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Condominium Book

DECLARATION CREATING AND  
ESTABLISHING A CONDOMINIUM  
PROPERTY REGIME FOR

BAYOU ROUGE CONDOMINIUM

BY

BAYOU ROUGE DEVELOPMENT

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\* UNITED STATES OF AMERICA

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\* STATE OF LOUISIANA

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\* PARISH OF EAST BATON ROUGE

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BE IT KNOWN, that on this 29<sup>th</sup> day of July,  
in the year One Thousand Nine Hundred and Eighty-Three;

BEFORE ME, RICHARD KEITH COLVIN, a Notary Public, duly commis-  
sioned and qualified in and for the Parish of East Baton Rouge, State of  
Louisiana, and in the presence of the witnesses hereinafter named and  
undersigned,

PERSONALLY CAME AND APPEARED:

BAYOU ROUGE DEVELOPMENT, a joint venture created by Joint  
Venture Agreement dated July 22, 1982, filed with the Secre-  
tary of State on August 12, 1982, a copy of which agreement is  
on file in the office of the Clerk and Recorder of East Baton  
Rouge Parish, as original 267, bundle 9515, which Joint  
Venture Agreement was amended by First Amendment to Joint  
Venture Agreement of Bayou Rouge Development, dated September  
22, 1982, a copy of which amendment is on file in the office  
of the Clerk and Recorder of East Baton Rouge Parish, as  
original 46, bundle 9523; herein represented by both of its  
partners, LARRY WALSH HOMES, INC., appearing through and  
represented herein by LARRY L. WALSH, President, by virtue of  
a resolution on file and of record in the office of the Clerk  
and Recorder of East Baton Rouge Parish, Louisiana, as origi-  
nal 209, bundle 9523; and CAPITAL FINANCIAL CORPORATION,  
appearing through and represented by O. M. THOMPSON, III, its  
Vice President, by virtue of a resolution on file and of  
record in the office of the Clerk and Recorder of East Baton  
Rouge Parish, Louisiana, as original 553, bundle 9508; and  
original 147, bundle 9429.

(hereinafter referred to as "Declarant")

who declared unto me, Notary that:

RECITALS, INTENT AND PURPOSES

WHEREAS, Declarant is the owner of: SEE ATTACHMENT "A"

WHEREAS, by this Condominium Declaration, it is intended to divide the Property into separate parcels of immovable or real property which, in accordance with the provisions herein contained, shall be subjected to the benefits and burdens of a Condominium Property Regime (hereinafter referred to as "Condominium") to be known as Bayou Rouge Condominium.

NOW THEREFORE,

STATEMENT OF DECLARATION. Declarant hereby declares on behalf of itself, its successors, grantees, and assigns, as well as on behalf of any and all persons having, acquiring or seeking to have or acquire any interest of any nature whatsoever in and to any part of the Property that the Property from and after the date of recordation of this Condominium Declaration in the Office of the Clerk of Court and ex-officio Register of Conveyances in and for the Parish of East Baton Rouge, State of Louisiana, shall be and continue subject to each and all of the terms hereof until this Condominium Declaration is terminated or abandoned in accordance with provisions herein elsewhere contained. The Property is submitted to the provisions of the Act subject to easements and servitudes affecting the Parcel of record in the East Baton Rouge Parish mortgage and conveyance records.

I. DEFINITIONS

1. Act. The Louisiana Condominium Act, La. R.S. 1121 et seq. as now enacted and hereafter amended.

2. Association. The Bayou Rouge Condominium Association, Inc., a Louisiana non-profit corporation, or any successor entity, composed of all the Unit Owners and the entity which shall jointly be responsible for the administration and operation of the Property. The Articles of Incorporation are annexed hereto and made a part hereof as Exhibit C.

3. Board. The board of Directors of the Association.

4. Budget. That certain budget attached hereto as Exhibit D and by this reference made a part hereof.

5. Building. The structure (whether one or more) located on the Parcel and forming part of the Property and containing Units.

6. By-Laws. The By-Laws of the Association, attached hereto as Exhibit D and by this reference made a part hereof, as amended from time to time.

7. Common Elements. All that part of the Property (movable or immovable property) which is not within or a part of the individual Units as such Units are shown on the attached Plat (Exhibit F) or described herein, or which exists within Units by virtue of a servitude created herein, and without limiting the generality of the foregoing, shall include those items defined as "common elements" in the Act, including the following:

a. All foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communications ways;

b. All roofs, yards, and gardens, except as otherwise herein provided or stipulated;

c. All compartments or installations of central services such as power, light, gas, cold and hot water;

d. All recreational areas, and the like existing for common use; and

e. All other elements of the Building or Parcel desirably or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime established by this Declaration.

8. Common Expenses. The expenses for which the Unit Owners will be assessed by the Association, Managing Agent or Board, which expenses shall include, but are not limited to, the actual or estimated costs of:

a. Ad valorem taxes and other taxes of all kinds which may be levied against the Condominium Property and which are not levied against an Individual Unit or Unit Owner;

b. Maintenance, management, operation, repair and replacement of and additions to the Common Elements and those parts of the Units a to which, pursuant to other provisions hereof, it is the responsibility of the Association to maintain, repair and replace;

c. Utilities incurred in operation of the Units and the Common Elements not otherwise paid by any individual Unit Owner or Owners;

d. Management and administration of the Association including, without limiting the same, compensation paid by the Association to a managing agent, accountant(s), attorney(s), and other employees;

e. Liability and casualty insurance carried by the Association with respect to designated parts of the Condominium Property;

f. Any other item held by or in accordance with this Condominium Declaration or recorded amendment thereto, or the By-Laws to be a Common Expense.

g. Expenses agreed upon as common expenses by the Unit Owners.

