

AMENDED AND RESTATED
DISTRICT REGULATIONS ON BULKHEADS AND CANALS

THE STATE OF TEXAS	§
COUNTY OF GALVESTON	§
FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT OF	§
GALVESTON COUNTY, TEXAS	§

WHEREAS, Flamingo Isles Municipal Utility District of Galveston County, Texas (the “*District*”), is responsible for the repair and maintenance of bulkheading, including the sheet piling and caps, in the District and has been granted an easement to operate and maintain them; and

WHEREAS, the District is responsible for the repair and maintenance of the canals in the District and has been granted an easement to operate and maintain them; and

WHEREAS, pursuant to Sections 51.122 and 51.128 of the Texas Water Code, the Board of Directors of the District (the “*Board*”) has the authority to promulgate regulations to regulate privileges on any land or easement owned or controlled by the District; and

WHEREAS, the Board established regulations pertaining to the bulkheading and canals in the District on August 11, 2011; and

WHEREAS, the Board now wants to amend and restate such regulations;

THE FOLLOWING REGULATIONS ARE, THEREFORE, ADOPTED BY THE BOARD OF DIRECTORS OF FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT OF GALVESTON COUNTY, TEXAS:

I.

REGULATIONS

1. No person may alter the bulkhead sheet pilings or caps on his property in any way that jeopardizes the integrity of the facilities or increases their cost of maintenance. If an owner believes a proposed change will not harm the bulkhead sheet pilings or caps or increase the cost of their maintenance, he may ask the Board to determine whether such an alteration is permitted under this policy. The Board’s determination shall be final and binding.

2. No person may attach or affix any object or structure to the bulkhead sheet piling or bulkhead cap on his property or in any other manner encumber the facilities or impede access to them. For example, this regulation is meant to prohibit the attachment of a fence to the bulkhead cap.

3. The District shall have no responsibility for any damage sustained to any structure or other property which encroaches upon or is attached or affixed to the bulkhead piling or caps. If any such structure or other property is damaged by the District or its contractors during District repair or maintenance of the bulkhead or canals, the District shall not replace such property or pay for its damage. Furthermore, the District has the right to require an

owner to remove any encroachments upon or attachments to the bulkhead following 30 days' notice.

4. If the District, in its discretion, determines it is necessary to repair or alter any bulkhead sheet piling or bulkhead caps located on any lot, the District will restore them to the standard originally used (for example, the District will install caps made of wood and not synthetic lumber).

5. The canals are under the control of the District and no person is authorized to alter them in any way.

6. No person shall damage bulkhead sheet piling or bulkhead caps in any way, including but not limited to, colliding with or hitting bulkhead piling or caps with a boat or other vessel which such person is navigating.

II.

ENFORCEMENT

1. The Board hereby imposes the following civil penalties for breach of any rule or regulation of the District: A violation of any rule or regulation of the District shall result in a fine to be determined by the Board based on (1) the severity of the violation, (2) whether such violation was knowing or reckless or inadvertent, (3) the history of offenses by such person and (4) damages sustained by the District. The maximum fine per violation is \$5,000. Each day's violation of a rule or regulation of the District is a separate offense. A penalty under this Section is in addition to any other penalty provided by the laws of this State and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located. If the District prevails in any suit to enforce its rules, it may, in the same action, recover any reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorneys' fees shall be fixed by the court.

2. A person found in violation of these Rules and Regulations shall be liable to the District for all damages sustained by the District due to the violation and all expenses incurred by the District in establishing the violation and in enforcing these rules and regulations, including legal fees, engineering fees and other costs.

Exhibit A

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That certain tract or parcel of land being out of and a part of the ARTHUR BURKE SURVEY, Abstract #25, the JAMES SPILLMAN SURVEY, Abstract #175, the LINDSEY T. YOWELL SURVEY, Abstract #216, and being all of the R.M. BRACKENRIDGE SURVEY, Abstract #38, all being located and situated in Galveston County, Texas, and being more particularly described by metes and bounds as follows;

NOTE: ALL BEARINGS ARE LAMBERT GRID BEARINGS AND COORDINATES REFER TO THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, AS DEFINED BY ARTICLE 21.071 OF THE NATURAL RESOURCES CODE OF THE STATE OF TEXAS, 1927 DATUM. ALL DISTANCES ARE ACTUAL DISTANCES.

