

DEDICATION AS A WETLAND PRESERVE AND DEED RESTRICTION

The CITY OF CORPUS CHRISTI (City or Owner) is the owner of certain real property, to wit:

- (1) 12.24-acre tract of land (Wetland Preservation Site, Tract #1); and
- (2) 4.504-acre tract of land (Wetland Preservation Site, Tract #2),

more particularly described and shown in the attached map and metes and bounds description (**Exhibits A and B**) (collectively referred to herein as the "Property").

The City hereby dedicates the Property as a wetland preserve subject to the conditions of U.S. Army Corps of Engineers (USACE) Section 404/10 Individual Permit Number SWG-2014-00408, and the "Final Mitigation Plan for the US 181 Harbor Bridge Replacement Project filed by Flatiron- Dragados, LLC (Mitigation Plan)." One of the conditions of the USACE permit requires the City, as Owner, to place restrictions on the deed for the Property for the purpose of providing compensation for adverse impacts to waters of the United States.

This dedication and instrument is to assure that the Property will be retained and maintained forever predominantly in the natural vegetative and hydrologic condition described in success criteria of said Mitigation Plan. Once success criteria has been met, defined as >60% hydrophytic vegetation, annual monitoring will be discontinued.

Activities which may, in the future, be conducted upon the Property, that will affect the vegetative and or the hydrologic conditions outlined in the success criteria of the Mitigation Plan, must be coordinated with and approved by the United States Army Corps of Engineers, Galveston District, Regulatory Branch, prior to beginning the activity.

1) Term

These restrictions run with the land in perpetuity and are binding on the Owners and transferees, future owners, heirs, successors, administrators, assigns, lessees or other occupiers and users. Owner is filing this Wetland Preserve Dedication of record with the County Clerk of Nueces County, Texas within 10 days of the date this document is signed and will provide a copy of the recorded instrument to the USACE, Galveston District within 30 days of filing.

2) General

Except for the specific activities, as authorized under USACE Section 404/10 Individual Permit Number SWG-2014-00408, the following activities are prohibited on the Property subject to this Dedication:

- (a) There must be no filling, excavation, mining or alteration of the Property that will affect the success criteria outlined in the Mitigation Plan unless approved in writing in advance by the USACE, Galveston District.
- (b) This Property must be used in perpetuity for the purposes stated in this Dedication as a wetland preserve under Section 404 of the Clean Water Act (33 U.S.C. 1344).

3) Rights of Access and Entry

The USACE has the right to enter and go upon the Property to inspect and to take actions, including but not limited to scientific or educational observations and studies, and to collect samples.

4) Enforcement

In the event of a breach of the restrictions by the Owner or a third party working with the permission of or under the direction of the Owner, the USACE must be notified immediately. If the USACE becomes aware of a breach of this Agreement, the USACE will notify the Owner of the breach. The Owner will have 30 days after receipt of the notice to take actions that are reasonably calculated to swiftly correct the conditions constituting the breach. If the Owner corrects the conditions constituting the breach in a timely and reasonable manner, no further action is warranted or authorized. If the Owner fails to begin to take the said corrective action within 30 days or fails to complete the necessary corrective action, the USACE may take actions, including legal proceedings, as are necessary to effect the corrective action. Any forbearance on the part of the USACE to exercise its rights in the event of a breach of the restrictions must not be deemed or construed to be a waiver of their rights hereunder in the event of any subsequent failure of the Property owner to comply.

Owner

CITY OF CORPUS CHRISTI, TEXAS
P. O. Box 9277
City Hall, 1201 Leopard, THIRD FLOOR
Corpus Christi, Texas 78469-9277

Valerie H. Gray, P.E.
Executive Director of Public Works

THE STATE OF TEXAS §

COUNTY OF NUECES §

This instrument was acknowledged before me on _____, 2019,
by Valerie H. Gray, P.E., Executive Director of Public Works of the City of Corpus Christi, a Texas
municipal corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

APPROVED AS TO LEGAL FORM, _____, 2019.

FOR THE CITY ATTORNEY

Janet Whitehead, Assistant City Attorney
CITY LEGAL DEPARTMENT