9. Condominium. The entirety of the Property as subjected to a condominium property regime by this Declaration pursuant to the provisions of the Act.

10. Condominium Documents. This Condominium Declaration and the Exhibits annexed hereto as the same from time to time may be amended. Said Exhibits are as follows:

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|-----------|---|--|
| Exhibit A | - | Plat of Survey of Land and Building  |
| Exhibit B | - | Building plans and specifications including Individual Floor Plans for Each Unit Type  |
| Exhibit C | - | Articles of Incorporation of the Association   |
| Exhibit D | - | By-Laws of the Association   |
| Exhibit E | - | Budget   |
| Exhibit F | - | Percentages of undivided ownership of the Common Elements appurtenant to each Unit, and percentage obligations for common expense assessments of individual Units. |

11. Declarant. Bayou Rouge Development

12. Declaration. This instrument, by which the Property is submitted to the provisions of the Act, as hereinafter provided, and as such Declaration may be amended from time to time.

13. Family Group. A group consisting of all Occupants residing in a Unit or more than one Unit used together.

14. Limited Common Elements. All Common Elements serving exclusively a single Unit or one or more adjoining Units as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit or Units either in this Declaration, on the Plat or by the Board. Limited Common Elements shall

include, but shall not be limited to, porch and patio areas accessible only from a Unit and storage areas appurtenant to a specific Unit only, as well as "air handlers," pipes, ducts, electrical wiring and conduits located entirely within a Unit or adjoining Units and serving only such Unit or Units and such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows and entryways, and all associated fixtures and structures therein, as lie outside the Unit boundaries.

15. Majority or Majority of the Unit Owners. The owners of more than fifty percent (50%) of the undivided ownership of the Common Elements. Any specific percentage of Unit Owners means that percentage of Unit Owners who in the aggregate own such specified percentage of the entire undivided ownership of the Common Elements.

16. Mortgage. A mortgage covering a Unit and the undivided interest in the Common Elements appurtenant thereto.

17. Mortgagee. A person secured by a Conventional Mortgage.

18. Occupant. A person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

19. Parcel. Those certain parcels or tracts of ground which are the subject of this Declaration and which are identified and described on Exhibit A, attached hereto and by this reference made a part hereof.

20. Person. Any natural person, firm, corporation, partnership, association, trust or other legal entity capable of holding title to immovable property.

21. Plat. The plat of Survey of Land and Building and the floor elevation plans and drawings of all Units in the property. The Plat contains a description of the Parcel and the location of the Buildings on the Parcel with a designation and location for each Unit.

22. Property. All the land, property and space comprising the Parcel and all improvements and structures erected, constructed or contained therein or thereon, including the Building and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners.

23. Unit. An enclosed space consisting of one or more rooms occupying all or part of a floor or floors in the Building, which enclosed space is not owned in common with the Unit Owners of other Units. Each Unit is designated as shown on the attached Plat of Survey of Land and Buildings (Exhibit A), and the boundaries of each Unit shall be and remain the interior surfaces of its perimeter walls, windows, exterior doors, floors, and ceilings. Included with each Unit, without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the perimeter walls, floors or ceilings (such as, but without limitation, paint, wallpaper, vinyl, wall or floor coverings

and carpets); interior walls; and all utility pipes, lines, systems, fixtures appliances and air conditioning compressors and blowers servicing only that Unit (whether or not within the boundaries of that Unit), provided, however, that no pipes, drains, wires, conduits, ducts, flutes and shafts contained within a Unit and forming a part of any system serving more than one Unit or the Common Elements shall be deemed to be part of said Unit.

24. Unit Owner. The person or persons whose estates or interests, individually or collectively, aggregate ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto, but shall not include those having an interest in a Unit merely as security for the performances of an obligation. Unless specifically provided otherwise herein, Declarant shall be deemed a Unit Owner so long as it is the legal title holder of any Unit.

II. PLAT. The Plat sets forth the locations and other data, as required by the Act, with respect to (1) the Parcel and its exterior boundaries; (2) the Building and each floor thereof; and (3) each Unit, its precise boundaries and the Limited Common Elements appurtenant thereto.

### III. UNITS.

(a) The legal description of each Unit shall consist of the identifying designation of such Unit as shown on the Plat. Every deed, lease, mortgage or other instrument shall legally describe a Unit by its designation as shown on the Plat and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

(b) The boundaries of each Unit shall be the interior surfaces of its perimeter walls, windows, exterior doors, floors and ceilings, exclusive of any finishing materials applied or affixed to the interior surfaces of the perimeter walls, floors or ceilings such as, but without limitation, paint, wallpaper, vinyl, wall or floor coverings and carpets.

(c) Except as provided by the Act and in this Declaration, no Unit Owner shall by deed, plat, court decree to otherwise, subdivide or in any other manner cause his Unit to be separated into any units or parcels different from the whole Unit as shown on the Plat.

IV. COVENANT AGAINST PARTITION. In order to effectuate the intent hereof and to preserve the Condominium and the condominium method of ownership, the Common Elements shall remain undivided and no person, irrespective of the nature of his interest in the Common Elements, shall bring any action or proceeding for partition or division of the Common Elements or any part thereof until the termination of the condominium regime established by this Condominium Declaration in accordance with provisions herein elsewhere contained or until the Property is no longer tenable, whichever first occurs, and in any event, all mortgages must

be paid in full or all mortgagees must consent in writing, prior to bringing an action for partition.

