

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Missouri-American Water)
Company for Certificates of Convenience)
And Necessity Authorizing it to Install, Own,)
Acquire, Construct, Operate, Control, Manage)
And Maintain a Water System and a Sewer System)
In an area of Miller County, Missouri (Isla del Sol)
Condominium Association, Inc., f/k/a Atlantis)
Island)

File No.: WA-2019-0364

NOTICE OF EX PARTE CONTACT

Issue Date: September 16, 2019

On September 16, 2019, Ted D. Disabato sent Paul T. Graham, Regulatory Law Judge, the attached e-mail regarding this file. Mr. Disabato's communication does not state he represents a party to this file, and the e-mail may be an ex parte communication regarding a pending case, as defined by Commission Rule 20 CSR 4240-4.020, and so the Commission gives notice thereof. This notice is given pursuant to Commission Rule 20 CSR 4240-4.020(3) and (4).



BY THE COMMISSION

A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2016.\

Dated at Jefferson City, Missouri,
on this 16th day of September, 2019.

From: [Ted Disabato](#)
To: [Graham, Paul](#)
Cc: [Erik Zorumski](#)
Subject: WA-2019-0364
Date: Monday, September 16, 2019 9:56:55 AM
Attachments: [20190913 Petition.pdf](#)
[20190913 Exhibit 1.pdf](#)
[20190913 Exhibit 2.pdf](#)

Hi Judge Graham:

I represent the Isla del Sol Condominium Association. My client just became aware that it appears Rockwood Bank is attempting to sell a water/sewer plant to Missouri-American Water Company. This matter is before you as WA-2019-0364. It's my clients position that Rockwood Bank is attempting to sell an asset that is owned by the condo unit owners as a Common Element. We filed the attached petition in St. Louis County. I wanted to provide you with a courtesy copy as this suit will likely effect the matter before you.

Any questions, please don't hesitate to ask.

Thanks,

Ted

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2007 0415

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**DECLARATION OF CONDOMINIUM OWNERSHIP AND BYLAWS,
EASEMENTS, RESTRICTIONS AND COVENANTS FOR THE
ATLANTIS ISLAND CONDOMINIUM**

This Declaration is made and entered into this 28th Day of Sept., 2007, by Atlantis, L.L.C. (hereinafter sometimes referred to as "the Declarant");

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of certain real estate, hereinafter described in the submission section located in Miller County, State of Missouri; and

WHEREAS, the Declarant intends to and does hereby submit said real estate together with the building, structure, improvements, and other permanent fixtures of whatsoever kind now or hereafter thereon, and all rights and privileges belonging or in any way pertaining thereto to be owned by Declarant and by each successor in interest of Declarant, under that certain type or method of ownership commonly known as "CONDOMINIUM" pursuant to the Uniform Condominium Act of the State of Missouri, and

WHEREAS, the Declarant has further elected by this Declaration to declare that several Unit Owners, occupants, mortgagees, and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to the rights, easements, privileges, and in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of such property and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the property.

NOW, THEREFORE, Declarant, the legal title holder heretofore described, and for the purposes above set forth, DECLARES that the Atlantis Island Condominium is hereby established pursuant to this Condominium Declaration and the following covenants, terms and conditions: Declarant is the record owner in fee simple of real estate located in Miller County, State of Missouri, which is comprised by all of the units and Common Elements legally described as consisting of the property as set forth in Exhibit "A" attached hereto:

Subject to easements, building lines, conditions, restrictions, zoning regulations, the lien for general and special real estate taxes for calendar year 2007 and thereafter, deeds of trust of record.



SUBMISSION

Declarant hereby declares that the property identified in Exhibit "A" shall be a Condominium governed by the provisions of the Uniform Condominium Act of the State of Missouri (Sections 448.1-101 to 448.4-102 R.S.Mo.), herein the "Act", in effect as of the date of the recording of this Declaration. Declarant certifies Declarant is the sole owner of the property.

ARTICLE ONE: DEFINITIONS

1.1 "Act" shall refer to the Uniform Condominium Act of the State of Missouri, Sections 448.1-101 to 448.4-102, Revised Statutes of Missouri, as amended from time to time.

1.2 "Allocated Interest" or "Share" shall refer to the interest of each Unit Owner in the aggregate in interest of the undivided ownership of the Common Elements. The percentage interest attributed to each Unit is set forth in the Exhibit "B" attached hereto which is incorporated in the Declaration by this reference.

1.3 "Assessment" and "Special Assessment" shall refer to that portion of the cost of maintaining, repairing, insuring and managing the Property which is to be paid by Unit Owners as provided in this Agreement and may also be identified as "Condo Fee". Assessment and Special Assessment are further defined in Article Eight.

1.4 "Boat Dock", a floating structure for berthing boats and personal water crafts that certain Unit Owners have permanent or temporary licenses to use a particular boat slip which for all purposes shall include slips designed for personal water crafts and pay a boat dock assessment to maintain, repair and replace.

1.5 "Budget" shall refer to the statement prepared for each calendar year which estimates the costs and expenses related to the operation, maintenance and repair of the Common Elements and the administration of the Association in accordance with the Declaration and Bylaws.

1.6 "Building". Shall refer to any building or buildings as now or hereafter constructed and located on the parcel and forming part of the Property containing such Units as indicated by the Plat.

1.7 "Bylaws" shall refer to the Bylaws of the Association, which is included in this instrument, regarding operating procedures of the Association as amended from time to time.

1.8 "Common Elements" shall refer to all portions of the Tract except the Units. The Common Elements are further defined in Article Three and include the Limited Common Elements.

1.9 "Common Expenses" shall refer to the actual and estimated costs of:

(a) Maintenance, management, operation, repair and replacement of the Common Elements (exclusive of those structures referred to in Section 1.15 as Limited Common Elements) which are the responsibility of the Executive Board to maintain, manage, operate, insure, repair,

and replace pursuant to this Declaration;

(b) Management and administration of the Condominium, including, without limitation, the compensation paid by the Condominium to managers, accountants, attorneys and other employees; and

(c) Maintenance of Boat Docks by a separate assessment made only against unit owners who own an interest in or rent one of the boat dock slides.

(d) Any other items in accordance with this Declaration, Bylaws, Act, or any other Condominium documents to be expenses properly paid by the Association.

1.10 "Condominium" shall refer to that form of ownership in accordance with this Declaration and the Act, in which portions of the Property are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions designated for separate ownership.

1.11 "Condominium Association" or "Association" shall refer to that Association referred to in Section 6.1 and shall include the Atlantis Island Condominium.

1.12 "Declaration" shall refer to this instrument, as amended from time to time.

1.13 "Developer" or "Declarant" shall refer to Atlantis Island, L.L.C., a Missouri Limited Liability Company and its successors and assigns.

1.14 "Eligible Mortgage Holder" or "Eligible Mortgagee" shall refer to a holder or an insurer or governmental guarantor of a first mortgage or Deed of Trust on a Unit who has requested from the Condominium Association in writing, identifying the name and address of such holder, insurer or guarantor, copies of any and all notices required to be given to Eligible Mortgage Holders by this Declaration.

1.15 "Executive Board" or "Board" shall refer to that Board referred to in Section 6.2 and 6.3. Such Board shall also constitute the corporate Board of Directors if the Association is incorporated.

1.16 "Limited Common Elements" shall refer to those Common Elements or portions of Common Elements which are reserved for the use of a certain Unit or Unit(s) to the exclusion of other Units as described in Article 11.

1.17 "Majority of the Unit Owners" shall refer to the owners of more than fifty percent in the aggregate in interest of the undivided ownership of the Common Elements only for votes to amend the Declaration or for termination of the Condominium. In all other matters including election of Board members and Budget approval, a majority shall be a majority of the Units in which election each Unit and shall have an equal vote regardless of the size of the Unit.

1.18 "Manager" shall refer to an individual, individuals or a property management company that has been employed by the Board to carry out certain administrative duties of the Association.

1.19 "Person" shall refer to a natural individual, corporation, partnership, trustee or other

legal entity capable of holding title to real property in Missouri.

1.20 "Plat" shall refer to the plat or plats of the survey of the Tract and of all the Units in the Property, as amended from time to time, which may consist of a three-dimensional horizontal and vertical delineation of all such Units and which is identified as Exhibit "C".

1.21 "Property" shall refer to all the land, property and space comprising the Tract and all rights and appurtenances belonging to the Tract, all improvements and structures erected, constructed or contained in or on the Tract, including the buildings and all easements, rights and appurtenances belonging to the buildings, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to provisions of the Act. The Property includes the Units and the Common Elements. The Condominium consists of both the shore property and the island property.

1.22 "Record" shall refer to a record in the office of the Recorder of Deeds of Miller County, Missouri.

1.23 "Rental" shall mean accepting any payment by any person or organization, in return for allowing any person or persons to occupy the Unit. However, rentals shall not include occupancy by any co-unit owner or any owner of the unit which holds title and the close family members of any owner.

1.24 "Resale Certificate" - A document which the Association provides to an Owner containing pertinent Association information.

1.25 "Rules and Regulations" shall refer to the rules and regulations promulgated from time to time by the Executive Board regarding the operation, maintenance, beautification, conservation, and use of the Common Elements and Units and for the health, comfort, safety, and general welfare of the Unit Owners or occupants. Unit Owners and other residents shall be deemed to be on legal notice of all Rules and Regulations contained in any handbook or published in a newsletter or sent to the Unit Owners by mail during or prior to the time such individual owned a Unit or resided at the complex even if the individual claims to have no actual knowledge of the Rules and Regulations.

1.26 "Special Declarant Rights" shall refer to the rights reserved in this Declaration for the benefit of the Declarant.

1.27 "Tract" shall refer to that parcel of land identified in Exhibit "A" which includes the real estate identified in Exhibit "A". However, a portion of which parcel of land the Declarant may elect to withdraw from the Condominium and formed as separate development that shares the sewer treatment facilities to the Condominium only by subjecting both parcels of real estate as separate entities to a Master Association Declaration regarding sewers and other common improvements not covered under this Condominium.

1.28 "Unit" shall refer to a part of the Property, including one or more rooms, occupying one or more floors or a part or parts, designed and intended for any type of independent use, and having lawful access to a public way and which is more fully described in Section 2.1 below.

1.29 "Unit Owner" shall refer to the Person or Persons whose estates or interests,

individually or collectively, aggregate fee simple absolute ownership of a Unit.

1.30 "Ferry System" shall refer to the Ferry barge, all of the equipment to operate it including the landings both on the island and on the mainland.

1.31 "Courtesy/Emergency Boat Dock", a section of the boat dock that may be used by all Unit Owners and maintained by the general assessments of all the Unit Owners.

1.32 "Garages", a certain number of garages on the shore property are available for purchase from Declarant as Limited Common Elements.

ARTICLE TWO: UNITS

2.1 **Identification and Description of Units.** All Units in the buildings located on the Property have been legally described on the Plat which may be attached hereto as Exhibit "C." Every deed, lease, mortgage, or other instrument may legally describe a Unit by its identifying number as shown on the Plat and as set forth in this Declaration, and every such description shall be deemed good and sufficient for such purposes, and shall be deemed to convey, transfer, encumber or otherwise affect the owner's corresponding percentage of ownership in the Common Elements even though the ownership in the Common Elements is not expressly mentioned or described in any such instrument. Each Unit Owner shall be entitled to all rights and privileges of the Unit and to the Share in the Common Elements appertaining to such Units as computed and set forth in this Declaration and which except for minor variations due to rounding, shall total one hundred percent when added to the interest of all the other units. The ownership of the Unit and the Unit's Share in the Common Elements shall not be separated nor shall any Unit, by deed, plat, court decree or otherwise, be subdivided or in any other manner separated into tracts or parcels smaller than the whole Unit as shown on the Plat. The percentage of ownership of each Unit is computed on the basis of square footage of living space in a Unit, which shall not include certain non-living space in certain Units, parking, boat docks, storage or other Limited Common Element Space, such as balconies and screened in enclosures of any deck or balcony.

2.2 **Structural Components.** No Unit Owner shall own any pipes, wires, conduits, public utility lines, sanitary sewer lines or structural components running through their Unit and serving more than the Unit Owner's own Unit except to the extent of the Unit Owner's interest in the Common Elements, and no Unit Owner may disturb, modify or otherwise interfere with such Common Element without prior written approval of the Board.

2.3 **Unit Boundaries.** The Plat shall show the boundaries of the Unit. The entire thickness of drywall, plaster and lathing constitutes the interior perimeter of walls and ceilings of the Unit shall be part of the Unit. The entire finished flooring of the lowest floor of the Unit shall also be considered to be part of the Unit including any hardwood. The Unit's floor shall include portions of the floor above sub-flooring, including any wood, carpet, tile or other coverings. The Unit shall also include all windows, window frames, doors, door frames, locks, hinges and hardware. In spite of the fact that doors and windows are part of the Unit the Board may undertake regulate in its discretion any painting, repair or replacements or window coverings which in any way affect the exterior appearance of the exterior portions of such windows and doors including storm windows.

2.4 **Percentage of Ownership.** The Percentage of Ownership is set forth in Exhibit "B"

attached hereto and is generally based on the square footage of living space contained in each Unit.

ARTICLE THREE: COMMON ELEMENTS

3.1 Definition. Included in the Common Elements are all portions of the property except for the Units. A portion of the Common Elements are further designated as limited Common Elements in Article Thirteen below. The Common Elements include but are not limited to the following:

(a) The common stairways, elevator, parking areas, garages, gardens, lawns and landscaping, sidewalks, pool, common building, boat docks, ferry system, water and sewage system, and other Common Elements which may be added by Deed.

(b) All electrical wiring, pipes, phone wires, cables and conduits throughout the Property, except those serving only one Unit. Any utility installation exclusively serving only one Unit, whether such installation is located wholly or partially within or outside that Unit, shall be considered as being "within" the Unit and is a part of that Unit. Such utility installations shall specifically include electric cables leading from a Unit's electric meter, its breaker box, all drain pipes, all water pipes to the point at which they enter a meter or connect with utility services serving another Unit, all outside air conditioning equipment shall also be part of the Unit.

(c) The foundations, exterior walls facing Common Elements, structural portions of building interior or walls separating Units, roofs, gutters, attics, downspouts and all other common portions of the Property not included within Units.

3.2 Allocated Interest in the Common Elements. Attached as Exhibit "B" is a list of all Units by their identifying numbers and the Allocated Interest or Share appurtenant to each Unit, as determined on the basis of square footage, by dividing the square footage of the Unit by the aggregate of the square footage of all Units. The Shares as so computed have been rounded off to two (2) significant figures so that the sum of the Shares of all Units shall equal one hundred percent (100%) except for minor variations due to rounding. Except as otherwise provided in this Declaration, each Unit Owner shall bear the same proportionate share of expense and administration of the Common Elements as is reflected on the Exhibit "B". Each Unit shall include all windows and all doors and doorways serving each such Unit whether such windows, doors and doorways are inside or outside of the plane of the interior perimeter wall. Any screening on porch areas exclusively serving one Unit shall also be repaired and replaced by the Unit Owner. The Common Expense liability of each Unit shall be assessed in accordance with each Unit's Share.