BEGINNING at a 1 - 1/2 inch iron pipe found for the Southeast corner of the THOMAS TOBY SURVEY, Abstract #195, the same being the Northeast corner of the MACO STEWART SURVEY, Abstract #666, and being a point on the West line of the LINDSEY T. YOWELL SURVEY, Abstract #216, said point having a State Plane Coordinate value of $Y = 13,677,865.16$ and $X = 3,246,424.50$; **THENCE** N 13°37'15" E, along and with the East line of the THOMAS TOBY SURVEY, Abstract #195, the THOMAS TOBY SURVEY, Abstract #194, and the ARTHUR BURKE SURVEY, Abstract #25, the same being the West line of the LINDSEY T. YOWELL SURVEY, Abstract #216, and the JAMES SPILLMAN SURVEY, Abstract #175, at 664.24 feet pass a found 2 inch iron pipe for the Northwest corner of said YOWELL SURVEY, the same being the Southwest corner of said SPILLMAN SURVEY; at 1,826.49 feet pass the South line of the Highland Bayou Diversion Channel, a 300 foot channel right-of-way as same is described of record at Volume 2267, Page 272, Galveston County Deed Records; at 13,309.26 feet pass the South right-of-way line of the A.T. & S.F.R.R. 200 foot railroad right-of-way; at 13,510.39 feet pass the North right-of-way line of said A.T. & S.F.R.R. 200 foot right-of-way, the same being the South line of an existing 60 foot public roadway right-of-way, and; continuing along said course for a total distance of 13,570.74 feet to a point for corner being at the North line of said 60 foot roadway;

THENCE N 70°16'55" W, along and with the North line of said roadway right-of-way, a distance of 80.46 feet to a 1/2 inch iron rod found for corner;
THENCE N 13°37'15" E, parallel with and 80.00 feet perpendicularly distant Westerly from the East line of said **ARTHUR BURKE SURVEY**, a distance of 896.42 feet to a 1/2 inch iron rod found for corner and being at the Southerly right-of-way line of Texas State Highway #6;
THENCE S 72°57'55" E, along and with said Southerly right-of-way line, a distance of 80.14 feet to a 5/8 inch iron rod found for corner, said point being at the East line of said **BURKE SURVEY**, the same being the West line of the aforesaid **SPILLMAN SURVEY**;
THENCE S 13°37'15" W, along said common **SURVEY** line, a distance of 10.00 feet to a 5/8 inch iron rod found for corner;
THENCE S 72°57'55" E, continuing along and with the Southerly right-of-way line of said Highway #6, a distance of 120.21 feet to a 1/2 inch iron rod found for corner;
THENCE S 13°37'15" W, parallel with and 120.00 feet perpendicularly distant Easterly from the West line of said **SPILLMAN SURVEY**, at 895.84 feet pass a 1/2 inch iron rod found on line and being at the Northerly line of the aforesaid 60 foot roadway right-of-way; at 1,157.32 feet pass a 1/2 inch iron rod found on line and being at the Southerly line of the aforesaid **A.T. & S.F.R.R. 200** right-of-way; at 12,327.15 feet pass a 1/2 inch iron rod found on line and being at the Northerly right-of-way line of the aforesaid Highland Bayou Diversion Channel, and; continuing along said course for a total distance of 12,627.15 feet to a 1/2 inch iron rod found for corner and being at the Southerly line of said Diversion Channel right-of-way;
THENCE S 76°26'10" E, along and with the Southerly right-of-way line of said Diversion Channel, a distance of 8,737.41 feet to a point for angle to the right;
THENCE S 76°04'01" E, continuing along and with said Southerly right-of-way line, a distance of 2,136.15 feet to a point for curve to the right, said curve having a radius of 668.51 feet;
THENCE in a Southeasterly direction along the arc of said curve to the right, a distance of 371.76 feet, the chord of which curve bears S 60°08'10" E, 366.98 feet, to a point for corner being at the Mean High Water line of Galveston West Bay as established in survey by Dale L. Hardy, RPLS 4847, and William E. Merten, LSLs, dated August 17, 1999;
THENCE in a Southwesterly direction, along and with the meanders of said Mean High Water line, the following courses and distances;
 S 21°11'14" W, a distance of 27.80 feet;
 S 01°14'31" W, a distance of 68.23 feet;
 S 11°43'23" E, a distance of 139.18 feet;
 S 32°22'18" E, a distance of 49.41 feet;
 S 07°45'30" W, a distance of 102.13 feet;
 S 70°20'42" W, a distance of 147.20 feet;
 S 51°41'59" W, a distance of 59.63 feet;
 S 36°07'57" E, a distance of 47.19 feet;
 S 35°17'23" W, a distance of 60.40 feet;
 S 74°37'43" W, a distance of 26.42 feet;
 S 10°42'13" W, a distance of 55.38 feet;
 S 28°26'19" W, a distance of 92.76 feet;
 S 60°06'48" W, a distance of 91.64 feet;
 S 21°10'04" W, a distance of 25.89 feet;
 S 50°44'44" W, a distance of 34.22 feet;
 S 76°12'58" W, a distance of 55.20 feet;
 S 49°58'13" W, a distance of 62.74 feet;