V. ASSOCIATION OF UNIT OWNERS.

(a) Organization. There has been or will be formed an Association having the name Bayou Rouge Condominium Association, Inc., a Louisiana non-profit corporation which Association shall be the governing body for all of the Unit Owners, for the maintenance, repair, replacement, administration and operation of the Condominium, as provided in the Act, this Declaration and the By-Laws. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities and funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions of this Declaration and the By-Laws. Each Unit Owner shall be a member of the Association so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be one hundred (100) and shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements as set forth in Exhibit F hereto.

(b) Management of Property. The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part hereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (c) below. The Board shall also have the authority (but shall not be obligated) to engage, supervise and control such employees as the Board deems advisable to clean and maintain all or any part of the Units to the extent the Board deems it advisable to provide such services for all or any portion of the Unit Owners. The cost of such services shall be a common expense. All management agreements shall be for a term not exceeding one year and shall be terminable, by either party without cause upon thirty days written notice. When professional management has been previously required by any mortgage lender, insurer or guarantor, whether the entity becomes a mortgage lender, insurer or guarantor at that time or later any decision to establish self management by the Association shall require the prior consent of the Unit Owners constituting sixty-seven (67%) percent of the votes of the Association and fifty-one (51%) percent of the holders of first mortgages on the Units.

(c) Initial Management Contract. The first Board, appointed as provided herein, may approve an initial management agreement which shall be terminable, without penalty, upon ninety days

written notice at any time after transfer of control by the Declarant to the Association.

(d) Apartments for Building Personnel. The Board shall have authority to lease, purchase and mortgage one or more Units for use as residential quarters for a building manager and engineer. All rental or debt service paid by the Association pursuant to any such lease agreement or mortgage shall be a common expense.

(e) Use by Declarant. During the period of sale by the Declarant of any Units, the Declarant and its agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from the Building and Property as may be required for purposes of sale of Units. While the Declarant owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Declarant and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

(f) Non-Liability of the Directors, Board, Officers and Declarant. Neither the directors, Board or officers of the Association nor Declarant shall be personally liable to the Unit Owners for the mistake of judgment or for any acts or omissions of any nature whatsoever as such Directors, Board, officers or Declarant, except for any acts or omissions found by Court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the directors, Board, officers, and/or Declarant, and their respective heirs, executors, administrators, successors and assigns in accordance with the provisions of the By-Laws, and the Association shall carry such insurance as the Board may prescribe or protect the directors, Board, officers or Declarant under said indemnity.

(g) Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any question of interpretation or application of the provisions of the Declaration or By-Laws, such dispute or disagreement shall be submitted to the Board. The determination of such dispute or disagreement by the Board shall be binding on each and all such Unit Owners, subject to the right of Unit Owners to seek other remedies provided by law after such determination of the Board.

(h) Availability of Records. The Association shall be required to make available during normal business hours to all Unit Owners, lenders, the holders, insurers, or guarantors of the first mortgage on any Unit, and prospective purchasers, current copies of Declarations, By-Laws, and other rules governing the condominium and of other books, records and financial statements of the Association.

(i) Financial Statements. The Association shall be required to make available to any holder, guarantor or insurer of any first mortgage, upon written request, an audited financial statement for the immediately preceding fiscal year, free of charge to the party so requesting. The audited financial statement shall be provided within a

reasonable time after receipt of the written request but in all cases within thirty days.

VI. OWNERSHIP OF THE COMMON ELEMENTS. Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit F attached hereto and by this reference made a part hereof. The percentages of ownership interests, as set forth in Exhibit F, is based upon the proportion that the floor space of each unit bears to the total floor space of all units in the Condominium. The percentages of ownership interests set forth in Exhibit F shall remain constant unless hereafter changed by amendment to this Declaration, as provided in subparagraph XXX(d), Paragraph XIX, Paragraph XX, Paragraph VIII, or Paragraph XXIII, of this Declaration. Said ownership interest in the Common Elements shall be an undivided interest owned by the Unit Owners in accordance with their respective percentages of ownership. Except as provided in the Act and this Declaration, the ownership interest in the Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements, and any agreement or covenant to the contrary shall be void. The ownership of each Unit shall not be conveyed, transferred, encumbered or otherwise affected with said Unit, even though the legal description in the instrument conveying, transferring, encumbering or other affecting said Unit may refer only to the fee title to that Unit and not expressly mention or describe the percentage of ownership in the Common Elements corresponding to that Unit, or may refer to an incorrect percentage for that Unit.

VII. USE OF THE COMMON ELEMENTS. Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to not only each Unit Owner, but also to his agents, servants, tenants, family members, customers invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements serving his Unit alone. Such rights to use the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, Declaration, By-Laws and rules and regulations of the Association and the Unit Owners shall use the Common Elements in such manner as will not restrict, interfere with or impede the use thereof by other Unit Owners. In addition, the Association shall have the authority to rent, lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of the Declaration and By-laws which are reasonably necessary to the ongoing development and operation of the Condominium. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

VIII. PLAN OF DEVELOPMENT. Declarant reserves the right to include additional units in the Condominium according to the schedule and under the terms and conditions set forth in this paragraph. Declarant reserves the right and shall have the power to amend the Declaration and to change, with respect to individual units in the Condominium, their respective percentage interest in the common elements, their percentage sharing of the common surplus and common expenses, and their respective voting rights in the Association, any other contrary provision of the Declaration notwithstanding, according to the schedule and under the terms and conditions set forth herein.

