

**FIFTH AMENDMENT TO COVENANTS, CONDITIONS AND DEED RESTRICTIONS  
FOR  
SIESTA SHORES SUBDIVISION, SECTION ONE.**

**THE STATE OF TEXAS**        )  
**COUNTY OF TRAVIS**        )

WHEREAS, SIESTA SHORES, SECTION, a subdivision consisting of 90.02 acres of land, more or less, out of the J. B. Milam Survey, A-643, J. Burlson Survey, A-65 and the Beaty, Seale and Forwood Survey, A-46, Travis County, Texas, was created as shown and more fully described in a plat recorded in Book 11, Page 71, Plat Records of Travis County, Texas;

WHEREAS, Alfred Lehtonen and Marvin E. Bell imposed certain covenants, conditions and restrictions upon various lots in Siesta Shores, Section One, those covenants, conditions and restrictions being more fully described in an instrument dated September 10, 1963, recorded in Volume 2648, page 174, Deed Records of Travis County, Texas, which covenants, conditions and restrictions were amended by (1) Amendment dated June 28, 1985, recorded in volume 9231, page 813, Real Property Records of Travis County, Texas, and (2) Second Amendment dated September 17, 1992, recorded in Volume 11774, Page 0571, Real Property Records of Travis County, Texas; and (3) 3<sup>rd</sup> Amendment dated effective November 2, 1994, recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Real Property Records of Travis County, Texas, and (4) consolidated in a 4<sup>th</sup> Amendment dated April 30, 2000, recorded in Volume \_\_\_\_\_ Page \_\_\_\_\_, Real Property Records of Travis County, Texas

Paragraph II shall be deleted in its entirety and the following Paragraph shall be substituted in its place:

**II.**

“Lots 1 – 3, Block C of said subdivision may be used commercially for the purpose of constructing, maintaining, and operating a fishing dock and boat house with boat slips and storage facilities and in connection therewith, sell and service boats, marine accessories, and fishing supplies, sell food and beverage items for human consumption, except beer and other alcoholic beverages, dispense petroleum products for boat usage only and do whatsoever may be requisite and necessary for the efficient operation of a boat “marina”. The construction of a multilevel drystack facility for the storage of boats and/ or trailers, and the construction of boat docks for sale to the general public shall be expressly prohibited. The building and repair of docks on the property for use of the marina only is permitted. All illumination on the marina property must be in a downward direction and without offensive glare towards neighboring properties but must be allowed to provide for adequate security on the premises.”

**Paragraph VIII** shall be deleted in its entirety and the following Paragraph shall be substituted in its place:

**VIII.**

“Those certain areas designated as “North Park” and “South Park” on the plat of Siesta Shores, Section One, recorded in Book 11, Page 71 of the Plat Records of Travis County, Texas, (collectively referred to herein sometimes as the “Parks”), are hereby dedicated to the use, benefit and enjoyment of the lot owners in Siesta Shores, Section One (“Section One Owners”), said parks to be used for boat launching, swimming, picnicing and other similar recreational activities. Any structure, such as, but not limited to, a community dock, community boat slips, playground equipment, sports facility, or gazebo on the parks or the shorelines thereof, requires the approval of the majority of the Siesta Shores Section One property owners . The placement of a boat dock on the shoreline of the Parks by an individual property owner is prohibited. The legal owners of the 41 lots currently platted as Siesta Shores, Section II, a subdivision in Travis County, Texas according to the map or plat thereof recorded in Book 86, Page 10-D, plat Records of Travis County, Texas (“Section II Owners”) and the legal owners of the lots (currently 3 lots, but to be subdivided into a total of 4 lots, maximum) in Siesta Shores, Section II-A, (Section II-A Owners”) more fully described in Volume 7694, Book 453, Deed Records, Travis County, Texas and Volume \_\_\_\_, Page \_\_\_\_, Real Property Records, Travis County, Texas shall be allowed a right of way upon and across the North Park and South Park to use and enjoy the Parks (including the right to use any boat launching facilities located on or appurtenant to the Parks and any boat docks or other facilities that may be constructed on the Parks), in the same manner as the Section One Owners upon the following terms and conditions:

