

DEED RESTRICTION

_____ is the owner of the real property more particularly described and shown in Exhibit “A” (hereinafter the “Property”) attached hereto and made a part hereof. The approximately ____-acre Property is also referenced in “The Mitigation Plan for _____”. The Property is subject to the conditions of Department of the Army Section 404/Section 10 Permit Number _____, dated _____, or a revision thereof. One of the conditions of the referenced permit requires restrictions be placed on the deed for the Property for the purpose of providing compensation for adverse impacts to waters of the United States”. The intent of this document 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 the “The Mitigation Plan for _____”. Activities, which may, in the future, be conducted within the Property that will affect the vegetative and or 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 (USACE), Galveston District, Regulatory Branch, prior to initiation.

The parties to this agreement include the Property owner(s) who by their signature accept the third-party rights of enforcement herein and agree that the deed restrictions will be subject to the following conditions:

1) Property Description

(Applicant) will provide as Attachment A-1:

- a) On-site photographs taken at appropriate locations on the Protected Property including all major natural features; and
- b) A copy of the deed with an accurate legal description or a current survey certified by a Texas Registered Professional Land Surveyor (RPLS) of the Protected Property.
- c) A copy of a verified wetland survey map, which delineates all waters of the United States, including wetlands within the Property.

2) Term

These restrictions shall run with the land in perpetuity and be binding on all future owners, heirs, successors, administrators, assigns, lessees, or other occupiers and users. The owner must file this Deed Restriction of record with the County Clerk of _____ County, Texas within 10 days of the date this document is signed and provide a copy of the recorded Deed Restriction to the USACE, Galveston District within 30 days of filing.

3) General

Except for such specific activities as authorized pursuant to DA Permit Number _____, the following activities are prohibited on the Property subject to this Deed Restriction:

- (a) There shall 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.

4) Rights of Access and Entry

The USACE shall have the right to enter and go upon the Property for purposes of inspection, and to take actions including but not limited to scientific or educational observations and studies, and collection of samples.

5) 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 shall have thirty (30) days after receipt of such notice to undertake 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 initiate such corrective action within thirty (30) days or fails to complete the necessary corrective action, the USACE may undertake such actions, including legal proceedings, as are necessary to effect such corrective action. Any forbearance on the part of the USACE to exercise its rights in the event of a breach of the restrictions shall 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.

Approved by Property Owner

Signature

Date

Printed Name

Title

Approved by Applicant

Signature

Date

Printed Name

Title