3.3 No Partition of Common Elements. As long as the Property is subject to the provisions of the Act, the Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. Any covenant or agreement to the contrary shall be null and void. No provision in this Declaration, however, shall prevent partition of a Unit as between co-owners of that Unit, if such right of partition shall otherwise be available, but such partition shall not be in kind. No Unit may be divided into more than one living Unit.

3.4 No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to their Unit without including in that instrument both the Unit Owner's interest in the Unit and the Unit Owner's Share in the Common Elements, and limited Common Elements assigned to the Unit to prevent any severance of such combined ownership.

Any such deed, mortgage, lease or other instrument purporting to affect the Unit Owner's title to either the Unit Owner's interest in the Unit or Share in the Common Elements without including the other interests in the property shall automatically be deemed to include the omitted interest in the Common Elements and Limited Common Elements including, but not limited to, parking spaces and boat dock slips. The use of parking spaces are further regulated pursuant to the provisions of Section 13.4 and the use of boat dock slips is further regulated pursuant to the provision of Section 14.1.

3.5 Sanitary Sewer/Waste Disposal Systems. Declarant may, but is not obligated to convey to assign or turnover the Association's sanitary sewer/treatment system to a Master Association, at Declarant's sole option and discretion. The Condominium shall own and maintain all portions of the storm water control systems including, but not limited to, all detention structures, sewer pipes or other items. The Condominium shall own and control all sewer laterals to the point of any vent/clean out located outside of the Condominium buildings. All pipes and sewer lines from such point shall be part of the sanitary sewer/treatment system even if located on Association property and an easement is granted for all such areas to the entity that owns and operates the sanitary sewer/treatment system if different from the Condominium Association.

3.6 Master Homeowners Association May Be Formed For Common Elements. The Declarant in its sole discretion may form a separate master homeowners association to operate the Common Elements (except those adjacent to the Condominium building which shall remain with the Condominium), including but not limited to, parking, ferry system, pool, boat docks, the water system, and the sanitary sewer/treatment system in conjunction with other homeowners that use the facilities who are not Unit Owners at the Condominium. In such an event, the Declarant shall have the power of attorney to impose the Declaration of such master homeowners association. If Declarant does not convey the sewer/treatment system directly to the Condominium Association, the master homeowners association shall have the following rights, powers, and duties in regard to the sanitary sewer treatment system and if the Sewer/Treatment is conveyed to another master association, all housing units served by such system shall have substantially the same rights and duties as set forth below through the declaration of such other association as set forth herein:

- (a). Any master homeowners association shall construct, maintain, operate, repair, improve, and regulate the use of the sanitary sewer treatment system. In connection with such construction, maintenance, operation, repair, improvement and regulation of the sewer system, the master homeowners association shall comply with all requirements and duties imposed by the Missouri Clean water Law, Chapter 244, RSMo., and all standards, rules, and regulations adopted pursuant thereto and permits and orders issued hereunder, and all other provision of law, federal, state and local, as such may exist from time to time.
- (b). The master homeowners association shall provide to all owners in the Property the connection with such sanitary sewer treatment system for the collection, treatment and disposal of sewage and wastewater, subject; however, to the conditions hereinafter provided, and subject to such reasonable rules and regulations as may be prescribed by the master homeowners association, such rules and regulations to be uniform in application to all Owners.
- (c). The master homeowners association may acquire for addition to the sanitary

sewer/treatment system any sewage treatment facilities, parking areas, properties, and improvements of the type described in this Declaration which are located outside the property described in Exhibit "A", and may permit any property and improvements located outside the property to be connected to the sanitary sewer system, provided that all such assets which are acquired for addition to the sewer system and all such property and improvements which are permitted to be connected to the sanitary sewer system shall be made subject to all the terms, conditions, and restrictions of this Declaration and the rules and regulations of the Association promulgated pursuant thereto.

- (d). The master homeowners association is empowered, subsequent to such time as Declarant may transfer and convey the sanitary sewer/treatment system to the master homeowners association, to transfer and convey to any public authority, municipal corporation, or private corporation certified by the Public Service Commission of Missouri, either with or without money consideration therefore, and such conveyance shall become mandatory and shall be made by the association as soon as practicable, subject to the approval of the Commission, when any such public authority, municipal corporation, or private corporation certified by the Public Service Commission becomes capable of accepting such conveyance and thereafter performing all functions relating to the construction, maintenance, operation, repair, improvement and regulation of the Sewer System.
- (e). The master homeowners association is empowered to contract with any other Person, firm, or governmental entity as the sanitary sewage treatment operator for the performance of all or any part of the sewage treatment services, or construction, repair, and improvement of the sanitary sewer/treatment system, provided that the cost of any such contract shall be paid by the master homeowners association in the same manner as all other cost and expenses incurred by the master homeowners association in constructing, operating, and maintaining the sanitary sewer treatment system.
- (f). The board of the master homeowners association shall adopt, prescribe, and enforce reasonable rules and regulations with respect to the use of the sanitary sewer/treatment system. Said rules and regulations shall not conflict with the Missouri Clean Water Law and regulations promulgated pursuant thereto.
- (g). The master homeowners association board shall be authorized from time to time to employ such agents, servants, and employees as they may determine necessary, and may employ counsel to prosecute or defend suits or actions for or against them concerning the sanitary sewer system and the operation thereof.
- (h). The master homeowners association board shall be authorized to contract for and obtain such policies of insurance and surety bonds as it may deem necessary or appropriate concerning construction, maintenance, operation, repair, and improvement of the water system, sewer system, ferry system, and other improvements, on the property it owns.
- (i). The master homeowners association, its successors and assigns, shall be authorized to establish a perpetual easement in gross for ingress and egress, to

perform its obligations and duties as required herein. Should it be necessary to enter a unit to repair a common element or sewer facility, agents, and workmen shall be entitled to entrance therein for this limited purpose only, however, a Unit Owner may request evidence in writing from the master association board of such authority.

- (j). Connection to the sanitary sewer system. All Units shall be connected to the sanitary sewer and treatment system, and no Unit may be occupied unless so connected to the sanitary sewer system. No septic tank, cesspool, outhouse, or other means of disposal of sewage on an individual unit may be used in the Condominium development.
- (k). Duty to maintain, repair, and improve. If the sanitary sewer system shall at any time require maintenance, repair, improvements, or replacement, it shall be the duty of the master homeowners association to cause the same to be done, and the master homeowners association shall have the power to contract for the same and to determine the terms of the contract. The master homeowners association shall pay for the costs thereof from the annual and special assessments made hereunder. The Association shall also be empowered to borrow money and to pledge the assets of the Association as security therefore, in order to make payment for such costs, subject to the restrictions on borrowing set forth in this Declaration and set of Bylaws.
- (l). Easement to Use Sewers and Facilities. If ownership of any property or facilities are not transferred by deed to the master homeowners association the master homeowners association shall still have an easement to access all parts of the system by this provision and shall have the duty to pay the costs for use of such system and any risk of non-collection of assessments shall be at the risk of the Condominium Association.

3.7 Water System. The Association shall have its own system to provide water to the Units as a common expense by means of drilling one or more water wells and pumps to pump such water to water tanks that service all Units. The Association shall always have the option to connect the water system and operate by the Association to a public or private water system upon receiving necessary government permits. No Unit Owner vote shall be required for the Board to take such action if it finds such connection to be in the long-term best interests of the Association.

3.8 Boat Ramp. The Unit Owners have the right to use a boat ramp on the shore adjacent to the Association's property upon which the shore end of the ferry system is located. This boat ramp property is not owned by the Association itself and is shared by various neighboring property owners. All use of the boat ramp shall be in cooperation with and according to any duly adopted rules or procedures adopted by co-users including launch priority and parking requirements (including no trailer parking). In no event may the ferry landing itself be used to launch boats. Any such use may result in fines or assessments for damage.

3.9 Emergency/Courtesy Dock on Island. The Common Elements shall include a Common Dock maintained by the general Association funds, which may be connected to assigned boat slips and is reserved for the use of all Unit Owners. Such Common Dock is provided to temporarily load and unload boats of Unit Owners and their guests and to provide

docking for emergency boats for medical, fire, or other emergencies. The Board shall have the right to adopt rules and procedures for setting priority of usage, maximum periods for docking, and other matters related to the Emergency/Courtesy dock. The maintenance costs, rules, and procedures for this dock shall be totally maintained by the Association depositing its proportionary share based on the formula for boat slips.

3.10 Elevators. Every building is equipped with an elevator for normal use of residents in the building. The Board has the right to make rules regarding the use of elevators for moving including the times of such moves and the time an elevator may be held from other use.

3.11 Swimming Pool. A swimming pool is provided for use of Unit Owners at no additional cost. The Board may promulgate pool rules including limiting the number of people using it so it does not become overcrowded with guests. The Board may rent the pool to Unit Owners after hours for private parties in its sole discretion.

ARTICLE FOUR: EASEMENTS

4.1 Encroachment. If through construction, settlement or shifting of any building, any part of the Common Elements should encroach upon any part of a Unit or any part of a Unit should encroach upon any part of the Common Elements or upon any other Unit, easements for the maintenance of any such encroachment and for the use of the required space are established by this reference and shall exist for the benefit of the Unit Owner or the Common Elements, as the case may be, for as long as the encroachment exists. No easement shall be created in the event the encroachment is due to the willful conduct of the Unit Owner(s).

4.2 Easements to Unit Owners. Perpetual easements are hereby established for all Unit Owners, their families, tenants, guests, invitees and servants, for use and enjoyment of all Common Elements. In addition, each Unit Owner shall have an exclusive perpetual easement to use and to occupy any Limited Common Element which has been designated or constructed for the Unit Owner's Unit. However, use of any Common Element shall be in accordance with the Rules and Regulations of the Board and no Unit Owner shall enlarge or modify any Limited Common Element without the prior written consent of the Board. In the event any Unit's air-conditioning compressor or other mechanical equipment is located in the Common Elements, the affected Unit Owner shall have a perpetual easement to use that site for such purpose even though no formal designation of such areas are contained in the plat.

4.3 Easements in Gross

(a) Each Unit Owner shall have an easement in common with the other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines, structural components and other Common Elements located in or running behind the walls of any of the other Units and serving the Unit Owner's Unit. Each Unit shall be subject to an easement in favor of the other Unit Owners to use the pipes, wires, ducts, cables, conduits, public utility lines, structural components and other Common Elements located in such Unit and serving other Units. If the repair of utility services for the Unit or the Common Elements cause damage to the Unit owned by another, the Unit Owner or the Association making the repair shall be responsible for returning the Unit to substantially the same condition as before the repair was begun.

(b) The Board, its appointees, employees or agents, shall have the right of access

to each Unit to inspect the Unit and to remove any violations from the Unit and to inspect, maintain, repair or replace the Common Elements contained wholly or partially in the Unit. The Property shall be subject to a perpetual easement to the Board, its appointees, employees or agents, for ingress and egress to perform its obligations and duties in accordance with this Declaration. Should it be necessary to enter a Unit to inspect and remove a violation or to inspect, maintain, repair or replace any Common Element, the appointees, employees or agents of Board shall be entitled to entrance by exhibiting to the Unit Owner or occupant an order from the Board. Such entry shall be made with as little inconvenience to the occupant as practicable, but the Unit Owner and/or occupant shall not unreasonably interfere with such necessary entry. Forced entry, deemed necessary by the Board, shall not subject the Board, its appointees, employees or agents to trespass or other claim. In the event any Unit Owner or occupant shall fail to provide access to the Unit, the Board may (in addition to exercising any other lawful remedies) employ a locksmith and use other methods to gain physical entry without action of court or the Board at its discretion, may obtain an order of a court for such access, and the costs including locksmith costs and reasonable attorney fees shall be assessed against the Unit Owner of the Unit. Any damage to the Unit as a result of any repair of a Common Element from within the Unit shall be repaired by the Board as part of the Common Expenses. If the entry was on an emergency basis where no one was present and no prior notice was given for the sole benefit of the Common Elements, the Board shall also repair damage due to the forced entry. In the event entry was made on an emergency basis for the benefit of the Unit Owner (i.e., plumbing leak in the Unit's plumbing) any damage and repair expense shall be paid by the Unit Owner directly or by special assessment. In the event that entry was made at a time arranged by the Board and the Unit Owner failed to grant access, the cost of gaining access will be assessed against the Unit Owner.

4.4 Utility Easements. Easements, as shown on the Plat or as subsequently granted in accordance with Section 14.5, are established and dedicated for sanitary and storm sewers, electricity, water, telephones and cable television and for all other public utility purposes, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, drainage, gas mains, telephone wires and equipment and electrical conduits and wires over, under, along and on the portions of the Common Elements.

4.5 Effect of Easements. All easements and rights established in this Declaration shall run with the land and inure to the benefit of and be binding on the Developer, its successors or assigns, and any Unit Owner, purchaser, mortgagee or other person having an interest in any portion of the Property, whether or not such easements are mentioned or described in any deed or conveyance or other instruments.

ARTICLE FIVE: UNIT OWNERS' RIGHTS AND RESTRICTIONS

The use of the Units and the Common Elements is restricted as follows:

5.1 Use of Units. Each Unit shall be used as a permanent or recreational residence and for no other purpose including business uses except for home offices allowed under Section 5.7. The use and occupancy of any Unit must be in compliance with the county ordinances and regulations. The requirements of such ordinances may be enforced as covenants of this Declaration by the Board. The occupancy of the Units shall be subject to rules and regulations of the Association as may be promulgated from time to time by the Board. If any provision of this Declaration shall be ruled as unenforceable, all the other restrictions shall remain in full force and effect. Unit Owners may rent out their units resort or residential rentals. The Association shall

have the right by unanimous vote of the Board (but not any duty) to form a voluntary rental pool but such service must be run through funds generated from the operation of the rental pool including labor and overhead related to the rental pool and not subsidized by general association funds.

5.2 Obstructions. There shall be no obstruction of any portion of the Common Elements nor any storage in the Common Elements without prior written consent of the Board. No clothes, laundry or other articles shall be hung, exposed or stored in or on any portion of the Common Elements, except for normal furnishings for Limited Common Elements assigned to a specific Unit or other items specifically approved in the Declaration or Rules and Regulations. Disallowed obstructions shall include, but not be limited to, dog runs, chains, pens and playground equipment, as well as any unauthorized plantings. Placement and use of barbecue grills must be in accordance with county ordinances. If the Board determines that due to the cost of insurance or for safety reasons, it may adopt rules that prohibit charcoal grills or other devices that use wood, charcoal or other open flames for fire on any balcony or on any patio located beneath a balcony. The Board may adopt more restrictive condominium regulations which can limit the types of barbecue pits and heat sources and locations where they may be used without totally banning them.

5.3 Maintenance of the Unit. Each Unit Owner shall maintain and keep the Unit Owner's Unit in good order and repair and in a clean and orderly condition, including any Limited Common Elements, such as balconies and patios designated for the Unit Owner's use. The foregoing shall be deemed to include (except as otherwise provided) responsibility for cleaning, washing, decorating, repairing or replacing all interior surface materials, original or added, including the full thickness of the drywall, wood flooring, as well as any carpet or tile laid over such flooring. The Unit Owner and/or occupants of a Unit shall do nothing to prejudice the structural integrity or increase the rate of insurance or violate any applicable law or code in the building in which the Unit is located. Hinges, lock sets and closers on doors exclusively serving a single Unit and windows, panes and glass, including screens and operating mechanisms, serving only a single Unit, shall be maintained by the Unit Owner. The Unit Owners shall not change or alter the design, color, texture, or material on or in, the Common Elements (such as paint, siding, brickwork, modified windows or doors) without the prior written consent of the Board. In accordance with the foregoing, the Board shall have the responsibility of routine painting of the outside portion of all exterior doors, exterior sashes, and all other exterior painted surfaces of the Unit. If additional painting needs to be done because of actions of a particular Unit Owner, the Unit Owner shall have a Special Assessment levied against that Unit Owner. All window treatment or its backing viewable to the exterior of the building must be white or off-white.

