

THE STATE OF TEXAS X
COUNTY OF NUECES X

PROTECTIVE COVENANTS AND LANDOWNERS' AGREEMENT
BLOCK 32 OF PADRE ISLAND NO. 1

Padre Island Investment Corporation, a Texas corporation, hereinafter called "Owner", is the owner of the surface estate in and to the following described property situated in Nueces County, Texas (hereinafter called "the property"), to-wit:

Block 32 of Padre Island No. 1, as shown by map or plat thereof recorded in Volume 13, pages 1 through 8, Map Records of Nueces County, Texas, reference to which is here made.

I. SCOPE OF RESTRICTIONS

1. For the purpose of creating and carrying out a uniform plan for the improvement and sale of Owner's property situated on Padre Island, Nueces County, Texas, being the property described in the deed into Owner dated July 5, 1965, recorded in Volume 1097, page 367, Nueces County Deed Records, reference to which is here made, which property is hereinafter referred to as the "Padre Island-Corpus Christi Project", or simply as "Padre Island-Corpus Christi", the following restrictions, conditions and use limitations are hereby established, adopted and imposed upon each tract into which the property may be presently or subsequently subdivided (each such portion of the property being hereinafter called a "tract").

2. The restrictions, conditions and use limitations hereinafter set forth shall constitute covenants running with the land, shall be binding upon and inure to the benefit of Owner, its successors and assigns, and upon all persons acquiring an interest in the property, whether by purchase, descent, devise, gift or otherwise, and each person, by the acceptance of title to any tract, shall agree and covenant to abide by and perform the terms, conditions, restrictions and covenants as set forth herein. Such restrictions, conditions and use limitations shall be made a part of each contract and/or deed executed by or on behalf of Owner conveying any tract by reference to the place of record of this instrument and by acceptance thereof, the grantee, and all persons claiming under him, shall be subject to and bound thereby, and each such contract and/or deed shall be conclusively held to have been executed, delivered and accepted subject to all the terms, conditions and restrictions set out in this instrument. In the event, however, of the failure of any contract and/or deed to any tract to refer to this instrument, this instrument shall nevertheless be considered a part thereof, and any conveyance of such tract shall be construed to be subject to the terms of this instrument.

II. ARCHITECTURAL CONTROL

1. The Architectural Control Committee, hereinafter called "the Committee", is composed of three (3) members. The initial members, each of whom shall serve until his successor is named as provided herein, are:

- a. Ben D. Marks, 2004 The 600 Building, Corpus Christi, Texas 78401
- b. James F. Boudreau, Jr., 2004 The 600 Building, Corpus Christi, Texas 78401
- c. David M. Wilson, 525 Glazebrook, Corpus Christi, Texas 78404

A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate and appoint a successor. No member of the Committee, or its designated representative, shall be entitled to any compensation for services performed hereunder. At any time the record owners of a majority of the lots or tracts into which Padre Island-Corpus Christi shall then be subdivided shall have the power to change the membership of the Committee, to withdraw powers and duties from the Committee, or to restore the powers and duties of the Committee. Such action shall be effective upon recordation of a written instrument properly reflecting same.

2. No building, structure or improvement of any nature shall be erected, placed, or altered on any tract until the construction plans and specifications and a plan showing the location of any building, structure or improvement have been approved by the Committee as to quality of workmanship and materials, harmony of external design

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with existing structures and as to location with respect to topography and finish grade elevation and meeting the other standards set forth in this instrument, and in the instrument conveying such tract out of Owner. In addition, no substantial change in the originally approved finish grade elevation of any tract shall be made without the prior written approval of the Committee.

3. Final plans and specifications shall be submitted in duplicate to the Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans will be marked "Approved", and returned to the tract owner. Any modifications or changes to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval.

4. The Committee's approval or disapproval as required in these covenants shall be in writing. If the Committee, or its designated representative, fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion of such construction, then approval is presumed.

5. The Committee shall have the right and authority to waive, modify, alter, change or approve, by written instrument, any covenant, term, condition or restriction, where in the opinion of the Committee, such change is necessary or required for the advantage and best appearance of the subdivision.

6. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these restrictions.