Any amendment to the Declaration pursuant to this Paragraph shall be by authentic act filed for record in the office of the Clerk and Recorder for the Parish of East Baton Rouge. The effective date of the inclusion of additional units in the Condominium shall be the date of recordation of the amendment of the Declaration which includes the additional units. Additional units included in the Condominium shall, from the effective date of inclusion be entitled to all rights and bear all responsibilities as set forth in this Declaration.

The Condominium shall be constructed in three phases as shown on Exhibit A, each of which shall be located on the Property. Phase I shall consist of Buildings 1, 2, 3, 4, 5, the Club House and the Swimming Pool and shall include Units 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 51, 52, 53, 54, 55, 56, 57, and 58 as shown on Exhibit A. Phase I shall be completed and ready for occupancy on the date the Declaration is recorded in the Office of the Clerk and Recorder for the Parish of East Baton Rouge.

Phase II shall consist of Buildings 6, 7, 8, and 9 and shall include Units 61, 62, 63, 64, 65, 66, 67, 68, 71, 72, 73, 74, 75, 76, 77, 78, 81, 82, 83, 84, 85, 86, 87, 88, 91, 92, 93, 94, 95, 96, 97, and 98 as shown on Exhibit A. Phase II shall be completed and ready for occupancy on or before July 1, 1984.

Phase III shall consist of Buildings 10, 11, 12, and 13 and shall include Units 101, 102, 103, 104, 105, 106, 107, 108, 111, 112, 113, 114, 115, 116, 117, 118, 121, 123, 124, 125, 126, 127, 128, 131, 132, 133, 134, 135, 136, 137, and 138 as shown on Exhibit A. Phase III shall be completed and ready for occupancy on or before December 31, 1985.

All buildings and units in each Phase shall be constructed in substantial conformity with the Building Plans and Specifications attached as Exhibit B.

Subsequent to the completion of each building, Declarant shall have the power to amend the Declaration to include in the Condominium those additional units which comprise the completed building. The Declarant shall have the power to amend the Declaration to adjust the percentage of ownership in the Common Elements, the percentage sharing of the common surplus and common expenses, and the respective voting rights in the Association attributable to each unit in the Condominium,

based upon the proportion that the floor space of each unit bears to the total floor space of all units in the Condominium.

The Declarant shall be responsible for all maintenance of the portion of the Property comprising Phase II and Phase III of the Condominium until all units and buildings within each phase as shown on Exhibit A have been included within the Condominium as provided herein. All other expenses attributable to units in Phase II or Phase III, which accrue prior to the completion of the particular Phase shall be common expenses and paid for by the Association as otherwise provided herein.

IX. PARKING AREAS. Parking spaces are Common elements and shall be used by Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe. Each Unit Owner shall be entitled to the assignment of one (1) parking space for the exclusive use of such Unit Owner so long as he shall own his Unit. Upon sale or transfer of the Unit, the assigned space shall be subject to reassignment at the discretion of the Board, provided that the transferee shall be entitled to the assignment of a parking space. Parking spaces not assigned may be rented or otherwise used in such manner as the Board may prescribe.

X. BUDGET.

(a) Initial Assessment. Each purchaser of a Unit from Declarant shall be required to deposit with the Association a sum equal to two months' assessment to the Unit based upon the Budget to establish a reserve fund for operation and maintenance of the Condominium. No Unit Owner shall be entitled to withdraw this deposit so long as the Condominium shall exist. The Declarant shall have no responsibility to make such deposit except as to any Unit for which the deposit is not made by the purchaser from Declarant.

(b) Common Expenses. Each Unit Owner, including the Declarant, shall pay his proportionate share of the common expenses; provided, however, the terms and provisions of this subparagraph (b) are subject to the terms and provisions of subparagraph (c) below. Except for its responsibilities as a Unit Owner, as provided herein, the Declarant shall not have any responsibility for the maintenance, repair or replacement of any part of the Common Elements after the date this Declaration is recorded except as provided in Paragraph VIII. Such proportionate share of the common expenses for each Unit Owner shall be in accordance with his percentage of ownership in the Common Elements as set forth in Exhibit F. Payment of common expenses, including any prepayment thereof required by contract for sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the By-Laws. No Unit Owner shall be exempt from payment of his proportionate share of the common expenses by waiver or non-use or waiver of enjoyment of the Common Elements or Limited Common Elements or by abandonment of his Unit. If any Unit Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof together with interest thereon at the maximum rate as may then

be permitted under the laws of the State of Louisiana, accruing from and after the date that said common expenses become due and payable, shall constitute a lien on the interest of such Unit Owner in the Property and his Unit.

(c) Owner's Liability for and Declarant's Guarantee Relating to Common Expenses During the First Year. The Budget sets forth and describes for each Unit within the Condominium an amount designated therein as the "Monthly Assessment." Notwithstanding anything contained in this Declaration to the contrary (including, but without limitation, the terms and provisions of subparagraph (b) above), for a period (hereinafter referred to as the "Initial Period") of one year from and after the first day of the calendar month next following the date of recording of this Declaration, each Unit Owner shall pay and be responsible for Monthly Assessments, and his proportionate share of the common expenses shall be deemed to be, his respective Monthly Assessment. If the total may be greater than the actual common expenses incurred during the Initial Period, such excess shall be thereafter used as the Board may prescribe. However, if the total Monthly Assessments payable during the Initial Period are less than the actual common expenses incurred during the Initial Period, such deficiency shall be paid solely by Declarant, it being agreed that Declarant hereby guarantees the payment of all common expenses for the Initial Period which may be in excess of the total Monthly Assessments payable during such period.