5.4 Signs. No signs shall be hung or displayed on the outside of a Unit or hung on the inside of the Unit and made visible from the outside through the windows of a Unit or placed on any of the other walls of any building, and no sign, awning, canopy, shutter, satellite dish or antenna shall be affixed to or placed upon an exterior wall, roof or part of the Common Elements without the prior written consent of the Board. Satellite dishes on exclusive decks and balconies must be in compliance with the Federal Telecommunications Act, as well as Association Rules regarding such dishes. Without complying with any rules and regulations regarding signs or without the prior written consent of the Board, no "For Sale", "Open House" or "For Rent" signs shall be displayed on any part of the Property including on the interior of Unit windows by any Person. The Board may adopt regulations regarding For Sale, Rental or Open House signs limiting the size as well as the times and locations where they can be posted, or prohibiting them

entirely. This restriction shall not pertain to any Declarant rights set forth in Article 8.

5.5 Animals. No animals, reptiles, birds, livestock, fowl or poultry of any kind shall be kept, raised or bred in any portion of the Property. However, two normal household pets, may be kept in a Unit as pets, subject to Board approval. The keeping of a pet shall be subject to the Rules and Regulations established by the Board from time to time. Whenever the pet is outside of a Unit, the pet shall be restrained by a leash at all times and any droppings from or damage by such pet shall immediately be removed or repaired by or at the expense of the Unit Owner or keeper thereof. There shall be no structure for the pet outside the Unit, on balconies, patios or in other areas at any time. Fish maintained in a household aquarium shall not be deemed to be "animals." A pet constituting a nuisance by reason of noise, smell, viciousness or other cause shall be subject to permanent removal from the Development by order of the Board upon 10 days written notice.

5.6 Nuisances. No noxious or offensive activity shall be carried on in any Unit or in the Limited Common Elements, nor shall anything be done which will become an annoyance or a nuisance to other Unit Owners or occupants. The Board shall make this determination in its sole discretion. Nuisance may involve loud noise, foul smells or unsightly situations. Unit Owners shall keep controllable noise such as TV, radio, stereo, talking, to a level which is not clearly audible in another Unit or the Common Elements.

5.7 Business Use. No business, trade, occupation or profession of any kind shall be conducted or maintained by the Unit Owners or occupants on any part of the Property, except that a Unit Owner may maintain a home office so long as customers or other members of the public, suppliers, employees, or delivery men do not regularly visit or work at the Unit, and where no manufacturing or storage of products other than samples are involved. In addition, no unreasonable levels of mail, trash, shipping or storage can be generated by any home office activity at the Unit in the judgment of the Board. This section shall not apply to Declarant rights reserved by Declarant. Business use shall not include any prohibition of resort or residential rentals of Units.

5.8 Ingress and Egress and Use of the Common Elements. There shall be no restriction upon any Unit Owner's right of ingress and egress to their Unit. No person shall use the Units or Common Elements in any manner which does not conform with the Rules and Regulations of the Board, as established and amended from time to time by the vote of the Board.

5.9 Right of Prior Notice of Sale. The right of a Unit Owner to sell, transfer or otherwise convey their Unit shall not be subject to any right of first refusal or similar restriction. However, all Unit Owners selling Units must provide a copy of the sales contract to the Board upon execution of such agreement, and a completed information sheet from new Unit Owners by closing. The Board may charge an administrative transfer fee to defray costs of providing re-sale certificates, waiver letters, payment coupon books, changing Association or Condominium records and other expenses related to the sale of a unit (or the rental of a unit for a period of over 6 months). The amount of the transfer fee may be set by the Board from time to time.

5.10 Rental of a Unit. Each Unit Owner shall have the right to rent the Unit for resort or residential rentals, or other type of occupancy, subject to the requirements of this Section and further rules related to rentals. The Board may require information on the identity of each occupant, which shall be submitted to the Board together with the make, model and license number of each vehicle regarding all occupants and visitors so as to assure compliance with this

Declaration. Unit Owner is responsible for paying any administrative charge to the Association for keeping track of occupancy, issuing passes, I.D.'s, or other forms, both for people and vehicles. Such forms may include an agreement that the persons renting a Unit voluntarily agree to leave the premises if they violate Condominium requirements.

(a) All rentals shall include a provision which makes any violation of the Condominium Rules and Regulations, this Declaration, or any provision of the rental agreement (other than non-payment of rent) a basis for termination of the rental agreement by the Association as agent for the Unit Owner. The Board shall be irrevocably be appointed to act on behalf of each unit owner to terminate any rental due to serious nuisance or serious violation of any Condominium requirement caused by tenant or occupants. No damages (including lost rental income) may be due from the Board due to such termination.

(b) Every lease or rental shall appoint the Board to act as agent and attorney-in-fact for the Unit Owner for the purposes of enforcing the provisions of the lease, other than the non-payment of rent. If any such violation is not cured, the Board, as attorney-in-fact for the Unit Owner, shall have the right to evict or otherwise terminate the rental and the tenant's possession of the Unit. The Board shall have no liability to the Unit Owner or tenant on account of any action taken pursuant to this Section. In addition to the rights previously set forth, the Board shall have all those other rights set forth in this Declaration. The Board shall have the right to collect attorney's fees and costs incurred by it in any eviction proceeding from the Unit Owner. The Board may require Unit Owners to get forms signed by anyone renting a Unit on a resort basis or permanent tenancy agreeing to the temporary removal process.

5.11 Rights of Action. Any aggrieved Unit Owner shall have a right of action against any other Unit Owner, for that Unit Owner's failure to comply with the provisions of this Declaration, the Bylaws and Rules and Regulations of the Association. However, no Unit Owner shall have the right to file suit based on discretionary decisions of the Board which are made pursuant to the authority granted the Board in this Declaration or of the Association's Articles of Incorporation if incorporated. The Board shall have broad discretion on how it handles violations. The Court shall defer to the decision of the Board regarding violations unless it finds that the Board's determination was clearly outside the discretion granted to the Board by this document.

5.12 Real Estate Taxes. Real estate taxes shall be assessed and be lienable only against the individual Units together with their undivided interest in the Common Elements, and the interest of the Unit in Limited Common Elements. The Association shall not owe any property taxes.

5.13 Purpose and Intent of Restrictions. The provisions as set forth in these restrictions shall be liberally construed in order to maintain the Condominium and to maintain property values of the Units. In the event a Unit Owner or occupant shall fail to abide by the provisions hereof or any Rules or Regulations adopted by the Board as allowed herein after reasonable written notice of a violation furnished by the Board, the Board (in addition to exercising other lawful remedies) may bring suit for injunctive relief, damages or both and upon prevailing, the costs and reasonable attorney's fees shall be taxed against the Unit Owner found to be in violation either personally or through the actions of the Unit Owner's family, tenants, workers, and invitees or others on the Property under the Unit Owner's authority.

5.14 Parking and Parking Spaces.

(a) No parking of any vehicles is permitted on any driveway, roadway, or fire lane or that would in any way block access to or from any parking space or boat or ferry ramp. Vehicles violating this provision shall be subject to immediate towing in compliance with state statutes and local ordinance, and the cost of the towing may be assessed against the Owner of the Unit or Owner of the vehicle at the discretion of the Board. Island parking is available for at least one vehicle per Unit but may require advanced notice by any Unit Owner possessing a year parking pass so that daily passes may be limited to assure availability of a parking space for each Unit on the island.

(b) The Board, in its sole discretion, may make other reasonable rules and regulations, including use of parking spaces both in island parking spaces and in the auxiliary lot parking spaces banning storage of vehicles for longer than a week. The rules and regulations may differ as to island parking and auxiliary parking lot. The Board may prohibit parking of derelict or damaged vehicles, (those with body damage, broken window(s), other damage, no current license, not operational, with a flat tire) from time to time as they, in their discretion may determine in order: (i) to curtail unreasonable parking, the abandonment of vehicles, or the storage of vehicles for longer than a week; (ii) to totally prohibit large trucks (rated over 3/4 ton), commercial vehicles (with lettering on the side), large vans (rated over 3/4 ton); (iii) to prohibit boats, boat trailers, travel trailers, buses, campers, R.V.'s, or other large vehicles from parking anywhere the Board prohibits such vehicles; (iv) to control other traffic and parking abuses of a similar nature, and to ensure lanes for fire and emergency vehicles are not obstructed. The Board may control parking offenses by issuing fines or having any vehicles towed at the offender's (or unit owners of the unit being visited) expense, upon reasonable notice (except for emergency violations or where the vehicle is blocking the driving lanes, or other vehicles in which case no notice shall be necessary).

(c) No parking spaces except inside garages and parking spaces assigned to Unit Owner who use the Unit as their primary residence approved by formal written agreement signed by the Declarant and Unit Owner (or after the period of Declarant control by the Board) shall be reserved for a particular Unit Owner. The Declarant (and the Board after the period of Declarant control) may charge for executing such assigned parking agreements and retain the funds from assignment of garage parking spaces and primary residence parking spaces for Declarant's profit (or after the period of Declarant control for the Association's profit). However, a temporary written parking assignment of a particular space may be made as an accommodation to a disabled resident at the times such resident is staying in the Unit. The Board may designate permanent spaces for the use of any disabled person(s) who display a disabled license plate or sticker. The Board may make further parking regulations it deems desirable to best accommodate parking needs. Such regulations may include limiting parking on certain weekends, such as Memorial Day, Fourth of July or Labor Day, or for certain seasons or all year long. The Board can require that any vehicle has a daily or yearly parking pass or other registration displayed. The Board may charge for yearly parking passes or daily parking passes or both, pursuant to any parking plan it may adopt. However, any parking plan, which institutes fees in excess of a maximum of \$2.00 per 24-hour day or \$50.00 per yearly parking pass, must be adopted by a simple majority of the Unit Owners attending a meeting where a quorum is present.

(d) A limited number of garage spaces may be made available by Declarant at its profit pursuant to permanent assignment or for temporary rentals, and the Declarant/Board

shall adopt a separate garage assessment to keep up the garages and may adopt special assessments for any garage repair or replacement or other damage to the garage due to the negligence or intentional act of the Unit Owner or anyone else in the Development. If any charge for the garage remains unpaid for a period of 6 months, the Board has the right to issue the Owner a 10 day notice that the right to use such space is subject to permanent termination if full payment is not made by the date on such notice. The Board may record any notice terminating the use of a garage space and may transfer such rights at its profit to another Unit Owner without any compensation to the Unit Owner whose use of such garage space was terminated. Any funds received from such assignment shall first be used to make up any maintenance fees due to the garage maintenance fund and the excess shall be placed in the General Condominium Fund. All garages shall be located at the auxiliary parking lot.

(e) Auxiliary Parking Lot. The Association may maintain, improve, and expand the gravel auxiliary parking area of the shore property. The Board shall have the right to make rules regarding the use of such auxiliary parking areas separate from the parking on the island property. Absolutely no parking of trailers except while launching and trailering of boats is allowed unless the Board sells a permit for parking of boat trailers in the auxiliary parking lot at a uniform daily rate for boat trailers not over a maximum size set by the Board. The Board shall also have the right to sell daily permits in the auxiliary parking lot for oversized vehicles not allowed on the island property at a uniform daily rate for vehicles not over a maximum size set by the Board. Parking of oversized vehicles and boat trailers may be limited to such times as the Board determines such space will not be used by the regular passenger vehicles. No long-term permits may be issued for trailers and oversized vehicles, and such parking may not be available at any or at all times at the discretion of the Board. Fines can be issued for any vehicle that does not comply with any Association parking requirements or requirements to display the appropriate pass or permit.

No long-term permits may be issued and such parking may not be available.

5.15 Trash Disposal. Trash, rubbish and garbage shall be placed in the approved trash receptacles or dumpster(s). No Unit may overload any trash receptacle so that its lid does not close, or by leaving any trash or debris beside the approved trash receptacle. The Board may make rules regarding the placement of trash receptacles and the frequency that they must be emptied. Any Unit Owner or the guests or tenants of such owner, who leaves trash receptacles or other items that block access to any parking space or walk way door, other Common Element or in any construction dumpster Declarant has purchased solely for removal of Declarant's construction debris, shall subject the Unit Owner to a fine, as well as a Special Assessment to clean up or remove such item. This special restriction shall be binding on all Units even though the items may be located on public property next to the Common Elements or on property controlled by the master association in order to keep the Condominium as a first class property. In the event that the method of trash collection changes, or there is a different method of collection or recycling or yard waste, the Board may make any regulations regarding such pick ups as it deems to be desirable.

5.16 No Wood Burning Fireplaces. No modification shall be allowed to install a wood burning fireplace or stove.

ARTICLE SIX: DAMAGE, DESTRUCTION, RECONSTRUCTION, CONDEMNATION AND TERMINATION

6.1 Reconstruction.

(a) The Association shall promptly reconstruct any portion of the Property, which is damaged or destroyed unless (1) the Condominium is terminated in accordance with Section 6.2, (2) the damage or destruction results from a condemnation in accordance with Section 8.3, (3) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (4) eighty percent (80%) of the Unit Owners, including every owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild in the manner set forth in Section 6.1. "Reconstruction" or to "reconstruct" shall refer to restoring the Unit and/or building to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as existed prior to the damage or destruction. "Reconstruction" or to "reconstruct" shall not include any improvements or alterations made by a Unit Owner, or any floor or wall coverings or built-in appliances or fixtures unless such were insured by the Board. Notwithstanding the provisions of any mortgage or deed to trust on any Unit, insurance proceeds should be first applied to the reconstruction of the Unit and Building containing a Unit and shall not be applied to the payment of any mortgage, except as set forth in this Article. The cost of repair or replacement in excess of insurance proceeds and reserves are Common Expenses.

(b) If the entire Property is not reconstructed, (1) the Insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Unit Owners of those Units and the Unit Owners of the Units to which those Limited Common Elements were allocated, and (3) the remainder of the proceeds shall be an asset of the Association which may be retained or distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to the Common Element interests of all Units in Exhibit "B." If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned in accordance with Section 8.3 and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations.

6.2 Termination.

(a) The Condominium may be terminated only by agreement of the Unit Owners of the Units to which at least eighty percent (80%) of the votes in the Association are allocated based on percentage of ownership.

(b) An agreement to terminate shall be evidenced by the execution of a termination agreement or ratifications of a termination agreement, in the same manner as a deed, by the requisite number of Unit Owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded prior to that date. A termination agreement and any ratifications of a termination agreement shall be effective only upon recordation.