III. GENERAL LAND USE

1. With the exception of:

Lots 1A, 2A, 3A, 4A, 5A, 1B, 2B, 3B, and 4B of Block 32, all of Padre Island No. 1, Nueces County, Texas,

being a whole tract known as the "church tract", and which is hereby restricted a church site and the buildings appurtenant thereto, and for no other purpose, the maining tract or tracts of Block 32 shall be used for multi-family dwellings accor not more than four family dwelling units per lot, or one single family dwelling per and for no other purpose, subject to any further conditions or limitations set forth the conveyance of such tract out of Owner. A "multi-family dwelling" means a high de sity residential unit or units including duplexes, triplexes, four-plexes and row or cluster housing, available for rent or for ownership on a cooperative or condominium basis." However, in the event of circumstances developing after the expiration of 5-1/2 years from the date when the church tract herein shall have been conveyed to the Roman Catholic Bishop of the Diocese of Corpus Christi, whereby the contemplated use of the tract as a church site would have to be abandoned, such as force majeure, or condemnation by way of necessity, whereby the Roman Catholic Bishop of the Diocese of Corpus Christi would be forced to sell the church tract property herein either voluntarily or involun- tarily, then and in such an event, the restriction as to the use of the said tract as a church site, or applicable portion thereof, shall become null and void.

2. No tract, nor any improvements constructed thereon, shall ever be used, directly or indirectly, in the sale, purchase, leasing, or management of real property or in deal- ing in any other way with real property.

3. All buildings and other improvements placed on any tract shall be newly erect- ed on said tract and no secondhand or used buildings or other improvements shall be moved onto any tract and no used or secondhand materials may be used in the exterior of such improvements unless specifically approved in advance, in writing by the Committee.

4. No activity of any nature shall be carried on upon such tract, nor shall any- thing be done thereon, which may be or become an annoyance or nuisance to the neigh- borhood.

5. No outside toilet will be permitted, and no installation of any kind for dis- posal of sewage shall be allowed which would result in raw or untreated sewage being carried into water bodies, except as may be approved by the proper state and local authorities. No septic tank or other means of sewage disposal may be installed unless

approved by the proper authorities having jurisdiction with respect thereto (including, but not limited to, the Health Department of Nueces County, Texas and the State of Texas). The drainage of septic tanks into any road, street, alley or public ditch, either directly or indirectly, is strictly prohibited.

6. No oil drilling, oil development operations, oil storage, oil refining, quarrying or mining operations of any kind shall be conducted upon any tract by Owner or its successors in interest.

7. No sign of any kind shall be displayed to the public view except that the Committee may authorize one, non-flashing sign per lot of not more than twenty (20) square feet (or larger at the sole discretion of the Committee); however, no sign shall be displayed to public view without the prior written consent of the Committee.

8. No structure of a temporary character, nor any trailer, basement, tent, shack, garage, barn or other outbuilding, or any part thereof, shall be used as a residence, dwelling or place of business, either temporarily or permanently.

9. House trailers, buses, trucks or similar vehicles, shall be parked only as and where approved by the Committee. No vehicles shall be parked on the paved portion of any street abutting any lot or tract, except that vehicles may be so parked in connection with church attendance at the church tract.

10. No tract shall be used or maintained as a dumping ground for rubbish or trash.

11. No building material of any kind or character shall be placed or stored upon any tract until the owner is ready to commence improvements, and then such material shall be placed within the property lines of the building site upon which the improvements are to be erected and shall not be placed in the streets or between the roadbed and property line.

12. Garbage shall not be kept except in sanitary containers. Such containers shall be kept in a clean and sanitary condition and shall be stored so as not to be seen from a street.

13. No radio or television aerial or guy wires shall be maintained on any portion of any tract forward of the front building line of the respective main building.

14. Where single family residence shall be allowed, no garage or outbuild. apartments for rental purposes will be permitted on any lot. All living quarters on the property, other than the main building, are to be only for the bona fide use of the owner's or occupant's immediate family or servants.

15. Construction must begin within three (3) months after the approval of the plans by the Committee. Completion of such improvements must take no longer than eighteen (18) months from the start of construction, unless delayed for some reason beyond owner's control, in which event the Committee may extend the foregoing time limits.

IV. SIZE, DESIGN AND PLACEMENT OF IMPROVEMENTS

1. Facing: All improvements on any tract shall be constructed so as to face the front tract line, as designated in the conveyance out of Owner, unless approved otherwise by the Committee.