(a) **KEYS TO THE PARKS.**

Section II Owners and Section II-A Owners will be allowed access to the parks only after furnishing appropriate evidence of their ownership of a lot in Siesta Shores, Section II or their ownership of a lot in Siesta Shores, Section II-A and making a Fifty Dollar (\$50.00) key deposit with Siesta Shores Property Owners Association (“Association”) or such other amount as determined by the Association, which will entitle each Section II owner and each Section II-A Owner to one key to the locks securing entrance to the Parks, which key may not be duplicated and which key must be returned to the Association upon sale or transfer of their ownership interest in the lot or lots in Siesta Shores, Section II or Siesta Shores, Section II-A.

(b) **RULES OF CONDUCT.**

All Section II Owners and all Section II-A Owners, now and in the future, will abide by the rules of conduct in the Parks as may be set forth from time to time by the Association, providing such rules do not unreasonably restrict or limit the access of the Section II Owners or the Section II-A Owners to the Parks or discriminate in the usage permitted Section I Owners, Section II Owners and Section II-A Owners, except that Section One Owners only, shall be allowed to burn brush and debris in the Parks.

(c) **MAINTENANCE FEES AND ASSESSMENTS.**

Section II Owners and Section II-A Owners shall pay to the Association an annual fee of \$35.00 per lot per year for access to the Parks; however, the assessments may be increased as provided in the amendment to Protective Restrictions and Covenants for Siesta Shores, Section II, dated effective June 26, 1992 and recorded in Volume 11774, Page 555, Real Property Records, Travis County, Texas, and the assessments may be increased as provided in the amendment to Protective Restrictions and Covenants for Siesta Shores, Section II-A dated effective November 17, 1994 and recorded in Volume 12335, Pages 609 – 707, Real Property Records, Travis County, Texas; and any Section II Owner or any Section II-A Owner who fails to make timely payment of such fees shall be denied access to the Parks and shall promptly deliver to the Association or the Association's representative any and all keys permitting such Section II Owner or Section II-A Owner access to the Parks; in addition, Debco shall be required to pay only one such fee per year even though it may own more than one lot, but should be issued only two (2) keys to the parks which keys may not be duplicated; in addition, Sheryl Ann Miller and Kathy Lee Miller shall be required to pay only two such fees per year even though they may own more than one lot, but should be issued one key apiece (two keys total) to the Parks, which keys may not be duplicated;

*fees*

(d) **BUILDING AND PROPERTY RESTRICTIONS.**

Section II Owners, their respective successors, heirs and assigns must enforce and maintain building restrictions and property restrictions for Siesta Shores, Section II according to the plat of said subdivision; and, Section II-A Owners, their respective successors, heirs and assigns must enforce and maintain building restrictions and property restrictions for Siesta Shores, Section II-A according to the amended Protective Restrictions and Covenants for Siesta Shores, Section II-A filed of record in Volume 12335, Page 0699, Real Property Records, Travis County, Texas; which both restrictions for Siesta Shores, Section II and Siesta Shores Section II-A are as stringent than the current building and property restrictions affecting lots in Siesta Shores, Section One, which restrictions are more specifically described in an instrument dated September 10, 1963 and recorded in Volume 2684, Page 174, Deed Records of Travis County, Texas; as amended in Amendment to Covenants, Conditions and Deed Restrictions dated June 28, 1985, recorded in Volume 09231, Page 0813, Real Property Records, Travis County, Texas; as amended in a Second Amendment to Covenants, Conditions and Deed Restrictions dated September 17, 1992, recorded in Volume 11774, Page 0571, Real Property Records, Travis County, Texas; and as amended by Third Amendment to Covenants, Conditions and Deed Restrictions dated effective November 2, 1994.

