any sale hereunder, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder, all statements of facts, or other recitals therein made as to the nonpayment of assessments secured, or as to the request of the Trustee to enforce this trust, or as to the proper and due appointment of any substitute trustee, or as to the advertisement of sale, or time, place, and manner of sale, or as to any other preliminary fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

Section 3.4(g) At the option of the Administrators, with or without any reason, a substitute trustee may be appointed by the Administrators without any formality other than a designation in writing of a successor or substitute trustee, who shall thereupon become vested with and succeed to all the powers and duties given to the Trustee herein named the same as if the successor or substitute trustee had been named original Trustee herein; and such right to appoint a successor or substitute trustee shall exist as often and whenever the Administrators desire. The Administrators may act through any authorized officer, or by any agent or attorney in fact properly authorized by any such officer.

Section 3.4(h) Neither the exercise of, nor the failure to exercise, any option given under the terms of this Section shall be considered as a waiver of the right to exercise the same, or any other option given herein, and the filing of a suit to foreclose this Lien upon the Lot, either on any matured portion of the obligation or for the whole obligation, shall never be considered an election so as to preclude foreclosure under the power of sale after a dismissal of the suit; nor shall the filing of the necessary notices for foreclosure, as provided herein, preclude the prosecution of a later suit thereon.

Section 3.4(i) Any sale of the Lot under these provisions shall, without further notice, create the relation of landlord and tenant at sufferance between the purchaser and Owner(s) or such person to surrender possession thereof immediately, Owner(s) or such person may be removed by a writ of possession of the purchaser, either in the Justice Court having venue or in any other Court hereafter having venue.

Section 3.4(j) If the lien of the Association provided for herein is invalid or unenforceable as to any part of the obligation, or if the Lien is invalid or unenforceable as to any part of the Lot, the unsecured or partially secured portion of the obligation shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the obligation, and all payments made on the obligation, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of the portion of the obligation which is not secured or fully secured by the Lien.

Section 3.4(k) The Association shall have the right through its Administrators, to become the purchaser at all sales to enforce this Lien and to have the amount for which such property is sold credited on the obligation then owing.

Section 3.4(l) Owner(s) will pay all reasonable attorney's fees and expenses which may be incurred by the Association or Trustee, in enforcing the collection of assessments, expenses, or the enforcement of any term whatsoever of this Declaration, the terms of this of this Section, or in any suit which the Association or Trustee may become a party where the Lien or the Lot are in any manner involved and all expenses incurred in presenting a claim against the estate of a decedent or a bankruptcy and will also pay any attorney's fees and expenses reasonably incurred in connection with the assignment to Association of any leases subsequently entered into by Owner(s) which by the terms hereof are required to be assigned to Association as additional collateral to secure payment of the indebtedness herein secured as well as any and all such fees and expenses reasonably incurred prior to full and final payment of such assessments relating to transfer of title to the premises and similar matters not otherwise provided for herein.

Section 3.4(m) As a condition precedent to the ownership of the said Lot, Owner(s) specifically waive the right to procedural due process, i.e., notice and opportunity to be heard in a judicial proceeding in a court having jurisdiction of the parties and the subject matter prior to commencement so such proceedings under the power of sale herein granted.

Section 3.5 Status after sale. Upon the sale of conveyance of a Lot, all unpaid assessments outstanding against the selling owner(s) for such owner's pro-rata share of the common expenses and charges shall be first paid out of the sale price or by the purchaser in preference over any other liens, mortgages, claims, assessments or charges of whatever nature.

Section 3.6 Status after Foreclosure. Upon the sale or conveyance of a Lot, including sales at foreclosure, all unpaid assessments against the selling owner for such owner's pro-rata share of the common expenses and charges shall be first paid out of the sales price or by the purchaser in preference over any other assessments or charges of whatever nature, except the following:


Section 3.6(a) Assessments, liens and charges in favor of state and any political subdivision thereof for taxes due and unpaid on the Lots; and (b) Amounts under mortgage or deed of trust instruments duly recorded regardless of priority.