(c) The termination agreement may provide that all the Common Elements and Units shall be sold following termination. If, pursuant to the termination agreement, any real estate in the Condominium is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

(d) On behalf of the Unit Owners, the Association may contract for the sale of the real estate in the Condominium, but the contract is not binding on the Unit Owners until approved pursuant to subsection (a) and (b) of this Section. If any real estate in the Condominium is to be sold following termination, title to that real estate, upon termination, vests in the Association as trustee for the holders of all interests in the Units. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds from the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds from the sale shall be distributed to the Unit Owners and lienholders as their interests may appear, in proportion to the respective interests of the Unit Owners as provided in subsection (g) of this Section. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Unit Owner and the Unit Owner's successors in interest have an exclusive right to occupy that portion of the real estate, which formerly constituted the Unit Owner's Unit. During the period of that occupancy, each Unit Owner and the Unit Owner's successors in interest remain liable for all Assessments, Special Assessments and other obligations imposed on Unit Owners by this Declaration or the Act.

(e) If the real estate constituting this Condominium is not to be sold following termination, title to the Common Elements and title to all the real estate in the Condominium vests, upon termination, in the Unit Owners as tenants in common in proportion to their respective interests as provided in subsection (g) of this Section, and liens on the Units shift accordingly. While the tenancy in common exists, each Unit Owner and the Unit Owner's successors in interest shall have an exclusive right to occupy that portion of the real estate, which formerly constituted the Unit Owner's Unit.

(f) Following the termination of this Condominium, the Association shall hold the proceeds of any sale of real estate and the assets of the Association as trustee for Unit Owners and any lienholders on the Units as their interests may appear. Following the termination, the creditors of the Association holding liens on the Units, which were recorded prior to termination, may enforce such liens in the same manner as any lienholder. Any other creditors of the Association shall be treated as if they had perfected liens on the Unit immediately prior to the termination.

(g) The respective interests of Unit Owners referred to in subsections (d) and (e) of this Section are as follows:

(i) Except as provided in paragraph (ii) of this subsection, the respective interests of Unit Owners are the fair market values of their Units and Shares in the Common Elements immediately before the termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Unit Owners and becomes final unless disapproved within thirty days after distribution by Unit Owners of Units to which twenty-five percent (25%) of the votes in the Association are allocated by percentage of ownership. The proportion of any Unit Owner's interest to that of all Unit Owners is determined by dividing the fair market value of that Unit Owner's Unit and Shares in the Common Elements by the total fair market values of all the Units and Common Elements;

(ii) If any Unit or any Limited Common Element is destroyed to the extent that an appraisal of the fair market value of that Unit or Limited Common Element prior to destruction cannot be made, the interests of all Unit Owners shall be the Unit Owner's respective Common Element interests immediately prior to the termination.

(h) Except as provided in paragraph (ii) above, foreclosure or enforcement of a lien or an encumbrance against the entire Condominium does not terminate the Condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the Condominium, does not withdraw that portion from the Condominium.

6.3 Condemnation

(a) If any public agency acquires all or any part of any of the Common Elements of the Condominium for any public purpose, the Board is appointed as attorney-in-fact and is authorized to negotiate with such public agency for such acquisition and to execute such instruments as may be necessary for conveyance to that public agency. Should acquisitions by eminent domain become necessary, only the Board need be made a party, regarding the Condemnation of Common Elements and monies, damage payments, or condemnation awards shall be payable to the Board for the use and benefit of the Unit Owners and their mortgagees as their interests may appear. Condemnation of Units shall be between the public agency and the Unit Owners of the Units involved.

(b) If a Unit is acquired by eminent domain, the award shall compensate Unit Owner for the Unit Owner's Unit. Upon acquisition, unless the decree otherwise provides, that Unit's Share is automatically reallocated to the remaining Units in proportion to the remaining Units' Shares before the taking, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations without a vote of the Unit Owners.

(c) If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Board. Any portion of the award attributable to the acquisition of a Limited Common Element shall be divided among the Unit Owners of the Units to which that Limited Common Element was allocated at the time of acquisition in the same ratio to one another as the Unit Owners percentage of ownership in that Limited Common Element.

6.4 Personal Property Insurance. Except to the extent covered by the Association's insurance, each Unit Owner shall be responsible for maintaining insurance on the contents of the Unit Owner's Unit, including floor coverings, wall coverings, ceiling coverings, cabinets and fixtures, and on any additions and improvements to the Unit. The Unit Owner shall also be responsible for insurance on any personal property belonging to him, but stored elsewhere on the Property. In no event will the Association be responsible for the theft, unless it is done by the Association's employees. However, it is the intent of this Declaration that even though certain items are the responsibility of the Unit Owner to maintain under most circumstances, if the loss of such items are covered by the provisions of the Association's insurance and the Association files a claim in its discretion, such items shall be deemed covered under the terms of this Declaration.

6.5 Waiver of Subrogation. Each Unit Owner waives and releases any and all claims which he may have against the officers and members of the Board, and its respective employees

and agents, for damage to the Common Elements, the Units, or to any personal property located in the Units or the Common Elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

6.6 Damage Caused by Unit Owner. If an intentional or negligent act, or failure to act by a Unit Owner, or of a member of his family or household pet or of a guest or other authorized occupant or visitor of a Unit Owner causes damage to the Common Elements or to a Unit or Units owned by others, or causes maintenance, repairs or replacements required which would otherwise be in the Common Expenses, then such Unit Owner shall pay the cost, as determined by the Board, of correcting such damage and such maintenance, repairs and replacements, to the extent such costs are not covered by insurance, or for the entire amount in the event that the Board elects not to file an insurance claim when a claim is for an amount less than twice the amount of the deductible.

ARTICLE SEVEN: TRANSFER OF A UNIT OR COMMON ELEMENTS

7.1 General. Each Unit Owner shall pay all Assessments and Special Assessments prorated to date of sale or transfer prior to the sale or transfer of the Unit in accordance with this Article. In the event the Unit Owner fails to pay such Assessments or Special Assessments, the Executive Board may, but is not required to, file a lien notice in accordance with Section 14.19, and the unpaid amount shall continue to be a personal obligation of the original Unit Owner. The amount outstanding shall also become the personal obligation of the new Unit Owner who purchased the Unit, as well as being a lien against the Unit.

7.2 Sale or Acquisition of Common Elements.

(a) The Association may convey or subject portions of the Common Elements to a security interest, if the Unit Owners entitled to cast at least eighty percent (80%) of the votes in the Association by percentage of ownership agree to that action. However, all of the Unit Owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest. Proceeds of the sale are an asset of the Association.

(b) An agreement to convey Common Elements or subject them to a security interest shall be evidenced by the execution of an agreement, or ratifications of that agreement, in the same manner as a deed, by the Board. The agreement shall specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications of that agreement shall be effective only upon recordation.

(c) On behalf of the Unit Owners, the Association may contract to convey Common Elements or to subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to subsection (a) of this Section. Thereafter, the Association has all powers necessary and appropriate to affect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) A conveyance or encumbrance of Common Elements in accordance with this Section may not deprive any Unit of rights of access to such Unit and support of such Unit.

(e) A conveyance or encumbrance of Common Elements in accordance with this Section may not affect preexisting encumbrances.

(f) The Association may have certain areas originally controlled by the Condominium Association if such areas are designated only for the use of the Owners, occupants of the units at the Condominium Association.

ARTICLE EIGHT: AUTHORITY OF DECLARANT, DECLARANT RIGHTS AND POWER OF ATTORNEY

8.1 Additions to Plat and Modification of Declaration. The number of Units in the Condominium shall Share in the Common Elements for each Unit Owner as shown on Exhibit "B". In addition, the Declarant may file amendments to the Declaration (including exhibits thereto) and an amended Plat to reflect the addition of Units and Common Elements, any changes in the locations, elevation, measurements, or dimensions of Units and Common Elements and to correct any error in any recorded Plat or the Declaration. In executing any amendment in accordance with this Section, the Declarant shall be conclusively deemed to have been acting within the scope of the Declarant's authority, and all Unit Owners shall be estopped from impeding the right of the Declarant to so act. The Declarant shall also have the right to withdraw a portion of the real estate identified as Exhibit "A" from the Condominium until such time as Units are placed upon such area. The right to add or withdraw property to the Condominium and to construct Units shall terminate no later than twelve (12) years after the date this Declaration is recorded at the latest.

8.2 Management and Voting Rights. The Declarant shall have the right to exercise the votes allocated to Units, which the Declarant owns, and shall retain all rights contained in Article 8 as they relate only to Units still owned by Declarant.

8.3 Sales Offices and Models. Declarant is granted all rights allowed under RSMo. 448.112-115 to maintain sales offices, management offices, and models in Units and/or on Common Elements in all areas. The Declarant may relocate all offices, displays and models so long as Declarant owns or rents one Unit. The Declarant may also maintain any and all signs and displays it deems necessary both on the Common Elements or in unsold Units until such time that all Units have been sold.

8.4 Declarant Operation of Association. Declarant shall file this Declaration, the Bylaws and the new Condominium Plat for the Condominium Association prior to the closing of the sale of the first Unit. At the discretion of the Declarant, the Association may be established as a not-for-profit Missouri Corporation or as an unincorporated association. The Declarant may collect into its own account, the stated condominium fees from Units that have been sold and to pay all Association expenses from such funds until 75% of the Units have been sold. But in such event Declarant may not adopt an Association Special Assessment and shall be responsible for all deficits in expenses. The Declarant shall have the alternative right at any time to set up separate account(s) for the Condominium Association and in such event pay condominium fees on all Units substantially complete owned by Declarant and at such time Declarant shall no longer be liable for any deficit in the expenses of the Association. After Declarant turns over control of the Condominium Association to the Unit Owners, the power to elect corporate status shall pass to the Board.

8.5 Unit Owner Board Members. Not later than sixty days after conveyance of one-third of the Units to Unit Owners other than a Declarant, at least one member shall be elected by Unit Owners other than the Declarant. At the point that seventy-five percent of the Units are sold control of at least a majority of Board positions shall be elected by the Unit Owners.

8.6 Termination of Declarant Control. The period of Declarant control of the Association, during which period a Declarant, or person designated by him may appoint and remove the officers and members of the Executive Board terminates no later than the earlier of (1) sixty days after conveyance of 95% of the Units to Unit Owners other than a Declarant; or (2) two years after all Declarants have ceased to offer Units for sale in the ordinary course of business. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event set forth in any such notice, for the duration of the normal period of Declarant control, retains the right to veto any Budget, Annual Assessment, Special Assessment, Declaration or Bylaw Amendment, Rule or Regulation adopted by the Board or other actions taken by the Board or Unit Owners. The period of Declarant control to sell the right to use garages and boat docks shall expire five (5) years after the Declarant has sold the last Unit in the Condominium. However, after the date of the sale of the last unit the Declarant shall begin paying maintenance fees on any dock slip or garage which remains unsold.

8.7 Transfer of Declarant Rights. The Declarant shall have all rights contained in RSMo. 448.3-104 regarding transfer of any and all Special Declarant rights.

8.8 Substantial Completion of Units. In the case of a sale of a Unit where delivery of an original sale certificate is required, a contract of sale may be executed, but no interest in that Unit may be conveyed until the Declaration and Plat showing such Unit are recorded.

8.9 Payment to Reserve Fund. Upon the sale of each Unit to an Owner other than one, which has successor Declarant rights, such Purchaser shall pay \$500.00 assessment as a contribution to the Association's reserve fund. The Declarant acting as the Board shall not use these reserve funds until there is at least one Board member elected by the non-Declarant Unit Owners and such Board member must vote in favor of such expenditure.

8.10 Right to Add Or Withdraw Property to the Condominium. Declarant shall have the right to add additional Parcels to the Condominium identified in Exhibit "A", on the Condominium Plat or acquired after the date this Declaration was recorded or to keep any such parcels as separate developments sharing the Common Facilities. The Declarant shall also have the power to withdraw any portion of the property identified in Exhibit "A" from the Condominium until such time as Units are constructed on such portion of the property. In the event any portion of the Parcel identified in Exhibit "A" is withdrawn from the Condominium, the Declarant shall provide by written Master Association Declaration or by Easements for access to the roads, docks, drives, parking areas, and sewers used by the Condominium Association with all parcels of property having rights to use of any such shared areas and that each Association pay its share for the maintenance and repair of such areas.

**ARTICLE NINE: REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS,
RULES AND REGULATIONS**

9.1 Abatement and Enjoining. The violation of any Board adopted restriction, condition, or rule or regulation or the breach of any covenant or provision of this Declaration shall give the Board the right, in addition to the rights set forth in Section 11.2: (a) to enter upon the Unit and the portion of the Property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist contrary to the intent and meaning of the provisions of this Declaration or the Board regulations, the Board or its agents, shall not be guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach of this Declaration or a Board Rule or Regulation, and may collect reasonable attorney's fees, damage and cost in such legal action.

9.2 Involuntary Sale. If any Unit Owner (either by the Unit Owner's conduct or by the conduct of any occupant of the Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the Rules or Regulations adopted by the Board, and such violation shall continue for thirty days after notice from the Board, or shall occur repeatedly during any thirty day period after notice or request to cure such violation from the Board, then the Board shall have the power to issue to the defaulting Unit Owner a notice stating the Board's intention to terminate the rights of the defaulting Unit Owner to continue as a Unit Owner and to continue to use, occupy or control the Unit following a ten day period. Following that ten day period, the Board may file an action in equity seeking a decree terminating the defaulting Unit Owner's right to occupy, use, or control the Unit and ordering that all right, title, and interest of the Unit Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish and enjoining and restraining the defaulting Unit Owner from re-acquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding, and all such items shall be taxed against the defaulting Unit Owner in that decree. Any balance of proceeds after satisfaction of any unpaid Assessments or Special Assessments or any liens shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser of the Unit shall be entitled to a deed to the Unit and to immediate possession of the Unit sold and may apply to the court for a writ of execution for the purpose of acquiring such possession.

9.3 Attorney's Fees. If the Board brings suit against any Unit Owner for a violation of any Board adopted Rule or Regulation or a provision of this Declaration, the costs of suit and reasonable attorney's fees will be assessed as costs against the Unit Owner, if the Board prevails in its suit.

9.4 Fines. The Board may issue fines for violations of provisions of the Declaration, Rules or Regulations, and may adopt fines or fine schedules for violations and increase successive or continuous violations, so long as the Unit Owner has the right to appeal and receive a hearing with the Board before any fine is final. The right to a hearing shall deemed to have been waived if no appeal or request for a hearing is received within ten days of the notice of a proposed fine.

9.5 Suspension of Certain Unit Owner Rights. In the event of a violation of Declaration provisions or Rules or Regulations of the Board, or in the event that any regular assessments, Special Assessments, fines, or other charges remain outstanding for a period of 30 days after they are due, the Board shall have the right to suspend a Unit Owner's right to use certain Common Elements and Limited Elements, such as parking spaces, parking garage spaces or boat slips, to use any rental pool operated by the Board, but shall not have the right to hinder the

Unit Owner's right to access the Unit Owner's Unit without court order. However, it shall have the right to bar resort renters from future use of the premise for serious violations or destruction of property.

ARTICLE TEN: LIMITED COMMON ELEMENTS

10.1 Existing Limited Common Elements. Any storage lockers, balconies, insulation or other fixtures, such as air conditioning compressors designed to serve a single Unit but located outside of such Unit shall constitute Limited Common Elements allocated exclusively to such Unit. Unless other sections of the Declaration specifically provide that the Association has assumed maintenance responsibilities of certain Limited Common Elements, the Unit Owner shall be responsible for repair of Limited Common Elements either by Special Assessment or by independently doing the work as determined by the Board. No wood burning fireplace shall be allowed to be used in any portion of the building and no charcoal or wood burning grills fire containers are allowed on balconies.