S 34°28'11" W, a distance of 40.69 feet;
S 60°24'30" W, a distance of 28.00 feet;
S 00°45'09" W, a distance of 24.30 feet;
S 27°48'29" W, a distance of 108.40 feet;
S 36°01'02" W, a distance of 189.53 feet;
S 51°09'23" W, a distance of 124.24 feet;
S 57°49'08" W, a distance of 120.45 feet;
S 64°24'38" W, a distance of 155.95 feet;
S 61°20'09" W, a distance of 230.84 feet;
S 59°30'00" W, a distance of 308.79 feet;
S 41°49'52" W, a distance of 9.65 feet;
S 41°36'22" W, a distance of 73.88 feet;
S 29°46'39" W, a distance of 187.46 feet;
S 07°17'00" E, a distance of 105.57 feet;
N 81°53'07" W, a distance of 39.43 feet;
S 65°35'18" W, a distance of 15.95 feet;
S 43°01'26" W, a distance of 202.41 feet;
S 38°05'39" W, a distance of 127.25 feet;
S 32°46'05" W, a distance of 174.86 feet;
S 26°55'18" W, a distance of 107.70 feet;
S 10°55'46" W, a distance of 27.12 feet;
S 29°08'11" E, a distance of 47.68 feet;
S 27°32'23" W, a distance of 112.04 feet;
S 55°52'14" W, a distance of 111.14 feet;
S 21°16'02" W, a distance of 40.24 feet;
S 72°32'03" W, a distance of 84.01 feet;
S 24°44'56" W, a distance of 99.81 feet;
S 27°13'54" E, a distance of 45.51 feet;
S 17°32'37" W, a distance of 20.05 feet;
S 53°05'07" W, a distance of 191.57 feet;
S 70°05'45" W, a distance of 56.74 feet;
S 88°27'55" W, a distance of 49.63 feet;
S 81°07'35" W, a distance of 275.39 feet;
S 63°56'24" W, a distance of 87.80 feet;
S 50°21'13" W, a distance of 82.00 feet;
S 67°39'28" W, a distance of 474.73 feet;
S 74°11'31" W, a distance of 98.72 feet;
S 82°45'38" W, a distance of 143.96 feet;
N 78°26'04" W, a distance of 139.63 feet;
N 38°01'17" W, a distance of 66.37 feet;
N 61°32'18" W, a distance of 31.07 feet;

S 75°51'13" W, a distance of 101.39 feet, and;
S 36°12'00" W, a distance of 59.25 feet to a point for corner being the point of
intersection of said Mean High Water line with the South line of the aforesaid BRACKENRIDGE
SURVEY, the same being the North line of the ALEX RAMSEY SURVEY, Abstract #169;
THENCE N 76°22'51" W, along and with said common SURVEY line, a distance of 4,654.43 feet to a
1/2 inch iron rod found for corner, said point being the Northwest corner of said RAMSEY SURVEY,
the same being an interior corner of the aforesaid YOWELL SURVEY;
THENCE N 13°39'36" E, a distance of 2,462.07 feet to a 1/2 inch iron rod found for corner;
THENCE N 76°20'16" W, a distance of 3,618.39 feet to the POINT OF BEGINNING and containing
a calculated area of 852.2 acres of land.