(d) Annual Budgets. Annual budgets for each fiscal year of the Association shall be prepared and adopted by the Board pursuant to the By-Laws; provided, however, the Board shall not adopt a budget requiring assessments for common expenses in an amount exceeding one hundred fifteen percent (115%) of the common expenses for the preceding year unless the same is approved by a majority of the Unit Owners.

(e) Metered Utilities. Each Unit Owner shall also pay for all utility services, including electricity and other utility services (including telephone), if any, separately metered for such Unit Owner's Unit. Each Unit Owner shall make such payments for separately metered utility services to the public utility company providing such utility service if provided directly to the Unit Owner or to the Association if such utility services are not separately metered or submetered for the Units.

(f) Enforcement of Lien. The board may bring an action at law against the Unit Owner personally obligated to pay the same, for collection of his unpaid proportionate share of the common expenses, or foreclose the lien against the Unit or Units owned by such Unit Owner, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Unit Owner, by his acceptance of a deed to a Unit, hereby expressly vests in the Board of its agents the right and power to bring all actions against such Unit Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens and each such Unit Owner hereby expressly grants to the Board a power of sale in connection with said lien. The lien provided

for in this section shall be in favor of the Board and shall be for the common benefit of all Unit Owners. The Board acting on behalf of the Unit Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

(g) Mortgagee Protection. The lien for common expenses payable by a Unit Owner shall be subordinate to the lien for a recorded first Mortgage on the interest of such Unit Owner, except for the amount of the proportionate share accruing after the Mortgagee thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses its Mortgage. This subparagraph (g) shall not be amended, changed, modified or rescinded without the prior written consent of all Mortgagees of record.

XI. MORTGAGES. Each Unit Owner shall have the right, subject to the provisions herein, to make individual Mortgages on his respective Unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create or cause to be made or created from the date hereof any Mortgage or other lien on or affecting the Property or any part thereof, except of his own Unit and the respective percentage interest in the Common Elements appurtenant thereto.

XII. SEPARATE REAL ESTATE TAXES. Taxes, assessments and other charges of any taxing or assessing authority shall be separately assessed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes or assessments for any year are not separately assessed to each Unit Owner, but rather are assessed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Elements, and, in said event, such taxes or assessments shall be a common expense. Without limiting the authority of the Board provided for elsewhere herein, the Board shall have the authority to collect from the Unit Owners their proportionate share of taxes or assessments for any year in which taxes are assessed on the Property as a whole.

XIII. INSURANCE. The Board shall have the authority to and shall obtain insurance for the Property, exclusive of additions to, improvements within and decoration of the Units or decoration of the Limited Common Elements by the Unit Owners, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Elements and the Units, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement costs shall be deemed the cost of restoring the Common Elements, and Units or any part thereof to substantially the same condition in which they existed prior to damage

or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board as the trustee for each of the Unit Owners in direct ratio to said Unit Owner's respective percentage of ownership in the Common Elements, as set forth in the Declaration, and for the holders of Mortgages on his Unit, if any. Such policies of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense.

(a) If the Building is damaged by fire or other casualty and said damage is limited to a single Unit, all insurance proceeds shall be paid to the Unit Owner or one or more Mortgagees of such Unit, as their respective interest may appear, and such Unit Owner or Mortgagee shall use the same to rebuild or repair such Unit substantially in accordance with the original plans and specifications thereof. If such damage extends to two or more Units, or extends to any part of the Common Elements, such insurance proceeds shall be paid to the Board, as trustee, or to such bank or trust company as may be designated by amendment hereof, to be held in trust for the benefit of the Unit Owners and their Mortgagees as their respective interests may appear. The Board shall thereupon contract to repair or rebuild the damaged portions of all Units, the Buildings, and the Common Elements substantially in accordance with the original plans and specifications therefor and the funds held in the insurance trust fund shall be used for this purpose. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Board shall levy a special assessment on all Unit Owners, in proportion to the percentage interest of each Unit Owner in the Common Elements, to make up any deficiency. If any Unit Owner shall fail to pay the special assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the common expense fund; provided, however, that such Unit Owner shall remain liable for such special assessment.

(b) Notwithstanding the provisions of subparagraph (a) above, reconstruction shall not be compulsory where the whole or more than two-thirds (2/3) casualty, as determined by the Board. In such case, and if agreed upon by at least fifty-one (51%) percent of the holders, or guarantors of first mortgages, the Units and Unit Owners constructing at least fifty-one (51%) percent of the votes of the Association, the insurance proceeds shall be delivered to the Unit Owners or their Mortgagees, as their interests may appear in the proportion to the percentage interest of each Unit Owner in the Common Elements; and the Board, as soon as reasonably possible and as agent for the Unit Owners, shall sell the Property, in its then condition, free from the effect of this declaration, which shall terminate upon such sale, and all funds held by said insurance trustee, shall thereupon be distributed to the Unit Owners or their Mortgagees, as their interests may appear, in proportion to the percentage interest of each Unit Owner in the Common Elements.

(c) Within sixty (60) days after any such damage occurs, the Managing Agent, or the Board or if they do not, any Unit Owner, shall notify the insurer, the damage has occurred, describing it, identifying the Building suffering such damage, the name of any insurer

against whom claim is made, and the name of any insurance trustee, reciting that he sworn declaration is recorded pursuant to this paragraph of this Declaration, and that a copy of such sworn declaration has been served pursuant to the provisions of Paragraph XXIII hereof on the Unit Owners.