2. Foundations: The foundation of all improvements must be enclosed at the perimeter with masonry or wood construction which is in harmony with the remainder of the main building, if the land in the immediate building area has been filled to the elevation of the first floor. This clause is also applicable if the surrounding land has been filled and raised by the developer to the building level datum plane of the first floor.

3. Exterior Walls: The design of and materials used in the exterior walls and surface areas of the main structure and any outbuildings constructed on any tract must be in keeping with the general architectural design of the main structure and other structures in the subdivision and must extend to the ground, if the final fill elevation has been raised to the initial building elevation. Asbestos may be used only as approved by the Committee.

4. Roof: The pitch of the roof of all structures constructed on any tract must be approved by the Committee.

5. Fences or Walls: No fence or wall shall be erected, placed, altered or maintained on any tract nearer to the front property line than the building line specified in the conveyance out of Owner. No fence shall be constructed higher than six feet (6'), unless approved by the Committee, and all fences shall be subject to approval by the Committee.

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6. No oil drilling, oil development operations, oil storage, oil refining, quarrying or mining operations of any kind shall be conducted upon any tract by Owner or its successors in interest.

7. No sign of any kind shall be displayed to the public view except that the Committee may authorize one, non-flashing sign per lot of not more than twenty (20) square feet (or larger at the sole discretion of the Committee); however, no sign shall be displayed to public view without the prior written consent of the Committee.

8. No structure of a temporary character, nor any trailer, basement, tent, shack, garage, barn or other outbuilding, or any part thereof, shall be used as a residence, dwelling or place of business, either temporarily or permanently.

9. House trailers, buses, trucks or similar vehicles, shall be parked only as and where approved by the Committee. No vehicles shall be parked on the paved portion of any street abutting any lot or tract, except that vehicles may be so parked in connection with church attendance at the church tract.

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11. No building material of any kind or character shall be placed or stored upon any tract until the owner is ready to commence improvements, and then such material shall be placed within the property lines of the building site upon which the improvements are to be erected and shall not be placed in the streets or between the roadbed and property line.

12. Garbage shall not be kept except in sanitary containers. Such containers shall be kept in a clean and sanitary condition and shall be stored so as not to be seen from a street.

13. No radio or television aerial or guy wires shall be maintained on any portion of any tract forward of the front building line of the respective main building.

14. Where single family residence shall be allowed, no garage or outbuilding apartments for rental purposes will be permitted on any lot. All living quarters on the property, other than the main building, are to be only for the bona fide use of the owner's or occupant's immediate family or servants.

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6. Building Lines: All buildings and improvements of any nature whatsoever must be constructed within the building lines specified with respect to each such tract on the plat of said addition and in the conveyance of such tract out of Owner; except that, with the prior approval of the Committee, minor improvements such as fences, screening materials, sidewalks, driveways and open parking, may be constructed between the building lines and the property lines.

7. Design and Quality: All improvements constructed shall be of a design and quality of construction to withstand wind loads of forty (40) pounds per square foot so as not to cause undue hazard to neighboring structures.

8. Upkeep: The purchaser of any tract shall keep the weeds out of the particular tract owned by him and shall not permit the accumulation of trash, rubbish or other unsightly articles on the premises, the easements, or in the street abutting the same. The area in all the streets between the pavement and the property line shall at all times be kept clean and free of unsightly obstacles. Owner shall have the privilege of having said tracts cleaned to comply with the above and any reasonable expense incurred in doing the same shall be paid by the owner of the respective tract.

9. No building may exceed two and one-half (2-1/2) stories or thirty-five feet in height, whichever is the lesser, without the written consent of the Committee.

10. Where a tract or lot shall be used for multi-family dwelling purposes, there shall be at least one standard size automobile parking space provided for each bedroom contained within the total structure.

V. LANDOWNERS' AGREEMENT

In order to provide for the common use, enjoyment, benefit and maintenance of the canals (including the concrete bulkheads along such canals), parks, beautification areas, streets, and other common areas within Padre Island-Corpus Christi (hereinafter referred to as "common areas") and for the preservation of a marina type community of the highest quality, Owner, for the benefit of itself and each successor owner of a tract, hereby binds itself, its assigns and each successor owner, as follows:

1. At such time as any of the common areas in Padre Island-Corpus Christi have been improved and are not being maintained by Nueces County, a city, or other type of taxing authority within which such addition is located, Owner shall convey such common areas as it may own, to Padre Island Investment Corporation, Trustee, hereinafter called "Trustee", which shall have such supervisory authority to provide for the proper maintenance of the common areas as may be appropriate to such subdivision. Trustee shall not be liable to an owner of any interest in such subdivision for any damage, claim or expense for the manner in which said common areas are maintained and repaired, or for failure to maintain or repair said common areas.