* * *

**CERTIFICATE FOR
ORDER ADOPTING AMENDED AND RESTATED
DISTRICT REGULATIONS ON BULKHEADS AND CANALS**

THE STATE OF TEXAS §
COUNTY OF GALVESTON §
FLAMINGO ISLES MUNICIPAL UTILITY §
DISTRICT OF GALVESTON COUNTY, TEXAS §

We, the undersigned officers of the Board of Directors (the “Board”) of Flamingo Isles Municipal Utility District of Galveston County, Texas (the “District”), hereby certify as follows:

1. The Board convened in special session, open to the public, on May 2, 2012 at 1301 Harborwalk Boulevard, Hitchcock, Texas 77563, a location inside the District, and the roll was called of the members of the Board, to-wit:

- Arnold J. Cross, Jr., President
- Ronald Ray Holley, Vice President
- Richard Couch, Secretary
- Michael L. Andries, Treasurer
- Donald P. Tarpey, Assistant Secretary

All members of the Board were present, except the following: Director Couch, thus constituting a quorum. Whereupon among other business, the following was transacted at such Meeting: A written

**ORDER ADOPTING AMENDED AND RESTATED
DISTRICT REGULATIONS ON BULKHEADS AND CANALS**

As duly introduced for the consideration of the Board and read in full. It was then duly moved and seconded that such Order be adopted, and, after due discussion, such motion, carrying with it the adoption of such Order, prevailed and carried by the following votes:

AYES: 4 NOES: 0

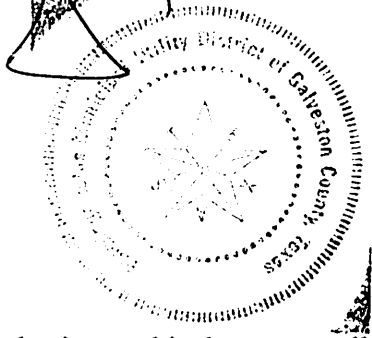
2. A true, full, and correct copy of the aforesaid Order adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; such Order has been duly recorded in the Board’s minutes of such Meeting; the above and foregoing paragraph is a true, full, and correct excerpt from the Board’s minutes of such Meeting pertaining to the adoption of such Order; the persons named in the above and foregoing paragraph are the duly chosen qualified, and acting officers and members of the Board as indicated therein, each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of such Meeting, and that such Order would be introduced and considered for adoption at such Meeting and each of such officers and members consented, in advance, to the holding of such Meeting for such purpose, and such Meeting was open to the public, and public notice of the time, place, and purpose of such Meeting was given, all as required by Chapter 551, Texas Government Code, and Section 49.063, Texas Water Code, both as amended.

SIGNED AND SEALED this May 2, 2012.

Donald P. Tarpey
Secretary, Board of Directors

Arnold J. Cross, Jr.
President, Board of Directors

(DISTRICT SEAL)



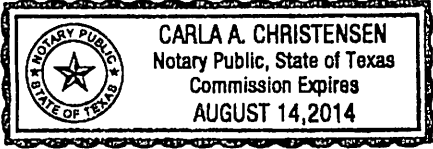
THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority on this day personally appeared Arnold J. Cross, Jr. and Donald P. Tarpey, persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2012.

Carla A. Christensen

Notary Public in and for the State of T E X A S



My Commission Expires:
August 14, 2014

PLEASE RETURN TO:
Carla Christensen
Fulbright & Jaworski
1301 McKinney, Suite 5100
Houston, Texas 77010-3095