10.2 Additional Limited Common Elements. There may be additional Limited Common Elements appurtenant to Units in this Condominium, as reflected by the Plat. These Limited Common Elements are reserved for the use of the Units to which they are appurtenant or assigned to the exclusion of other Units, and there shall pass with a Unit as appurtenant thereto the exclusive right to use the Limited Common Elements so appurtenant or assigned.

10.3 Maintenance of Limited Common Elements. Any expenses of maintenance, repair or replacement of Limited Common Elements may be treated and paid for as a part of the Common Expenses of the Association (except periodic painting or staining) but shall be assessed against the individual Unit Owner or Owners and Unit or Units to which such Limited Common Elements are appurtenant or assigned.

10.4 Parking Spaces.

There shall be no storage of any vehicle that is not regularly used in the any island or auxiliary parking space. Any vehicle that is not moved for seven (7) consecutive days shall be considered a stored vehicle. The Board may make provisions for storage of vehicles on the auxiliary parking lot depending on demand for such space for other parking needs.

10.5 Foundations. Foundation leaks and cracks that do not threaten the structural integrity of the Building shall be paid for by the Owner adjacent to the leak. Since water leakage is an expected occurrence, any Unit Owner who wishes to reduce or eliminate water leaks may at the Unit Owners cost take all reasonable steps necessary to eliminate leaks including injection into cracks, installation of draining tile, installation of sump pumps and with the permission of the Board (which may not be unreasonably withheld) coating of the exterior of the foundation. Unit Owners may paint or otherwise cover interior foundation wall at their own risk regarding future leakage. However, the Board shall have discretion to undertake and subsidize remediation projects if the leakage is serious and affects more than one (1) Unit.

10.6 Balconies/Patios. The Units shall have their own exterior balconies or patios and the expense for all maintenance and repairs (except painting or staining which shall be an Association expense), including repair of screened enclosures and structural repairs shall be paid for directly by the Unit Owner or by Special Assessments against such Owners. Such assessments may

include an additional sum added to the regular monthly Assessment or by a Special Assessment for the particular repair or a combination of both at the discretion of the Board. Unit Owners shall be responsible to keep balconies and patios in a neat condition with no trash, debris, dead plants, or broken/rusted furniture. No salt or other chemicals may be applied to such areas because they deteriorate both the concrete and metal.

ARTICLE ELEVEN - BOAT DOCKS GARAGES, AND FERRY

11.1 Boat Dock. The area constituting the Boat Dock shall be owned by the Condominium Association or a Master Association (if any Phase is a separate development.) Such area shall include boat slips, ferry system, all moorings, mooring connections to the shore and easement access to the Boat Dock. Initially, all rights to use dock slips are subject to sale or lease at the profit of Declarant. Until the initial sale or lease of the dock space by Declarant, no fees or assessments shall be owed for such boat slips. However, once all Units are sold the Declarant shall pay the regular boat dock assessments on such dock slips until sold to individual Unit Owners or the Association by specific transfer documentation. Each Unit Owner who purchases any dock slip hereby agrees to pay dock fees to maintain, repair and improve the boat dock to the Condominium Association as directed. Failure to pay such fees shall result in an automatic lien being placed against the Unit to the same extent the Association has lien rights for other Condominium assessments. Fees shall be based on the relative size of the individual docks as set forth by Declarant in Exhibit "D" if one is provided in this Declaration or pursuant to the boat dock plan provided by the Declarant to the Unit Owners if no Exhibit "D" is attached. If any dock fee is not paid within 90 days of the date due and after specific 30-day advance notice of forfeiture, such dock slip shall be subject to forfeiture to the Condominium without compensation to the Unit Owner who originally purchased the right to use the slip. Thereafter, the Condominium Association may sell or lease such dock slips at its own profit. If the dock slip is resold to another Unit Owner, any excess in such funds shall become reserves for future boat dock maintenance and operation. All assessments, sales rentals and other income related to the boat dock shall be kept in a separate Boat Dock fund, which may not be used for any other purpose.

11.2 Garages. The area consisting of the garages shall be owned by the Atlantis Island Condominium Association or a master association, (if any Phase is a separate Condominium Association). Such areas shall include all portions of the garage buildings. Initially, all garage space rights are subject to sale or lease at the profit of Declarant. Each Unit Owner who purchases any garage space hereby agrees to pay garage space fees to maintain, repair, and improve the garage space to the Atlantis Island Condominium Association as directed. Failure to pay such fees shall result in an automatic lien being placed against the Unit to the same extent the Association has lien rights for other Condominium assessments. Fees shall be assessed equally for each garage space. If any garage space fee is not paid within 90 days of the date due and after specific 30-day advance notice of forfeiture, such garage space shall be subject to forfeiture to the Atlantis Island without compensation to the Unit Owner who originally purchased the right to use the space. Thereafter, the Condominium Association may sell or lease such garage spaces at its own profit. If the garage space is resold to another Unit Owner, any excess in such funds shall become reserves for future garage space maintenance and operation. All fees, sales rentals and other income related to the garage space shall be kept in a separate fund, which may not be used for any other purpose.

11.3 Assessment Collection. Assessments for the boat docks and garages shall be

collected by the Atlantis Island Condominium Association from Unit Owners. Risk of collection for fees to maintain the boat docks and garage spaces shall be on the Atlantis Island Condominium Association if a Master Association is formed. The Atlantis Island Condominium Association shall be required to communicate any fee changes to the Unit Owners who own such spaces before or at the same time as other condominium assessments are set each year. Until the initial sale or lease of the garage space or boat slip by Declarant, no fees or assessments shall be owed for such garage spaces or boat slips. However, once all Units have been sold, the Declarant shall pay the regular garage and boat dock assessments on such boat slips and garage spaces until sold to individual Unit Owners or the Association by specific transfer documents. The Declarant shall at such point retain the right to withdraw the real property consisting of boat docks and garage spaces from the Condominium if a Master Association is set up and the boat slips and garages are added to other phases of the Development.

11.4 Rental of Garage and Dock Spaces. Prior to the sale of all Units or expiration of Declarant Rights, whichever occurs first, the Declarant shall have the right to rent, dock slips and garage spaces to anyone whether that person is a Unit Owner or not, so long as Declarant pays the assessments for such space. The Declarant may turn over unsold spaces to the Association by written notice or by failing to pay fees for 90 days for any space after written notice is received from the Association of such default and potential forfeiture. The Condominium Association may sell such reclaimed spaces or at its own discretion rent such spaces for as little as the assessments charges for such spaces if it is unable sell such spaces at a profit it believes to be reasonable. The Association may only sell spaces to Unit Owners but may rent to third parties who are not Unit Owners. All leases must be for a period of no more than a year, at a time, which may be renewed each year by the Board.

11.5 Identification of Dock Slips and Garage Spaces. The Declarant may sell to any Unit Owner the right to use a particular dock slip by reference to the number of such dock slip contained on Exhibit "E" attached hereto as it is amended or supplemented by Declarant from time to time as more boat docks are added or sell the right to use a particular garage space by reference to the number of such garage space contained in boat dock registry as it is amended or supplemented by Declarant. The proceeds of such sale shall be at the profit of the Declarant. After initial sale of a boat slip or garage space the Unit Owner may sell their interest in such space only to another Unit Owner and only after the sale has been approved and acknowledged by the Board in writing at the time of such sale. The Unit Owner may not sell or rent the space to anyone who is not a Unit Owner and all leases must be subject to renewal each year by a new agreement signed by the parties. No long-term leases or automatically renewing leases are allowed.

Unless a Unit Owner sells any garage space or boat slip to another Unit Owner and have such sale approved by the Board in writing prior to the sale of a condominium unit, the right to use such space passes to the new Unit Owner whether such transfer is mentioned in any document. No Unit Owner other than Declarant may retain any interest in any dock slip or garage space after sale of a Unit by any means.

11.6 Ferry System. The Condominium Association (or Master Homeowners Association if there is more than one association formed as part of the Atlantis Island Development), shall be required to own and operate a ferry system to transport vehicles and people from the mainland to the island portion of the development. Declarant warrants that the ferry system

meets all governmental requirements at the time installed but shall not be responsible for any changes required by governmental authorities after the date of activation. Normal operation, repairs, and replacement of the ferry system shall be paid for as part of the regular Condominium (or Master Association fees if two or more separate condominium associations are formed). The ferry system will be kept operational unless a majority of Unit Owners approves funding to build a bridge.

ARTICLE TWELVE: GENERAL PROVISIONS

12.1 Captions. The captions in this Declaration and Bylaws are for purposes of reference only and have no substantive effect.

12.2 Eligible Mortgagee's Rights. The holder of first mortgage of the Units (including a holder, insurer or guarantor of a first mortgage on a Unit) which has previously requested to be sent notice in accordance with a written request specifying the address and status of such party and the identity of the Unit on which the mortgage is placed shall be entitled to the following rights:

(a) Subject to the limitations of prior written approval of the eligible holders of first mortgages of Units who have previously requested notices from the Board representing at least sixty-seven percent (67%) of the votes of Units subject to first mortgages shall be required to terminate the Condominium regime for reasons other than substantial destruction or condemnation of the Condominium project.

(b) Subject to the limitations that no mortgage holder has the right to block administrative and organizational affairs of the Association or any decisions regarding litigation, prior written consent of the eligible holders of first mortgages of Units who have previously requested notices from the Board representing at least fifty-one percent (51%) of the votes of Units subject to first mortgages shall be required to make an amendment of a material nature if such Amendment could adversely affect the Mortgage Holders security to these Condominium documents. In the event that any mortgage holder fails to return a consent form voting against the amendment within 30 days after it was sent to the Eligible Mortgage Holder, such mortgage holder shall have deemed to have consented to the amendment. A change of any of the provisions of any Condominium document directly related to any of the following shall for the purpose of eligible mortgage holders be considered material:

- (i) Voting rights;
- (ii) Assessments, Assessment liens or subordination of Assessment liens;
- (iii) Reserves for maintenance, repair and replacement of common areas;
- (iv) Reallocation of interests in Common Elements or Limited Common Elements, or rights to their use;
- (v) Boundaries of any Unit;
- (vi) Convertibility of Common Elements into Units or Units into Common Elements;
- (vii) Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (viii) Insurance or Fidelity Bonds;
- (ix) Leasing of Units;
- (x) Imposition of any restriction on a Unit Owner's right to sell or transfer a Unit;
- (xi) A decision by the Association to establish self-management when professional management had been required previously by the holder of a VA, FNMA, FHLMC or HUD

mortgage ("Eligible Mortgage Holder");

(xii) Restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than specified in the Condominium documents;

(xiii) Actions to terminate the legal status of the Condominium regime after substantial destruction of condemnation occurs;

(xiv) Provisions that expressly benefit Eligible Mortgage Holders.

12.3 Notice to Eligible Mortgagees. Notwithstanding anything contained in Section 12.2 to the contrary, written approval of the eligible first mortgage holders shall not be required for any amendment to this Declaration made pursuant to Section 10.1 hereof.

12.4 Manner of Giving Notice.

(a) Notices to the Board may be delivered to the managing agent or the address of the Association and if there is no agent or address then to all other members of the Board either personally or by certified mail, postage prepaid, return receipt requested addressed to such Board member at the Board member's Unit mailing address.

(b) Notice to the Declarant Developer, shall be given by certified mail, postage prepaid, return receipt requested, addressed to Atlantis Island Development L.L.C., P.O. Box 224, Lake Ozark, MO 65049.

(c) Notices required to be given to Unit Owners may be delivered to any Unit Owner either by mailing it, or posting on the Unit Owner's Unit (if no other address has been given by the Unit Owner), personal delivery by regular mail, facsimile, messenger service or by certified mail return receipt requested, addressed to the Unit Owner at the Unit Owner's Unit mailing address.

(d) Notices to any devisee(s) or personal representative(s) of a deceased Unit Owner may be delivered either personally or by messenger, by certified mail, postage prepaid, return receipt requested, addressed to such party at the address appearing in the records of the court with jurisdiction over the administration of the estate of such deceased Unit Owner.

12.5 Acceptance by Grantee. By acceptance of a deed of conveyance, each grantee of the Developer and each subsequent purchaser accepts the interest in the Condominium subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration or to which this Declaration is subject, and all rights, benefits and privileges granted, created, reserved or declared, and all requirements and obligation imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time, any interest or estate in said property and shall inure to the benefit of such Unit Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

12.6 No Waiver. No provisions in this Declaration shall be abrogated or waived by reason of any failure to enforce such provisions, irrespective of the number of violations or breaches, which may occur.

12.7 Saving Clause. The invalidity of any provision of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration.

12.8 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a uniform plan for the development and operation of the Condominium. The use of personal pronouns shall be construed to apply to masculine, feminine or neuter gender as the context may require. Should any provision of this instrument be deemed to violate the Rule against Perpetuities and is not subject to Section 448.2-103(2) of the Act, then such provision shall not be stricken but shall be deemed to continue in force and effect for the longest time permitted under Missouri law or for the life or lives of all persons now in being plus twenty-one years and ten months thereafter.

12.9 Separate Real Estate Taxes. Real estate taxes are to be separately taxed to each Unit Owner for the Unit Owner's Unit and Share in the Common Elements. If real estate taxes are not separately taxed to each Unit Owner in any particular year, but rather are taxed on the property as a whole, then each Unit Owner shall pay the Unit Owner's proportionate share of the real estate taxes in accordance with the Unit Owner's Share in the Common Elements.

**ATLANTIS ISLAND CONDOMINIUM ASSOCIATION
BYLAWS ARE CONTAINED IN ARTICLES THIRTEEN AND FOURTEEN**

ARTICLE THIRTEEN: CONDOMINIUM ASSOCIATION AND BOARD

13.1 Condominium Association. The Property shall be administered by a Condominium Association known as the Condominium Association, consisting exclusively of Unit Owners or their heirs, successors or assigns. The Association may be organized as a not-for-profit corporation and shall have the responsibility to manage and administer the Property in accordance with this Declaration. In the event the corporate charter is not applied for, is forfeited, or revoked, the Association shall continue as an unincorporated association.

13.2 Board. The Executive Board may act in all instances in behalf of the Association, except as expressly limited by this Declaration, Bylaws, any Corporate Charter, and Articles of Incorporation if incorporated and the Condominium Act, Chapter 448 RSMo.

13.3 Board Membership.

(a) Except as otherwise provided for in the Declaration, The Board shall initially consist of three (3) Unit Owners selected by the Declarant and after the period of Declarant control by majority vote of the Unit Owners voting by equal votes for each Unit at the Annual Meeting of Unit Owners. For purposes of Board membership, a Unit Owner shall be deemed to include any officer or director of any corporate Unit Owner duly designated in writing by such Unit Owner. A person holding a Unit as a partner, tenant in common, joint tenant, or tenant by the entirety, shall be considered a Unit Owner for purposes of determining qualification for the Board. Except as provided for in the Declaration, each Board member shall hold office for three (3) years and until his/her Successor shall be elected and qualified. After one period of Declarant control the Unit Owners may vary the size of the Board by a simple majority vote at a Unit Owners meeting where a quorum is present so long as there are three (3) and seven (7) Board members and so long as approved by one-third (1/3rd) of the Board members are elected to three year terms.