(d) If the Unit Owners shall not rebuild pursuant to subparagraph (b) above, and the Board fails to consummate a sale pursuant to said subparagraph (b) within twenty-four (24) months after the destruction or damage occurs, then the Managing Agent, or the Board shall, or if they do not, any Unit Owner or Mortgagee may, record a sworn declaration setting forth such decision and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in this Condominium Declaration has terminated and that judicial partition of the Property may be obtained pursuant to the laws of the State of Louisiana. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Declaration shall terminate.

The Board shall also have the authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workmen's compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, Mortgagee of record, if any, the Association, its officers, directors, Board and employees, the Declarant, and the Managing Agent, if any, from liability in connection with the Common Elements. The premiums for such insurance shall be a common expense.

The Board shall also have authority to and may obtain such insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officer of the Association and member of any committee appointed pursuant to the By-Laws of the Association from liability arising from the fact that such person is or was a director or officer of the Association, or a member of such a committee. The premiums for such insurance shall be a common expense.

Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his own Unit and the contents of the Limited Common Elements serving his Unit, as well as his decorations, furnishings and personal property therein, and his personal property stored elsewhere on the Property. In addition, in the event a Unit Owner desires to insure above and beyond the extent that his liability, loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the common expenses, as above provided, said Unit Owner may, at his option and expense, obtain additional insurance.

**XIV. MAINTENANCE, REPAIRS AND REPLACEMENTS.** Except to the extent the Board provides (at its option and discretion) maintenance of the Units for Unit Owners, each Unit Owner, at his own expense shall furnish and be responsible for all maintenance of repairs to and replacements within his own Unit. Maintenance of, repairs to and

replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association. The cost of maintenance of, repairs to and replacements within the Units to the extent the Board elects to provide such services and within the Common Elements shall be part of the common expenses, subject to the By-Laws, rules and regulations of the Association. However, at the discretion of the Board, maintenance of, repairs to and replacements within the Limited Common Elements may be assessed in whole or in part to Unit Owners benefited thereby, and, further, at the discretion of the Board, the Board may direct Unit Owners who stand to be benefited by such maintenance of, repairs to and replacement within the Limited Common Elements to arrange for such maintenance of, repairs and replacements in the name and for the account of such benefited Unit Owners, pay the cost thereof with their own funds and procure and deliver to the Board such lien waivers and contractor's and subcontractor's sworn statement as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

In addition to the discretionary authority provided herein for maintenance of all or any portion of the Units, the Board shall have the authority to maintain and repair any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Elements or preserve the appearance and value of the Property, and the Unit Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board, and the Board shall levy a special assessment against the Unit of such Unit Owner for the cost of said necessary maintenance or repair.

If due to the act or negligence of a Unit Owner, or his agent, servant, tenant, family member, invitee, or licensee, damage shall be caused to the Common Elements or to a Unit or Units Owned by others, or maintenance, repair or replacement are required which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repair or replacements, as may be determined by the Association; however, the provisions of this Paragraph are subject to the provisions of Paragraph XIII hereof providing for waiver of subrogation rights with respect to casualty damage insured against under the policies of insurance maintained by the Board.

The authorized representatives of the Association or Board, or the Managing Agent with approval of the Board, shall be entitled to reasonable access to the individual Units and Limited Common Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements in the event of an emergency, or in connection with maintenance of, repairs or replacements, within the Common Elements, Limited Common Elements of any equipment, facilities, or fixtures affecting or serving other Units, Common Elements and Limited Common Elements or to make any alteration required by any governmental authority and in order to carry out the intent and purpose of this paragraph, there is specifically granted to the Board and its authorized representatives, servitudes through the units and common elements for maintenance, repair and/or replacement of portions of the Units and Common Elements. Use of these servitudes, however, for access

to the individual Units shall be limited to reasonable hours, except that access may be had at any time in case of emergency.

**XV. DECLARANT'S RIGHTS AS TO COMMON FACILITIES.**

Notwithstanding anything contained in this Declaration to the contrary, Declarant hereby reserves and retains unto itself or its designee, the right and privilege (but not the obligation) to operate and promulgate rules relating to, and to maintain, repair or replace, any and all areas existing for common use until such time as Declarant has sold Units which correspond, in the aggregate, to ninety percent (90%) of the undivided ownership of the Common Elements, as set forth in Exhibit F to this Declaration. The Board, the Association and all Unit Owners shall be bound by and shall comply with any action taken by Declarant pursuant to this Paragraph. The Declarant shall have a servitude over all common elements and areas for the purpose of constructing the additional units in Phases II and III as shown on Exhibit A.

**XVI. ALTERATIONS, ADDITIONS OR IMPROVEMENTS.**

Except as provided in Paragraph XVI herein, no alteration of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior expenses alterations, addition and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make alterations, additions or improvements within the Unit of the Unit Owner without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alternations, additions or improvements.

**XVII. DECORATING.**

Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit and Limited Common Elements serving his Unit, as may be required from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floor and ceilings of his Unit, and any balconies and terraces constituting a part thereof, and such Unit Owner shall maintain said interior surfaces in good condition at his sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. Decorating of the Common Elements (other than interior surfaces within the Units as above provided and other than of Limited Common Elements) any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Elements by the Association shall be furnished by the Association as part of the common expenses. All windows forming a part of a perimeter wall of a Unit shall be cleaned and washed at the expense of the Unit Owner of that Unit. No Unit Owner shall enclose the balcony of his Unit or decorate the portions of such balcony visible from outside

such Unit in any manner which detracts from the appearance of the Building, and the determination of the Board on such matters shall be final.