2. In order to provide a fund for the proper maintenance of such common areas, hereafter called "Maintenance Fund", there is hereby imposed upon each tract or lot within the said block, with the exception of the church tract lots, an annual maintenance charge which shall not exceed one cent (1¢) per square foot of the lot or tract area. Such maintenance charge shall be determined annually by the Trustee based upon the projected cost of maintaining such common areas; however, no maintenance charge shall be assessed by Trustee until some portion of the common areas has been improved. Once assessed by the Trustee, one-twelfth (1/12) of such maintenance charge shall be payable monthly, in advance, on the first day of each month, by the beneficial owner of each tract. The maintenance charge hereby imposed shall not apply to Owner, or to tracts to which Owner owns both the record and beneficial title. However, in the event of an unforeseen sale, voluntary or involuntary, due to force majeure, or condemnation proceedings, or other sufficient reasons of abandonment, of the tract for church site use, as set forth in paragraph III, 1. above, then and in that event the grantee subsequent to the church would be bound by the Maintenance Fund provisions in effect at that time.

3. Neither Owner nor Trustee shall be liable or responsible to any person or persons for failure or inability to collect the maintenance charge or any part thereof from any person or persons.

4. The Maintenance Fund may be pooled, merged or combined with the maintenance funds of other portions of the Padre Island-Corpus Christi Project as developed by Owner, provided the tracts and/or owners of tracts in such other portions of such Padre Island-Corpus Christi Project are subject to a maintenance charge, lien and administrative provisions substantially the same as set forth in this Part V. Such pooled maintenance fund may be expended by the Trustee for the general benefit and common good of the various sections or units of Padre Island-Corpus Christi paying into such fund, without regard to the amount collected from each section or portion.

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Trustee may use such funds, or any part thereof, for safety and/or recreational projects and for developing, improving and maintaining any and all of the common areas which the owners and/or occupants of tracts in any of the sections or portion of Padre Island-Corpus Christi may be privileged or shall have the right to use, regardless of who may own such common areas and regardless of their location within the entire Padre Island-Corpus Christi Project. It is agreed and understood that the judgment of the Trustee, as custodian and administrator of said Maintenance Fund, when used in good faith in the expenditure of said funds, or any part thereof, shall be binding, final and conclusive upon all parties in interest. Trustee shall receive no compensation for acting as custodian and administrator of said Maintenance Fund.

5. The payment of the maintenance charge hereby imposed shall be secured by an express lien in favor of Trustee, as custodian and administrator of the Maintenance Fund, which lien is placed and imposed upon each tract subject to such charge. There is hereby granted unto the Trustee an express lien against each tract to secure all obligations of the owner or owners of said tract imposed upon such owner, or tract, under the provisions hereof. Said lien may be foreclosed in the same manner as a vendor's lien, without prejudice, however, to any other rights, powers or causes of action which the holder of said lien may have against any party who is then or who has theretofore been the owner of the property affected thereby. Said lien and all other provisions of this agreement shall be secondary and subordinate, however, to any liens, deeds of trust and encumbrances whatsoever given to secure the purchase price of the tract or any part thereof, or given to any bank, savings and loan association, insurance company, trust company, fraternal benefit organization, or corporation with banking or related powers, lawfully lending money for the purpose of making repairs or constructing buildings or any other improvements whatsoever on any portion of the tract, or acquiring any note or other evidence of indebtedness previously made for any such purpose. If any such lender or party acquiring such indebtedness should be in doubt as to the purpose for which such loan was made, or indebtedness incurred, or as to whether the lien herein granted is subordinate to any lien or deed of trust given for the purpose of securing any such mortgage or indebtedness, such lender or party acquiring such indebtedness may rely conclusively upon the written statement of the Trustee, with respect thereto. The Trustee may release or subordinate said lien and any other provisions of this agreement, in whole or in part, with respect to any tract, should it deem it advisable, for any reason whatsoever, without affecting said lien insofar as it applies to any other tract.