(e) **VOTING RIGHTS AND RIGHTS TO ACCESS.**

Section II Owners and Section IIA Owners shall not be allowed to be voting members of the Association or have any voting rights or other rights regarding matters affecting lots or lot owners in Siesta shores, Section One; nor shall the Section II Owners, nor shall the Section II-A owners acquire any property rights in the Parks other than the permanent right of access to the Parks upon the terms and conditions set forth herein and further

provided that the right-of-way to the Parks granted herein to the Section II Owners shall be limited to the legal owners of the 41 approximately one-acre lots currently platted by Debco as Siesta Shores , Section II in Book 86, Page 10-D, Plat Records of Travis County, Texas, and access to the Parks by Section II Owners may not be increased in size or increased in number; and further provided that the right-of-way to the Parks granted herein to the Section II-A Owners shall be limited to the legal owners of the lots in the 7.72 acre tract referred to as Siesta Shores, Section II-A as recorded in Volume 7694, Page 453, Real Property Records, Travis County Texas and as recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Real Property Records, Travis County, Texas of which currently there are 3 approximately one-plus acre lots, of which the largest 5.315 acre lot might be further subdivided into two lots maximum; therefore the right-of-way to the Parks granted herein to the Section II-A Owners shall be limited to the legal owners of the possible 4 lots total, (i.e., No more than 4 keys could be issued to Section II-A Owners, one per lot), and access to Parks by Section II-A Owners may not be increased (with exception to the possible subdivision of the 5.315 acre lot referred to above, only) even if the lots in Siesta Shores, Section II-A are further subdivided (with the exception of the 5.315 acre lot), decreased in size or increased in number; and

(f) **NAME REFERENCES.**

References to the Association or Siesta Shores Property Owners Association herein shall be construed to mean the governing authority or entity created or organized by the lot owners in Siesta Shores, Section One, regardless of whether the authority or entity is actually called the Siesta Shores Property Owners Association and if no such authority or entity exists, all references to the Association herein shall mean the Section One Owners. The Association shall pay taxes and other assessments made against the parks or other common areas and shall exercise control over the Parks for the common enjoyment and benefit of Section One Owners in accordance with the Deed Restrictions as amended herein or as they may be amended from time to time. The Association shall have the power to enforce restrictions and covenants applicable to property located in Siesta Shores, Section One on behalf of the Section One Owners and shall have the power to enforce the deed restrictions (as amended herein and as amended from time to time) against the Section One Owners and Section II Owners and shall have the authority to execute any and all documents, contracts or instruments approved by the Section One Owners.”

Except as amended hereinabove, the covenants, conditions and restrictions appearing in the instrument dated September 10, 1963, recorded in volume 2648, Page 174, Deed Records of Travis County, Texas; as amended by Amendment to covenants, conditions and Deed Restrictions dated June 28, 1985, recorded in Volume 09231, Page 0813, Real Property Records of Travis County, Texas; as amended by Second Amendment to Covenants, Conditions and Deed Restrictions dated September 17, 1992, recorded in Volume 11774, Page 0571, Real Property Records of Travis County, Texas; as amended by Third Amendment to Covenants, Conditions and Deed Restrictions dated November 2, 1994; as amended by Fourth Amendment to Covenants, Conditions and Deed Restrictions effective August 1, 1998 and recorded in Real Property Records of Travis County, Texas; and, as amended in current document, Fifth Amendment, to covenants, Conditions and Deed Restrictions, voted by the majority of lot owners in Siesta Shores,

Section One to become effective October 19, 2002 and signed on or about June \_\_\_\_\_, 2003; shall remain in full force and effect; AND they are HEREBY RATIFIED AND CONFIRMED.

SIESTA SHORES, SECTION ONE  
PROPERTY OWNERS ASSOCIATION

\_\_\_\_\_  
By: Tommy Reagan, Vice President  
Acting President of Siesta Shores  
Property Owners Association  
Attorney-in-Fact

STATE OF TEXAS            )  
  )  
COUNTY OF TRAVIS        )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2003, by Tommy Reagan, Acting president of Siesta Shores Property Owners Association, as attorney-in-fact on behalf of the Siesta Shores, Section One Lot Owners.

\_\_\_\_\_  
Notary Public In and For The State of Texas

Please print Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_