XVIII. ENCROACHMENTS. If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown by the Plat, there shall be deemed to be mutual easements in favor of the Owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

In interpreting deeds, mortgages, the Plat and building plans and specifications, the existing physical boundaries of a Unit or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed, mortgage, the Plat or building plans and specifications, regardless of settling or lateral movement and regardless of minor variance between boundaries shown on the building plans and specifications or in the deed and those of the Units.

XIX. TRANSFER OF LIMITED COMMON ELEMENTS. The use of Limited Common Elements may be transferred between Unit Owners having rights thereto only by the exchange of equivalent interests or by lease for a term not exceeding (1) year at their expense, provided that such transfer is made in compliance with the Act and the requirements of this Paragraph XVIII. Rights and obligations with respect to any of the Limited Common Elements shall not be affected, nor shall any transfer thereof be effective, unless such transfer is in compliance with requirements of this Paragraph XVIII. Each such transfer shall be made by an amendment to this Declaration executed by all Unit Owners who are parties to the Limited Common Elements affected thereby. Such amendment shall contain a certificate showing that a copy of the amendment has been delivered to and approved in writing by the Board, and shall contain a statement from the Unit Owners involved in the transfer setting forth any reapportionment of their respective percentages of ownership in the Common Elements resulting therefrom, the aggregate sum of which percentage interests shall not thereby change. If such Unit Owners cannot agree upon such reapportionment the Board shall make such reapportionment. No such transfer shall be effective until such amendment is recorded.

XX. COMBINATION OF UNITS. A Unit may be transferred by the Owner thereof to the Owner of a Unit or Units adjacent thereto, and may be combined with such adjacent Unit or Units, and made a part thereof, for use together with such adjacent Unit or Units (thereby forming a new larger Unit), and the Common Elements affecting by such transfer and combination is made in compliance with the Act and the following provisions. No rights and obligations with respect to any Unit shall be affected, no percentage of ownership in the Common Elements shall be

reallocated, and no such transfer and combination shall be effective, unless the same is expressly provided for in this Paragraph. The Unit Owner or Unit Owners desiring to make such transfer and combination shall make written application to the Board requesting an amendment to this Declaration (including the Plat) and containing (i) a survey of the proposed alterations of the affected Units and the affected Common Elements and, (ii) a proposed reallocation to the new Unit to be created by such proposed transfer of the percentage of interest in the Common Elements appurtenant to such affected Units. No such proposed transfer and combination shall be effective unless first approved in writing by a majority of members of the Board. If so approved by the Board, such proposed transfer and combination shall be effective upon (a) recording of an amendment to this Declaration, consistent with and reflecting said transfer and combination, and executed by the Unit Owner or Owners of the Units involved therein, together with an amended Plat, in accordance with the Act. Any expenses incurred in connection with accomplishing any such transfer and combination, as provided hereunder, including without limitation, attorneys fees, shall be paid by the Unit Owners of the Units involved, and such Unit Owners shall be jointly and severally liable for the payment thereof.

That part of the Common Elements separating and located between and exclusively serving two or more adjacent Units used together (including, without limitation, portions of any hallway and any walls), may be altered to afford ingress and egress to and from such Units and to afford privacy to the Occupants of such Units when using such Common Elements, and that part of the Common Elements so altered may be used by the Unit Owner or Owners of such Units as a licensee pursuant to a license agreement with the Association, provided (i) such alterations shall not weaken, impair, or endanger any of the Common Elements or any Unit, (ii) the Unit Owner or Owners desiring to make such alterations shall notify the Board of the nature thereof not later than ten (10) days prior to commencing work; (iii) the expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations; (iv) such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid; and (v) such alteration shall not interfere with use and enjoyment of the Common Elements (other than the aforesaid part of the Common Elements separating such adjacent Units), including without limitation, reasonable access and ingress to and from the other Units in any hallway affected by such alteration.

XXI. USE AND OCCUPANCY RESTRICTIONS. Subject to the provisions of this Declaration and the By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed. Each Unit or any two or more adjoining Units used together shall be used as a residence or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from:

(a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

The Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, customers, invitees and licensees for access, ingress to and egress from the respective Units and for other purposes incidental to use of the Units; provided, however, the garage, storage areas, and other areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operations of the Common Elements shall not be obstructed, damaged or unreasonably interfered with any Unit Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part of or all of said Common Elements.

Without limiting the generality of the foregoing provisions of this Paragraph, use of the Property by the Unit Owners shall be subject to such rules and regulations as shall be promulgated by the Board.

A Unit Owner may lease a Unit pursuant to the following restrictions. All leases or rental agreements shall be in writing and specifically subject to the Declaration. No Unit may be leased for a period of less than thirty (30) days.

XXII. REMEDIES. In the event of any violation of the provisions of the Act, Declaration, By-Laws or rules and regulations of the Board or Association by any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) the Association, or its successors or assigns, or the Board, or its agent, shall have each and all of the rights and remedies which may be provided for in the Condominium Act, Declaration, By-Laws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceedings against such default Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum lawful rate per annum until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for non-payment of his respective share of the common expenses, upon the Unit and Ownership interest in the Common Elements of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property; provided, however, that such lien shall be subordinate to the lien of a prior, recorded first Mortgage on the

interest of such Unit Owner, except for the amount of the proportionate share of said common expenses which become due and payable from and after the date on which the said Mortgagee either takes possession of the Unit, or accepts a conveyance of any interest therein through a deed in lieu of foreclosure or through foreclosure of its mortgage. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of Mortgages against Units.