Section 3.7 Certificate of Assessment. Any prospective purchaser or encumbrancer of a Lot, upon written request being made, shall be entitled to a certificate from the Administrators as to the amount of unpaid common expenses, if any, of the subject Lot, and such Lot shall not be liable or subject to any lien for any unpaid assessment in excess of the amount set forth in said certificate for the period of time specified therein. The certificate shall be furnished by the Association within ten (10) days of its receipt of such request. The Association may charge for such certification based upon the time and expense incurred in providing the certificate.

Section 3.8 Common Fund. All funds collected by reason of assessments of the Lot owners, or otherwise received from the Lot owners proportionately, and all funds received from the use and benefit of, or the account of, the Lot owners (whether derived from insurance proceeds or other source) shall constitute the common fund and shall be held, administered and accounted for by the Association as Trustee for the benefit of all of the owners of Lots as set forth herein. The common fund is the property of the Lot owner proportionately and constitutes a part of the general common area appurtenant to the Lots of the project. The common fund shall be administered and disbursed by the Association according to the terms of this Declaration and as determined by the Association from time to time. In addition, other uses authorized herein or by the members of the Association, the common fund may be expended in payments of the common expenses and in reimbursement of the expense of the Association. The funds constituting a part of the common fund shall be held in a separate account or accounts in one or more depositories selected by the Association under the style HERON COVE ESTATES HOMEOWNER'S ASSOCIATION, INC. COMMON FUND, or such other name as the Association shall select. If the Plat of HERON COVE ESTATES shall be terminated, vacated or abandoned, and if the Association shall at such time own any assets in its own right (as distinguished from funds or property of the Co-Owners administered by the Association) in excess of its liabilities, then any such excess of assets shall be added to the common fund and administered as such.

33. UPKEEP OF LAWNS. Grass, weeds and vegetation on said property shall be kept mowed at regular intervals so as to maintain the same in neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed from the property. Until a home or residence is built on said property, the Association may at its option have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed from the property. The cost of such maintenance and upkeep shall be added to and become part of the assessments to which such lot is subject.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this the 20th day of April, 2005.

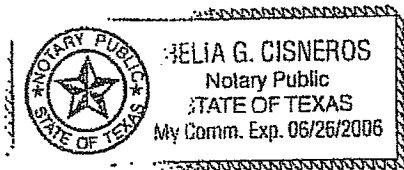

David Wilhite, Developer

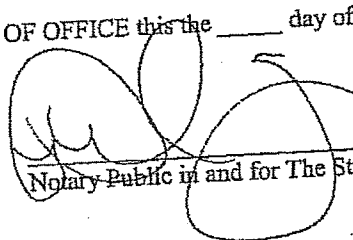
THE STATE OF TEXAS
COUNTY OF CAMERON

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BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared David Wilhite known to me to be the persons whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2005.




Notary Public in and for The State of Texas

CONSENT OF LIENHOLDER

_____, OWNER AND HOLDER OF LIEN ON PROPERTY DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS. SAID LIEN BEING EVIDENCED BY INSTRUMENT OF RECORD RECORDED IN VOLUME _____, PAGE _____, OFFICIAL RECORDS OF CAMERON COUNTY, DO HERE APPROVE AND ADOPT SAID DECLARATION FOR THE PURPOSE AND CONSIDERATION THEREIN STATED.

BY: _____

THE STATE OF TEXAS
COUNTY OF CAMERON

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§

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____ of _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2005.

Notary Public in and for The State of Texas

AFTER RECORDING RETURN TO:

PREPARED IN THE LAW OFFICE OF:
THE RENTFRO FAULK LAW FIRM LLP
185 E RUBEN M TORRES SR BLVD
BROWNSVILLE TEXAS 77820