(b) After the annual meeting of the Unit Owners, the persons serving as Board

members, after the certification of the election(s), shall elect the officers who may make day-to-day decisions and decisions in emergency situations as approved by the Board.

(c) A vacancy in the Board, occurring for any reason shall be filled by a vote of the remaining Board members, until the next annual meeting of the Unit Owners at which time a special election shall be held to fill the remainder of the term, if any, unless there is not enough Board members to constitute a quorum in which even a special election by the Unit Owners shall be held.

13.4 Officers of the Board.

(a) The Board shall elect officers consisting of a President, a Secretary, and a Treasurer, each of whom shall be a member of the Board. The President shall preside over all meetings of the Board, and of the Association and shall serve as, or appoint a parliamentarian. The Secretary shall keep minutes of all meetings of the Board and Association, a record of the voting members and, in general, perform all duties incident to the office of Secretary. The Treasurer shall keep records or supervise the manager or accountant, regarding all financial matters or may keep all financial records and books of account if no employee or agent is hired to do so. One Board member may not hold more than one office.

(b) The Board may procure a blanket fidelity bond for anyone who is individually and collectively authorized to participate in handling funds belonging to Unit Owners in an amount not less than the estimated maximum of reserve funds in the custody of the Board at any given time during the term of the bond. The bond shall not contain any provision excluding or limiting coverage of persons serving without compensation. The premium for such bond shall be a Common Expense, apportioned and collected in the same manner as other Common Expenses.

13.5 Meetings of the Board.

(a) Meetings shall be held at the time and place established by the Board, and special meetings may be called on ten days' notice by any member of the Board or for emergency actions by 24 hours notice as to emergency matters or by unanimous waiver of notice. Attendance and participation in a meeting shall constitute a waiver of notice. Board members may participate in a meeting by means of telephone or other telecommunication equipment. The Association may combine any Unit Owners meeting with any Board Meeting and in the event there is only one meeting, approval at such meeting shall constitute Board approval and Unit Owner approval.

(b) A majority of members of the Board shall constitute a quorum. A majority of those present shall be required to adopt any resolution. All Board members must be invited to all meetings except for meetings where the only business is discussing discipline of a Board member for breach of the Declaration, Bylaws, Rules and Regulations or Assessment default. The Board at its discretion may hold open or closed meetings or meetings where certain portions of the meeting are opened or closed to Unit Owners.

(c) If Board members consent by phone call or in writing to any action taken or to be taken by the Board, the action shall be valid as though it had been authorized in a meeting of the Board. The Secretary shall file such consent with the Minutes of the next Board meeting.

13.6 Meetings of the Association.

(a) The first annual meeting of the Association held pursuant to procedures in Section 8.6. Thereafter, annual meetings should be held during the week surrounding July 4 of each succeeding calendar year unless the Board determines a different date between the start of the Memorial Day and the end of the Labor Day holiday. The Secretary shall provide all Unit Owners with not more than sixty days nor less than ten days advance written notice of the annual or special Unit Owner meetings and an agenda with all items to be voted on set forth in the agenda or in proxy or ballot setting forth exactly what is to be voted on. No binding votes may be taken on items not set forth in the agenda since certain Unit Owners have made a decision regarding meeting attendance based on the agenda.

(b) Special meetings of the Association may be called at any time for the purpose of considering any matter requiring the approval of the Association or for any other reasonable purpose. Twenty percent (20%) of the Board members or 20% of all the Unit Owners may call a special meeting upon giving notice to all the Unit Owners in the same manner as provided for notice for annual meetings.

(c) Presence at any meeting, either in person or by written proxy, which may be in the form of a ballot electing Board Members without the necessity of having the word proxy on it, by twenty percent (20%) of the Unit Owners (on the basis of equal voting) shall constitute a quorum. Any action may be taken on any item on the agenda at any meeting at which a quorum is present upon the affirmative vote of the majority of the Unit Owners present at that meeting, unless otherwise provided in this Declaration or in the Act.

13.7 Voting Rights in the Association. Only one individual shall be entitled to vote for the owners of each Unit. If one of the multiple owners of a Unit is present at a meeting of the Association, that individual is entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners of a Unit are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority of the multiple owners. Once the majority position has been established, the voting member shall cast the vote. There is majority agreement if any one of the multiple owners casts the votes allocated to that Unit without protest to the person presiding over the meeting by any of the other multiple owners of the Unit. Should the same Person(s), own more than one Unit, the same voting member may be designated for each Unit, and, in this event, that Person shall have one vote for each such Unit at Unit Owners' meetings. A corporation, if a Unit Owner, shall act through its president or through such other officer or director as its board of directors designates in writing. A partnership, if a Unit Owner, shall act through a partner as designated by the partnership in writing. A trust, if a Unit Owner, shall act through its trustee. If there is more than one such trustee for a trust, then the trustees shall designate in writing which trustee shall be entitled to vote. Votes allocated to a Unit may be voted by written proxy duly executed by the Unit Owner. The proxy may be valid for no more than one year. Unless a different time is set on the proxy, it shall be good only for one meeting and may be revoked by actual notice to the person presiding over a meeting of the Association, prior to the ballot on any issue has been cast. Unless specifically set forth in another section to the contrary, all votes shall be counted as equal from each Unit regardless of size or percentage of ownership of the Units.

ARTICLE FOURTEEN: RESPONSIBILITIES OF THE BOARD

For the benefit of all Unit Owners, the Board shall have the following duties and powers:
The Board shall have the right to administer the Association.

14.1 Employment of Manager. The Board may employ a manager or managers and/or a managing agent or agents on reasonable terms to carry out the administrative duties given to the Board and pay such manager(s) and/or such managing agent(s) reasonable compensation. The Board, as it deems necessary, may also employ and retain accountants, attorneys, other professionals, and such other persons necessary for insurance, maintenance, repair, and replacement of the Common Elements. Any management agreement shall be for a period not to exceed one year and may be renewed from year to year and shall be terminable for cause upon thirty days' written notice. The Board may hire a Unit Owner to be Manager, but may not be co-owner of any Unit with any Board member.

14.2 Insurance. Not later than the time of the first conveyance of Unit to a Unit Owner other than the Declarant, the Board, in its own name as Trustee for the benefit of the Unit Owners, shall purchase and maintain a fire and extended coverage insurance policy and a comprehensive public liability insurance policy pursuant to the provisions of this subsection. Premiums for such insurance policies shall be a Common Expense. All such insurance policies shall be placed with companies licensed in the State of Missouri.

(a) The Board shall purchase and maintain a fire and extended coverage insurance policy with, if available, at a reasonable price, an "all risks" endorsement in an amount which shall to the extent available at a reasonable price not be less than 100% of the replacement value of all improvements and all personal property owned by the Condominium, exclusive of land excavations, foundations and other items normally excluded from property policies, with a standard mortgage clause in favor of mortgagees, if any. The "loss Payee" clause shall show the Association, as a trustee for each Unit Owner and the holder of each Unit's mortgage. The insurance policies shall provide: (i) the "special condominium endorsement"; (ii) recognition of the insurance trust arrangement provided in paragraph (d) of this subsection; (iii) a waiver of the insurer's rights to subrogation against the Unit Owners or occupants; (iv) that the insurance coverage is not to be prejudiced by any act or neglect of any individual Unit Owner or Unit Owners which is not within the control of the Unit Owners collectively; (v) that the insurance policy primary in the event that any Unit Owner has coverage for the same loss; and (vi) that each Unit Owner is an insured person under the policy with respect to liability arising from the Unit Owner's interest in the Common Elements or the Unit Owner's membership in the Association. Notwithstanding any other provision of this subsection, or of this Declaration, the Board shall not be responsible to insure any alterations and improvements made by each Unit Owner to the Unit Owner's Unit. The Board in its discretion may insure improvements and finishes in each Unit including, but not limited to, any floor coverings including wall to wall or area carpeting or rugs, padding beneath such carpeting, vinyl, rubber or other pliable sheet goods, hardwood flooring, quarry tile, marble, brick, wall coverings, wood paneling, moldings or millwork, all built-in or free standing appliances (including dishwashers, disposals, compactors, refrigerators, freezers, ovens, cook tops, stoves and the like), free standing or built-in cabinetry, light fixtures, ceiling fans, plumbing fixtures, water pumps, whirlpools, spas, and equipment associated therewith, all interior walls, originally installed staircases and components thereof, and for all electrical, plumbing, heating (including ambient air and main water), cooling, ventilation, draining and mechanical systems, including wires, pipes, ducts, and conduits contained within the walls, ceilings, or floors, and the trusses, beams, rafters, and other structural components of the walls, ceilings, roof, floors and subfloors. Unless specifically excluded in the insurance policy it is the intent that all of the items in this section are

included under the Association's insurance even though the Board is not otherwise obligated to maintain such items for hazards or damage not covered by insurance. Upgrades and changes made by Declarant prior to initial sale shall not be deemed to be Unit Owner alterations or improvements. The Board in its discretion may provide insurance of the type described in this paragraph or may limit coverage.

(b) The Board shall purchase and maintain comprehensive public liability insurance policy insuring the members of the Board, the Board (including the Board's agents and employees), and the Unit Owners from and against any liability for personal injury, death, or property damage, incident to the ownership and/or use of the Common Elements in an amount not less than Five-Hundred Thousand Dollars (\$500,000.00) combined single limit. This coverage will not insure Unit Owners against liability arising for the willful or negligent act or omission of a Board member.

(c) The Board shall purchase officers and directors insurance on all Board members.

(d) The Board is authorized to purchase policies of Worker's Compensation insurance and employer's liability insurance to the extent necessary to comply with Missouri law. The Board is further authorized to purchase Fidelity Bond coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and others who handle funds of the Association, including any Managers. The Board is also authorized to purchase any other insurance coverage in such reasonable amount, as the Board shall deem desirable.

(e) The Board shall act as the true and lawful insurance trustee ("Trustee") to receive the proceeds of all fire and extended coverage insurance losses and shall notify the insurance carriers in writing to make all loss proceeds payable to the Trustee. The Trustee shall have full power and authority to adjust and collect all insurance losses, by suit or otherwise, and the payment accepted by the Trustee shall constitute a discharge to the insurance carrier. The Trustee shall have full power and authority to execute all documents necessary on its own behalf and on behalf of the named insured and to endorse all checks and drafts on its own behalf and on behalf of the named insureds. The Trustee shall hold the insurance proceeds in trust for the Unit Owners, mortgage holders, deed of trust beneficiaries and lienholders as their interest may appear. Subject to the provisions of Article Seven, the proceeds shall be disbursed first for the Reconstruction (as defined in Section 6.1) of the Property, which is damaged. The Unit Owners and the lienholders are not entitled to receive any payment of the proceeds, unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium is terminated. The Trustee may disburse the funds in accordance with Article Eight, if the proceeds are sufficient for reconstruction, but the Trustee shall have the right (but not the obligation) to require that the funds be disbursed only against surety bonds, completion guarantees, escrows, or such other assurances as may be at no expense to the Trustee, except that the cost of security bonds, completion guarantees, and title escrow distribution charges, if any, shall be at the expense of the Board as a Common Expense.

(f) In the event the Trustee reasonably believes that the fire and extended coverage insurance is insufficient to cover the replacement cost of the Common Elements and Units, the Trustee may (but shall not be required to) increase the coverage as it deems necessary and include the increased premium amounts in the Common Expenses and remit the amount of

the premium to the insurance carrier entitled to that premium. However, the Trustee shall not have any liability for failing to increase the coverage or failing to increase the coverage sufficiently or for selecting any particular insurance company. Under no circumstances shall the Trustee be liable for any act or omission, except for fraud, gross negligence, or willful misconduct.

(g) Upon written request, the Board shall have the insurance carrier issue a certificate of insurance to any Unit Owner, mortgagee, or beneficiary under a deed of trust of the Unit Owner requesting such certificate of insurance. Those certificates shall contain the standard mortgage clause naming the mortgage holder as an additional insured subject to the provisions of the Declaration and shall contain a minimum ten (10) day cancellation notice which shall be given to the Board, each Unit Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate of insurance has been issued, prior to any cancellation of the insurance.

(h) Each Unit Owner is required to maintain insurance on their Unit pursuant to Section 8.4 of this Declaration. Deductibles must be paid by the Unit suffering damage. In the event damage occurs to more than one Unit, or to the Common Elements in addition to one or more Units, the Units and the Association shall divide the expense for the deductible in the same percentage as the monetary amount of damage to Units and/or the Common Elements. The Board has the discretion not to file an insurance claim if total damages of the Association's claim is not double the amount of the deductible.

14.3 Maintenance and Records. The Board shall:

(a) Provide for maintenance, repair, and replacement of the Common Elements in good order and in compliance with the requirements of the county ordinances and the requirements of any other governmental agencies having jurisdiction;

(b) Determine the method of approving payment vouchers, a manner for estimating the amount of the annual Budget, and the manner of assessing and collecting from the Unit Owners their respective Shares of the estimated Common Expenses and all other expenses lawfully agreed upon at a meeting of Unit Owners called and conducted in accordance with this Declaration.

(c) Furnish within ten days following a written request by a Unit Owner, a statement of that Unit Owner's account setting forth the amount of any unpaid Assessments or Special Assessments or other charges;

(d) Keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records shall be available for examination within a reasonable period of time following a written request by a Unit Owner.

14.4 Availability. The Board shall make available to Unit Owners, lenders and the holders, insurers and guarantors of the first mortgage on any Unit, current copies of the Declaration, and other rules governing the Condominium, and other books, records and financial statements and shall make available to prospective purchasers current copies of the Declaration, other rules governing the Condominium, and the most recent annual financial statement, if such is prepared, upon ten days prior written notice and upon the Unit Owner paying the administrative charge set

by the Board for providing such information.

14.5 Easements and Purchase or Sale of Common Element After the Period of Declarant Control. The Board may establish, grant, and dedicate easements (including easements for public utilities and private storm or sanitary sewer lines) in addition to any shown on the Plat, in, over or through the Common Elements the Board may acquire property for the Condominium Association. The Board is constituted the attorney-in-fact for the Unit Owners to execute documents necessary to carry out the terms of this subsection. During the period of Declarant control, Declarant shall have all such rights.

14.6 Declaration and Plat. The Board may execute and file any amendment to this Declaration or the Plat or both, which have been adopted by the Unit Owners as set forth in Article Fifteen after the period of Declarant control. Prior to such period, Declarant must execute any and all amendments in Declarant's sole discretion as Power of Attorney for the Unit Owners.

14.7 Pet Permits. The Board may issue pet permits for the keeping of animals permitted under Section 5.5, if the Board determines that such action is helpful in monitoring compliance with pet requirements. The Board shall have the power to revoke any pet permit issued if the Board concludes that keeping the animal in or about the Unit and Common Elements will not be in the best interests of the Condominium due to noise, viciousness, odor, not picking up feces or other reason. The decision of the Board to issue or to revoke such a permit shall be absolute.