Without diminishing the personal obligations of any owner for any sum imposed under the terms hereof, the lien hereby granted upon any tract shall not secure any sum in excess of the unpaid assessments made under the terms hereof for the four years next preceding the date that such lien is sought to be asserted or foreclosed.

6. Any person negligently or willfully damaging or destroying all or any portion of the common areas, including the bulkheads and tie backs, shall be responsible to the Trustee for damages, and the Trustee shall use any funds collected by claim, lawsuit or settlement agreement growing out of such damage or destruction, to repair such damage or destruction, to the extent of such funds.

7. Trustee shall have, and it is hereby granted, the full right, power and authority to convey all of its rights, title and interests in and to the common areas and the Maintenance Fund as well as all of its powers, rights, liens, responsibilities, duties and authority under the terms of this Part V to: (a) a non-profit corporation, or other organization, formed by Owner for the purpose of maintaining the common areas in any portion of the Padre Island-Corpus Christi Project; or (b) a public or quasi-public corporation or entity with the power to tax such as a city, Nueces County or a public district having such powers.

8. All references to "Trustee" in this Part V shall apply with equal force and effect to any successor in interest to Trustee, as provided in paragraph 7, of this Part V.

VI. DURATION

The restrictions and covenants herein set forth shall continue and be binding upon Owner, its successors and assigns, for a period of thirty-five (35) years from this date. At the expiration of said term of thirty-five (35) years the restrictions and covenants herein set out shall automatically be extended for an additional ten (10) year period and for successive periods of ten (10) years thereafter, unless same are nullified or revised as hereinafter provided. After the expiration of thirty-five (35) years from the date of this instrument, the owners of a majority of the tracts

may execute and acknowledge an agreement in writing terminating or revising these restrictions and covenants and file the same in the Office of the County Clerk of Nueces County, Texas, or in such office as conveyances of real estate may be required to be filed, at such time. Thereupon these restrictions and covenants shall be null, void and of no further force and effect, or shall be modified or revised as such instrument may direct.

VII. AMENDMENT

At any time, the owners of the legal title to all of the surface area of the property (as shown by the records of Nueces County, Texas) may amend the restrictions, covenants, conditions, and matters set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Nueces County, Texas, except that, prior to the expiration of fifteen (15) years from date hereof, no such amendment shall be valid or effective without the joinder of Owner, or its successors.

VIII. ENFORCEMENT

The restrictions, conditions and use limitations herein set forth shall be binding upon Owner, its successors and assigns, and all parties claiming by, through, or under them and all subsequent owners of each tract, each of whom shall be obligated and bound to observe such restrictions, conditions and use limitations, provided, however, that no such persons shall be liable except in respect to breaches committed during his or their ownership of said tract. The violation of any such restriction, condition or use limitation, shall not operate to invalidate any mortgage, deed of trust, or other lien acquired and held in good faith against said tract or any part thereof, but such liens may be enforced against any and all property covered thereby, subject nevertheless, to the restrictions, conditions and use limitations herein mentioned. Owner, or the owners of any tract, or Trustee, its successors and assigns, shall have the right to enforce observance or performance of the provisions of this instrument. If any person or persons violates or attempts to violate any of the restrictions, conditions or use limitations contained herein, it shall be lawful for any person or persons owning any tract to prosecute proceedings at law or in equity against the person violating or attempting to violate the same, either to prevent him or them from so doing, or to correct such violation, or to recover damages, or to obtain such other relief for such violations as they may be legally available.

IX. SEVERABILITY

Invalidation of any of the terms, provisions or covenants contained in this instrument by judgment or court order shall not in any way affect any of the other terms, provisions or covenants set forth in this instrument which shall remain in full force and effect.

Date April 29, 1970.

PADRE ISLAND INVESTMENT CORPORATION

James F. Boudreau
James F. Boudreau, Vice-President

ATTEST:

W. O. Neal
Assistant Secretary

THE STATE OF TEXAS

COUNTY OF NUECES

BEFORE ME, the undersigned authority, on this day personally appeared James F. Boudreau, Jr., known to me to be the person whose name is subscribed to the foregoing instrument as Vice-President of Padre Island Investment Corporation, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 29th day Of April, 1970.

Landy Conley
Notary Public in and for Nueces County, Texas.