14.8 Personal Property of Condominium. The Board may acquire and hold, for the benefit of the Unit Owners, tangible and intangible personal property which the Board is required to secure or to pay for pursuant to this Declaration or the Act, or which the Board deems necessary and proper for the maintenance of the Condominium as a luxury condominium development or for the enforcement of the provisions and conditions of this Declaration. The Board may dispose of such property by sale or otherwise from time to time for such consideration as the Board shall determine. The beneficial interest in such personal property shall be owned by the Unit Owners in the same proportion as their Shares in the Common Elements, and shall not be transferable, except by the Board, separately or apart from a Unit. A transfer of a Unit shall transfer automatically to the transferees the Unit Owner's beneficial interest in such personal property, subject to the provisions set forth above, whether or not such interest is mentioned in the instruments effecting such transfer.

14.9 Modification Permits. The Board may issue or withhold permits to Unit Owners to make interior structural changes, exterior improvements, permanent or temporary exterior decoration, or plantings. The decision of approval or disapproval of the Board shall be conclusive. The Board may require plans, architect seal, engineer seal, or whatever other information it deems necessary in order to approve any modification. It may also require the owner to sign a Modification Agreement and may record such Agreement. The Board may also charge the Unit Owner a fee to cover any administrative costs, recording fees, attorney's fees, engineering fees, or other costs incurred by the Board. Procedures for approval may vary with the scope and nature of the project involved. The Board shall have no time frame in which to approve or disapprove any modification. Board approval shall be required for any installation of new windows or exterior doors, garage doors, decks or balconies, exterior storm windows or storm doors installations, or anything else which directly or indirectly affects the exterior of the building, structural supports, roof or Common Elements within the building.

14.10 Sign Permits. The Board may in its sole discretion, issue or withhold permits to Unit Owners for the installation of "For Rent" and "For Sale", "Open House" signs or any other type of signs of such size, duration, location and number as the Board shall establish by rule under Section 5.4 to apply uniformly to all Unit Owners in relation to the type of sign. The Board may also regulate all exterior decorations, plantings, and plants in pots.

14.11 Rules and Regulations. The Board shall establish and administer such Rules and Regulations, as it deems necessary to govern the operation, maintenance, beautification, conservation, and use of the Common Elements and Units and for the health, comfort, safety, and general welfare of the Unit Owners or occupants. Unit Owners and other residents shall be deemed to be on legal notice of all Rules and Regulations contained in any handbook or published in a newsletter or sent to the Unit Owners by mail during or prior to the time such individual owned a Unit or resided at the complex even if the individual claims to have no actual knowledge of the Rules and Regulations.

14.12 Limitation of Liability. The individual Board members shall not be liable for any mistake of judgment, act, deed, or omission made in good faith while exercising ordinary and reasonable care. The Unit Owners shall indemnify and hold harmless each of the Board members and their agents against all contractual and other liability to others arising out of contracts or decisions made by the Board members on behalf of the Unit Owners unless any such contracts or decisions shall have been made in bad faith or in a manner clearly contrary to the provisions of this Declaration or the Missouri Uniform Condominium Act. The indemnity shall be limited to the representation and coverage provided under any officers and directors policy covering such individual. The liability of any Unit Owner arising out of any contract made by the Board or out of the indemnity provided above shall be limited to the Unit Owners' Shares in the Common Elements. Each properly authorized and executed agreement made by the Board shall be executed by the Board as agents for the Association and the Unit Owners, even if that is not clearly set forth in the contract.

14.13 Limitation of Authority. The Board may not act on behalf of the Association to amend this Declaration, to terminate the Condominium, or to elect members of the Board except for the limited power of appointment of persons to serve on the Board as a temporary replacement in the event of a vacancy on the Board until the next annual Unit Owners meetings or may not determine the qualifications, powers and duties, or terms of office of Board members.

14.14 Banking. The Board may:

(a) Establish or maintain one or more accounts at financial institutions or federally insured brokerage houses for the deposit of any funds paid to or received by the Board, and make investments only with due regard for safety of principal.

(b) Borrow such funds as may be required to perform the obligations of the Board set forth in this Declaration and to pledge future assessments or financial reserves to secure such loan. However, any loan in excess of twenty-five thousand and no/100 Dollars (\$25,000.00) may only be obtained when approved by a two-thirds (2/3rds) majority of the entire Board and subsequently by a majority of the Unit Owners at a meeting where a quorum is present.

14.15 Additional Powers.

(a) Without limiting the rights of any Unit Owner, the Board may bring actions in the name of the Association and/or in the names of the members of the Board on behalf of two or more of the Unit Owners, as their respective interest may appear, with respect to any cause of action relating to the Common Elements or to one or more than one Unit. Service of process on two or more Unit Owners in any action relating to the Common Elements or more than one Unit may be made on all the members of the Board in lieu of naming or serving all Unit Owners having an interest in the Common Elements or the Units, and such proceedings shall bind all Unit Owners. A member of the Board served with a summons shall immediately notify the other members of the Board.

(b) The Board may pay any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Common Elements of the Property, or any Units at the Property, which may, in the opinion of the Board, constitute a lien against the Common Elements, rather than merely a lien against the interests of a particular Unit Owner. Where one or more Unit Owners are responsible for the existence of a lien, those Unit Owners shall be jointly and severally liable for the cost of discharging the lien. The cost of discharging the lien and any costs incurred by the Board because of the lien shall be specially assessed against those particular Unit Owners, in accordance with Section 14.18.

14.16 Additional Duties. The Board may perform to the extent the Board deems it beneficial for the Association:

(a) Landscaping, gardening, snow removal, painting, cleaning, tuck pointing, paving, maintenance, decorating, repair, and replacement of the Common Elements, including roofs, as well as the painting of exterior surfaces of Unit doors leading to the Common Elements, and exterior surfaces of window frames and sashes to the extent they are designed to be painted, but not including maintenance of the Interiors of the Units (except for losses covered by insurance and in accordance with the provision of this Declaration on insurance), which the Unit Owners shall be responsible to paint, clean, decorate, maintain and repair. The Board shall have the exclusive right and duty to acquire and maintain furnishings and equipment for the Common Elements. The Board shall have broad discretion in how to carry out such duties. Minor snow removal, and certain landscaping around Units may at the discretion of the Board be left to the Unit Owners pursuant to contract terms with service suppliers.

(b) Maintenance and repair of any Unit, or Limited Common Elements that the Unit Owner has the duty to repair if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any Units, or constitutes a nuisance or an eyesore and the Unit Owner of that Unit has failed or refused to perform the maintenance or repair within a reasonable time after notice of the necessity of the maintenance or repair delivered by the Board. The Unit Owner shall promptly reimburse the Board for the cost of such maintenance or repair plus any fine or administrative charge, collection fee, lien fee or attorney's fees incurred or assessed by the Board relating to the failure of the Unit Owner to timely carry out a repair or failure to pay the Board for repairs. The Board or its agents may enter any Unit, in accordance with Section 4.3, when necessary in connection with any maintenance or construction for which the Board is responsible.

14.17 Budget, Condominium Assessments.

(a) Regular monthly Assessments shall be collected on the basis of the

percentage of ownership set forth in Exhibit "B", except for garage assessments, Boat Dock Assessments, and fines or Special Assessments assessed against a certain Unit.

(b) (1) On or before December 1 of each year, the Board shall estimate for the next calendar year: (i) the cost and the expense of administration and of maintenance and repair, including water, waste removal, sewer charges, electricity, gas, and other necessary utility or other services for the Common Elements and trash and refuse collection and sewer fees for each Unit; (ii) all salaries and fees for employees, including the manager(s) and/or managing agent(s); and (iii) all other amounts needed in the performance of the duties assigned under this Declaration.

(2) On or before December 1 of each year, the Board shall formulate and adopt a Budget for the next calendar year. Unless a Majority of all the Unit Owners by equally weighted votes reject the Budget, the Budget is ratified, whether or not a quorum is present at the meeting for such purpose Unit Owner voting on the budget may be sent in by mail vote within the deadline set by the Board. In the event the proposed Budget is rejected, the periodic Budget last ratified by the Unit Owners ("Pre-Existing Budget") shall be continued until such time as the Unit Owners ratify a subsequent Budget proposed by the Executive Board at a special meeting of the Unit Owners.

(c) Reserves are for the benefit of all Unit Owners, and no Unit Owner shall have any interest in the reserves upon the transfer of the Unit Owner's Unit. On or before December 15 of each year, the Board shall provide each Unit Owner with a Budget Estimated Cash Requirements. The Assessments set forth in the Budget shall then be levied as an Assessment against the Unit Owners according to each Unit Owner's Share in the Common Elements.

(d) Beginning on January 1 of each year, each Unit Owner may at the Board's direction be obligated to pay to the Board, or as the Board may direct, one-twelfth (1/12th) of the Assessment made in accordance with this Section and a similar amount on the first day of each month during that calendar year, or the Board may elect to make assessments due quarterly, or other period which the Board determines.

(e) Failure of the Board to notify a Unit Owner of the New Assessments or to adopt a Budget by December 15 of a particular year shall not waive the Board's right to make Assessments or constitute a waiver or release in any manner of the Unit Owner's obligation to pay Assessments in accordance with this Declaration whenever the Board determines the Assessment. In the absence of any annual Budget and determination of the New Assessments, the Unit Owners shall continue to pay the existing monthly payment of the Assessment as formulated under the Pre-Existing Budget until the new monthly payment is adopted, payment is then due not more than ten days after receipt of the new monthly payment, by the Unit Owner.

(f) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element, such as boat docks and garages, and to the extent the Board determines is practical, shall be assessed against the Units to which such Limited Common Element has been assigned. Any Common Expenses to the extent practical benefiting fewer than all Units, in the sole judgment of the Board, may be assessed exclusively against the Units

benefited. The cost of utilities respecting Units or Limited Common Elements shall be assessed in proportion to usage to the extent practical.

(g) Assessments to pay a judgment against the Association shall be made only against the Units in proportion to their share of Common Expenses. If any Common Expenses are caused by the misconduct of any Unit Owner, the Association may assess that expense exclusively against that Unit Owner's Unit. The Board shall have the discretion not to file an insurance claim in such instances, even if insurance may be available to cover the claim. In such event, the Unit Owners liability insurance shall be the primary insurance.

14.18 Accounting, Shortages and Special Assessments.

(a) Prior to March 15 of each year, the Board shall supply to all Unit Owners an itemized accounting of all income and expenses of the preceding calendar year and a financial statement showing all income and expenses of the preceding calendar year. If the holder, insurer or guarantor of any first mortgage that is secured by a Unit submits a written request for it and agrees to pay for the cost of preparing same such statements shall also be sent to the Mortgage Holder. At the Board's discretion, any cash balance remaining, as shown in such accounting, less reasonable reserves for future needs and contingencies, shall be used in the next year's budget to reduce each Unit Owner's Share in the next yearly Assessment installments due for the next year. One-sixth (1/6th) of any net shortage shall be added, according to each Unit Owner's Share to the installments due in the next succeeding six months after the rendering of the accounting as a Special Assessment.

(b) Failure of the Board to supply the Unit Owners with an accounting prior to March 15 of each calendar year shall not be construed as a waiver of any of the Board's rights in accordance with this Declaration and shall not be a breach of the Board's duties so long as an accounting is supplied in a reasonable time after requested.

(c) In addition to the Assessment set forth in Section 14.17, the Board may levy a Special Assessment for the purpose of defraying, in whole or in part, any costs, expenses, or extraordinary expenditures which exceed the amount obtained in the regular Assessment and maintained in the reserves. The Board shall serve notice of the Special Assessment on the Unit Owners specifying the amount, the reason for, and the manner of payment of the Special Assessment. All Unit Owners shall be obligated to pay the Special Assessment. However, all Special Assessments which exceed 50% (during any consecutive 12 month period) of the regular assessments, adopted under the last approved annual budget shall require approval of two-thirds of the Unit Owners voting by equal votes attending a meeting where a quorum is present. The Board may also issue a Special Assessment for expenses to Limited Common Elements to one or more, but less than all Unit Owners, and may also issue Special Assessments for repairs necessitated by negligence of a Unit Owner or other residents of their Unit.

14.19 Defaults, Collections, and Liens.

(a) Regular assessments or Special Assessments not timely paid on or before the date due shall accrue as an additional Assessment, which may also be called a late fee or a late charge of \$20.00 after the tenth of each month in which any assessment, fine or charge remains unpaid. Any change of such late fee must be approved by a majority of the Board. However, any portion of a late charge imposed by reason of this Section may be abated in whole or in part by

the Board at its sole discretion for hardship, or excusable mistake. If any Unit Owner fails or refuses to make any payment of an Assessment or a Special Assessment when due, the unpaid amount and the additional Assessment or Special Assessment shall constitute a lien on the Unit Owner's Unit and Share in the Common Elements in favor of the Board and for the benefit of the Unit Owners without necessity of filing any lien notice. However, a lien notice may be filed if the Board authorizes the filing and the cost thereof may be assessed against the defaulting Owner. If the default in the payment of any Assessment or Special Assessment or fine or other charge continues for thirty days, the Board may bring legal action to force collection or to foreclose the lien on the Unit Owner's Unit and Share of the Common Elements, pursuant to Missouri's Judicial Foreclosure Statutes with the Board's President or Attorney acting as Trustee to conduct the sale. If the Board brings suit, the amount due shall be increased by the costs of the suit and reasonable attorneys' fees.

(b) Any lien for Assessments or Special Assessments shall have priority over all other liens and encumbrances on a Unit and Share except: (1) liens and encumbrances recorded before the recordation of this Declaration, (2) a first mortgage or deed of trust used for the purchase of a Unit and recorded before the date on which the Assessment or Special Assessment sought to be enforced became delinquent. However, this subsection shall not affect the priority of mechanic's or materialmen's liens, or the priority of liens for other Assessments or Special Assessments. Association liens shall not be affected by any sale or transfer of a Unit. However, a sale or a transfer of a Unit pursuant to a foreclosure of a first mortgage or deed of trust used to purchase the Unit shall extinguish a subordinate lien for Assessments or Special Assessments which became payable prior to the sale or transfer. Any such sale or transfer after a foreclosure shall not relieve the purchaser or transferee of a Unit from liability from the lien of any Assessment or Special Assessments becoming due after the date of the foreclosure sale.

14.20 No Vesting of Funds. The transfer of a Unit shall automatically constitute a transfer of the Unit Owner's equitable interest in any funds held by the Board. No Unit Owner shall have any distributive right in and to any funds held by the Board until or unless this Declaration shall terminate, at which time the funds, if any, on hand not required for the payment of obligations shall be distributed to the then Unit Owners of record as their interests appear.

ARTICLE FIFTEEN: AMENDMENTS TO THE DECLARATION AND TO THE BYLAWS

During the period of Declarant control, the Declarant shall have the right to make Amendments to the Condominium Declaration and Bylaws through the power of attorney authorized herein:

The Unit Owners may modify and amend this Declaration and Bylaws by a vote of the Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated by percentage of ownership. Each such modification and amendment must be recorded with the Recorder of Deeds of ~~Camden~~ ^{Camden}, Missouri to be effective. However, this Declaration shall at all times contain the minimum mandatory requirements of the Act. The President of the Board may prepare, execute, certify, and record amendments to this Declaration on behalf of the Association with the attestation of the Secretary.

IN WITNESS WHEREOF, the undersigned as the Owner of all Units and Declarant hereunder has executed this Declaration this 28 day of September, 2007 that supersedes and replaces those of the Former Condominium Associations.

ATLANTIS, L.L.C.

BY: Kernene B. Shickler
Kernene B. Shickler, Managing Member

Attest: _____
Secretary

STATE OF MISSOURI)
COUNTY OF Miller) SS

On this 27 day of September 2007, before me appeared Kernene B. Shickler to me personally known, who, being by me duly sworn, did say that she is Managing Member of Atlantis, L.L.C. a Missouri Limited Liability Corporation, and that said instrument was signed in behalf of said company by authority of the members, respectively; and Kernene B. Shickler, acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Penny Tyler Papendick

Notary Public.

My Commission Expires:

11/28/2008

Penny Tyler Papendick
Notary Public - Notary Seal
State of Missouri - Miller County
Commission Number #04843163
My commission expires 11/28/2008

MORTGAGEE'S SUBORDINATION

The undersigned, J. Lunt, as a duly authorized officer of the Rockwood Bank being the holder of a certain Deed of Trust dated June 28, 2006, ^{June 28, 2007} recorded in the office of the Recorder of Deeds for Miller County, Missouri, in Book 2006-4488, 2006-4491, ^{Page 4488} does hereby join in and consent to the execution and recording of the above Declaration of Condominium for Atlantis Island Condominium including the exhibits appended thereto, and does hereby subordinate the lien of its Deed of Trust so that, in the event of foreclosure, that portion of the property which is covered by said Deed of Trust shall continue to be subject to this Declaration and all exhibits attached thereto.

Date: 9-28, 2007

Rockwood Bank

By: [Signature]

Print Name: J. Lunt

Title: President

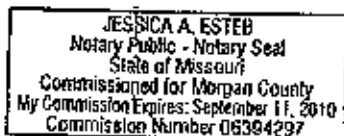
STATE OF MISSOURI)
) SS:
COUNTY OF ST. LOUIS)

On this 28th day of September, 2007, before me appeared J. Lunt, to me personally known, who, by me duly sworn did say that he/she is President of Rockwood Bank a Missouri Corporation, and said instrument was signed on behalf of said bank by authority of its Board of Directors; and J. Lunt does acknowledge said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

[Signature]
Notary Public

My Commission Expires:



STATE OF MISSISSIPPI
COUNTY OF HANCOCK
RECORDED
2006 3137

"SECOND AMENDMENT OF ATLANTIS ISLAND SUBDIVISION"

E 1/2, SW 1/4
SEC. 15-40-16

LAKE OF THE OZARKS

W 1/2, SE 1/4
SEC. 15-40-16

LAKE OF THE OZARKS

LAKE OF THE OZARKS

LAKE OF THE OZARKS

LAKE OF THE OZARKS

REF. BEAR. (FROM PREVIOUS SURVEYS)
S 89°15'10" W 2715.56'
WEST LINE SECTION 15
END PIPE
NW CORN.
SEC. 15-40-16

END PIPE
NW CORN.
SEC. 15-40-16

FERRY LANDING

LOT 4

EXISTING BUILDING 4
ZEUS
FIRST FLOOR ELEV. 673.10

LOT 5

EXISTING BUILDING 5
VENUS
FIRST FLOOR ELEV. 673.15

LOT 6

EXISTING BUILDING 6
NEPTUNE
FIRST FLOOR ELEV. 673.15

"ATLANTIS ISLAND SUBDIVISION"
CABINET A. SLIDE 795

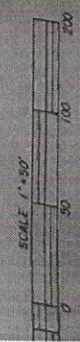
"FIRST AMENDMENT OF ATLANTIS ISLAND SUBDIVISION"
CABINET A. SLIDE 763

L.S. Hillen
Lenny D. Hillen, L.S.
L.S. 11870

EXHIBIT

2

tables



ASSUMED



"SECOND AMENDMENT OF ATLANTIS ISLAND SUBDIVISION"

OWNER'S CERTIFICATION FOR SECOND AMENDMENT OF THE ATLANTIS ISLAND SUBDIVISION PLAT

The undersigned as Managing Member of Atlantis, L.L.C. as the Owner of the property in the subdivision, and not both in the subdivision, have caused the same to be surveyed and replatted in accordance with the provisions of the original plat of the Atlantis Island Subdivision as recorded in Cabinet A, Slide 755 of the Missouri County Recorder's Office and the replatted property into one additional lot to be known as Lot 6 (New) and the other replatted property which is not yet platted as lot shall continue to be part of the Atlantis Island Subdivision.

[Signature]
KAREN B. SHICKLER, Managing Member
Printed Name
DATE: 4/29/08

STATE OF MISSOURI }
COUNTY OF Camden } ss

On this 29 day of April, 2008, before me personally appeared Karen B. Shickler, Managing Member of Atlantis, L.L.C., to me known, who being by me duly sworn, did say that Atlantis, L.L.C. is the present holder and legal owner of the land described and that she is authorized to execute this Certification on behalf of Atlantis, L.L.C. as its free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my official seal on the day and year first above written.

[Signature]
Notary Public
KAREN B. SHICKLER
My Comm. Expires
February 2, 2011
Camden County
Commission #007119

MORTGAGE HOLDER'S CERTIFICATION FOR THE SECOND AMENDMENT OF THE ATLANTIS ISLAND SUBDIVISION PLAT

The undersigned, [Signature], as a duly authorized officer of the Rockwood Bank being the holder of a certain Deed of Trust on the replatted property dated June 28, 2007, recorded in the Office of the Recorder of Deeds for the County of Camden, Missouri, in Book 2006, Page 44 (referred to in Book 2007, Page 444), does hereby certify and attest to the execution and recording of the above Second Amendment to the Subdivision Plat created out of (repealed), in the Atlantis Island Subdivision and subordinate the lien of its Deed of Trust to said Plat.

[Signature]
Printed Name
Title
DATE: 4/29/08

STATE OF MISSOURI }
COUNTY OF Camden } ss

On this 29 day of April, 2008, before me personally appeared [Signature] to me known, who being by me duly sworn, did say that they are the Rockwood Bank of the Rockwood Bank, a Missouri Corporation, and said instrument was signed on behalf of said lending institution by authority of its Board of Directors, and [Signature] does hereby acknowledge said instrument to be the free act and deed of said lending institution.

In testimony whereof, I have hereunto set my hand and affixed my official seal on the day and year first above written.

[Signature]
Notary Public
ROBERTA BENTLEY
My Comm. Expires
February 11, 2011
Camden County
Commission #007119

SECOND AMENDMENT TO ATLANTIS ISLAND SUBDIVISION PLAT

SURVEYOR'S CERTIFICATE

This is to certify that I, Lenny D. Allen, a registered land surveyor, during the month of April, 2008, in the presence of the owner, made this survey titled Second Amendment to Atlantis Island Subdivision. The survey was originally recorded in Cabinet A, Slide 755 and a thereafter amended, including the formation of Lot 6 (New) and the replatted property into one additional lot to be known as Lot 6 (New) and the other replatted property which is not yet platted as lot shall continue to be part of the Atlantis Island Subdivision. This survey was made in accordance with the requirements of the Standards for Professional Land Surveyors as set forth in C.S.R. 30-16 and 10 C.S.R. 30-2 and this survey meets the requirements of a survey of Suburban Class property and recorded in the Miller County Recorder of Deeds Office.

IN WITNESS WHEREOF, I have hereunto signed and sealed this foregoing this 29 day of April, 2008.

[Signature]
Lenny D. Allen
Mo. Reg. No. L.S. 1670

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

ISLA DEL SOL CONDOMINIUM)	
ASSOCIATION, INC.,)	
)	
Plaintiff,)	
)	Case No.
v.)	
)	
ROCKWOOD BANK,)	Division
Serve: 219 Thresher Dr.)	
Eureka, MO 63025)	
)	
Defendant.)	

PETITION

COMES NOW Plaintiff, Isla Del Sol Condominium Association, Inc. (“Isla Del Sol”), by and through the undersigned counsel, and for its causes of action directed to Defendant, Rockwood Bank, states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Isla Del Sol, is a Missouri nonprofit corporation with its principal place of business in Miller County, Missouri.
2. Defendant, Rockwood Bank, is a Missouri banking corporation with its principal place of business in St. Louis County, Missouri.
3. This Court has subject matter jurisdiction over this cause of action.
4. Venue is proper in this Court pursuant to § 508.010 RSMo.

ALLEGATIONS COMMON TO ALL COUNTS

5. Isla Del Sol reaffirms and incorporates by reference the allegations contained in paragraphs 1 – 4 as if fully restated herein.

6. Isla Del Sol is the governing body of the Isla Del Sol Condominiums (formerly the Atlantis Island Condominium) pursuant to the Declaration of Condominium Ownership and ByLaws, Easements, Restrictions and Covenants for the Atlantis Island Condominium dated September, 28, 2007 and recorded October 2, 2007 in Book 2007 page 6415 of the Miller County Records (the “Indentures”). A copy of the Indentures is attached hereto as “Exhibit 1” and is fully incorporated herein by reference.

7. The Isla Del Sol Condominiums project, originally owned and developed by Atlantis LLC, is constructed on a small island in Lake of the Ozarks and presently consist of three condominium buildings, boat docks, a parking lot and a sewage and water facility (the “Project”).

8. After the initial development, Defendant, Rockwood Bank, took ownership of the Project following a foreclosure against Atlantis LLC.

9. Upon information and belief, Rockwood Bank is presently attempting to sell a portion or portions of the Project, specifically the sewage and water facility, to Missouri American Water.

10. Pursuant to Article 3 Section 3.1(a) of the Indentures, the sewage and water facility is a common element of the Isla Del Sol Condominiums, which belongs to each and every unit owner.

11. Pursuant to Article 3 Section 3.8 of the Indentures, the unit owners have the right to use a boat ramp on the shore adjacent to the Project.

12. At present, the unit owners within the Isla Del Sol Condominiums have no such right to use any boat ramp, and must pay separately for use of any boat ramps.

13. In addition, the parking lot for the Project is incomplete and has remained incomplete, despite Isla Del Sol's demand that it be completed for use by the Isla Del Sol Condominium unit owners.

14. Finally, upon information and belief, Rockwood Bank intends to sell other portions of the Isla Del Sol Condominiums' common elements, including without limitation the pool, boat docks and other land located within the plat of the Second Amendment of Atlantis Island Subdivision recorded in Book 2008 page 3137 of the Miller County Records, a copy of which is attached hereto as "Exhibit 2" and is fully incorporated herein by reference.

15. Isla Del Sol has been forced to incur litigation costs, including attorney's fees, in pursuing this cause of action.

COUNT I – FOR DECLARATORY RELIEF AND INJUNCTION

16. Isla Del Sol reaffirms and incorporates by reference the allegations contained in paragraphs 1 – 15 as if fully restated herein.

17. A real and substantial controversy, ripe for judicial determination now exists between Isla Del Sol and Rockwood Bank with respect to Rockwood Bank's intended sale of the Isla Del Sol Condominiums sewer and water systems to Missouri American Water.

18. Because these are common elements of the Isla Del Sol Condominiums, the sewer and water systems are owned among all unit owners within the Isla Del Sol Condominiums.

19. The unit owners pay for the maintenance and upkeep of the sewer and water systems.

20. Rockwood Bank has no authority and no right to sell the sewer and water systems.

21. Further, Rockwood Bank has no authority and no right to sell any of the Isla Del Sol Condominiums' common elements.

22. Isla Del Sol now seeks an injunction against Rockwood Bank's sale of the sewer and water systems to Missouri American Water.

23. Immediate and irreparable harm, loss and damage will result to Isla Del Sol in the absence of an injunction in that: (1) Rockwood Bank's intended sale will result in condominium unit owners incurring additional expenses and/or usage fees to Missouri American Water in excess of the maintenance fees the unit owners already pay; (2) the sale is likely to decrease the value of the condominium units themselves as a result of increased fees; (3) because Isla Del Sol is not a party to the intended sale and has no contractual privity with Missouri American Water, Isla Del Sol will have no oversight or control over any actions on the part of Missouri American Water, including fees charged to unit owners, and will be subject to any and all terms and conditions imposed by Missouri American Water without recourse of any kind; and (4) the sale of the sewer and water systems, or any other common elements, improperly deprives unit owners of their possessory right over the same without compensation of any kind, which is tantamount to conversion.

24. Isla Del Sol further seeks a judicial declaration preventing Rockwood Bank from entering into a contract for or otherwise selling any other common element of the Isla Del Sol Condominiums.

25. Isla Del Sol has no adequate remedy at law absent the relief sought herein.

26. Isla Del Sol has incurred litigation expenses, including attorney's fees, in connection with this matter, and it is equitable that Isla Del Sol recover the same.

WHEREFORE Plaintiff respectfully prays for the Judgment of this Court in its favor and against Defendant, Rockwood Bank, for Declaratory and Injunctive Relief as follows:

- A. For a preliminary injunction enjoining Rockwood Bank from selling any portion of the sewer and water systems of the Isla Del Sol Condominiums and/or the Project to Missouri American Water;
- B. Upon a final hearing, that the injunction so issued be made permanent;
- C. For a declaration that Rockwood Bank may not sell or enter into any contract for the sale of any common elements of the Isla Del Sol Condominiums and/or the Project, including the boat docks and any other land or elements within the condominium plat attached as Exhibit 2;
- D. For the recovery of Isla Del Sol's costs in this matter, including reasonable attorney's fees; and
- E. For any such other and further relief as the Court may deem just and proper.

COUNT II – BREACH OF INDENTURES

27. Isla Del Sol reaffirms and incorporates by reference the allegations contained in paragraphs 1 – 26 as if fully restated herein.

28. Pursuant to the Indentures, the Isla Del Sol Condominium unit owners have the right to use a boat ramp on the shore adjacent to the Project.

29. No such boat ramp has been provided to the unit owners, who are presently required to pay separately for any use of and/or access to any boat ramp.

30. The failure of Rockwood Bank to provide a boat ramp for use by the unit owners is a breach of the terms of the Indentures.

31. In addition, the parking lot for the Isla Del Sol Condominiums is incomplete, and has remained incomplete despite Isla Del Sol's demand that it be completed.

32. The failure of Rockwood Bank to complete the parking lot is a breach of the Indentures.

33. Isla Del Sol has been damaged as a result of Rockwood Bank's breaches of the Indentures.

34. Isla Del Sol has incurred litigation expenses, including attorney's fees, in connection with this matter, and it is equitable that Isla Del Sol recover the same.

WHEREFORE Plaintiff respectfully prays for the Judgment of this Court in its favor and against Defendant, Rockwood Bank, for damages in excess of \$25,000.00 plus interest to accrue at the rate of 9% *per annum* from the date of such Judgment, for the recovery of Isla Del Sol's costs in this matter, including reasonable attorney's fees, and for any such other and further relief as the Court may deem just and proper under the circumstances.

Respectfully Submitted

TdD ATTORNEYS AT LAW LLC

/s/Erik C. Zorumski

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Attorneys for Plaintiff

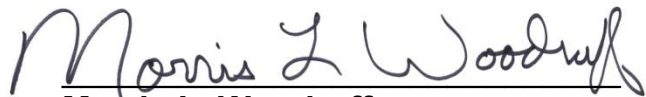
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 16th day of September 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 16, 2019

File/Case No. WA-2019-0364

**Missouri Public Service
Commission**

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Timothy.Luft@amwater.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.