In the event of any such default by any Owner, the Board and the manager of Managing Agent, if so authorized by the Board, shall have the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to any other rights provided for in this Declaration, (a) to enter upon the Unit, or any 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 thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, shall not thereby be deemed 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; or (c) to take possession of such Unit Owner's interest in the property and to maintain an action for possession of such Unit in the manner provided by law.

**XXIII. AMENDMENT.** The provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission and signed and acknowledged by Unit Owners owning not less than seventy-five (75%) percent of the total ownership of Common Elements and fifty-one (51%) percent of the holders of first mortgages affecting the Units; provided, however, that all Mortgagees of record have been notified by certified mail of such change, modification or rescission, and an affidavit by the secretary of the Association certifying to such mailing is made a part of such instrument. The holder of any first mortgage affecting a Unit who fails to deliver a negative response to a proposed addition or amendment to the Declaration shall be deemed to have approved such request except as otherwise provided in this Declaration. Except as provided in Paragraph VIII, the percentage ownership of the Common Elements provided for in this Declaration shall not be amended or modified without the consent of all Unit Owners and of all Mortgagees.

Declarant shall have the authority, without the joinder or consent of any other party including specifically but not by way of limitation, a Unit Owner or Mortgagee of a Unit, to make any amendment of this Declaration necessary to clarify any apparently conflicting

provisions hereof and/or to correct any mistakes or errors of a clerical nature resulting from typographical or similar errors.

Any change, modification or rescission, whether accomplished under any one or more of the provisions of the preceding paragraphs, shall be effective upon filing of such instrument in the Conveyance Office for the Parish of East Baton Rouge, Louisiana; provided, however, that no provisions in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

**XXIV. NOTICES.** Notices provided for in the Act, Declaration or By-Laws shall be in writing, and shall be addressed to the Association or Board, or to any Unit Owner, as the case may be, at

\_\_\_\_\_ or at such other address as hereinafter provided. The Association or Board or any Unit Owner may designate a different address or addresses for notices to them, respectively, by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States mail with postage prepaid, or when delivered in person.

Upon written request to the Association, the holder of any recorded Mortgage encumbering any Unit shall be given a copy of all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit is subject to such Mortgage.

**XXV. SEVERABILITY.** If any provision of the Declaration or By-Laws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the By-Laws and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration or the By-Laws and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration or the By-Laws shall be construed as if such invalid part was never included therein.

**XXVI. RIGHTS AND OBLIGATIONS.** Each grantee of the Declarant, by the acceptance of the deed of conveyance from the Declarant, accepts the same subject to all restrictions, conditions, covenants, restrictions, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby 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 land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

**XXVII. PROTECTION OF MORTGAGEE.**

(a) Notice of Association. An Owner who mortgages his Unit shall notify the Board giving the name and address of his mortgagee. The Board shall maintain such information in a book entitled "Mortgagees of Condominium."

(b) Notice of Default. The Association shall notify a first mortgagee in writing, upon request of such mortgagee, of any default by the Owner, in the performance of such Owner's obligations as set forth in the Declaration which is not cured within thirty (30) days.

(c) Examination of Books. The Association shall permit lenders, and the holders, insurers and guarantors of the first mortgage on any Unit to examine the books and records of the Association during normal business hours.

(d) Reserve Fund. The Association shall establish an adequate reserve funds for replacement of common element components and fund the same by regular monthly payments rather than by extraordinary special assessments.

(e) Annual Audits. The Association shall furnish each first mortgagee an annual audited financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association.

(f) Notice of Meetings. The Association shall furnish each first mortgagee upon request of such mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such mortgagee to attend such meeting, one such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

(g) Approval for Amendments to Declaration, etc. The prior written approval of 75% of the first mortgagees shall be required for the following: (i) abandonment or termination of Bayou Rouge Condominium as a condominium regime, except for abandonment or termination provided by law, in case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any material amendment to the Declaration or By-Laws of the Association, including, but not limited to any amendment which would change the percentage interest of Unit Owners in the common elements, and which would change the pro-rata interest or obligations of any Unit Owner for the purpose of levying assessments or changes or allocating distribution of hazard insurance proceeds or condemnation awards except as provided in Paragraph VIII herein; and (iii) the termination of any professional management contract for the Condominium Project.

(h) Notice of Damage or Destruction. The Association shall furnish the first mortgagees timely written notice of any substantial damage or destruction to Units and of any part of the Common Elements and facilities if such loss excess \$10,000.00, or damage to a condominium unit exceeds \$1,000.00.

(i) Notice of Condemnation or Eminent Domain. The Association shall furnish the first mortgagees timely written notice of any condemnation, or eminent domain proceeding regarding all or any portion of a unit or of the common elements and facilities and of any proposed acquisition of all or any part of such properties through condemnation or eminent domain proceedings if such taking exceeds \$10,000.00.

(j) Management Agreements. Any management agreement entered into by the Association will be terminable by the Association without cause upon not more than thirty (30) days' written notice, and the term of such management agreement will not exceed the period of one (1) year, renewable by agreement of the parties to such agreement for successive one (1) year periods.

(k) Right to Partition. No unit may be partitioned or subdivided by the owner thereof without the prior written approval of at least the holder of the first mortgage lien on such property and the Board of Directors of the Association.

(l) Claims for Unpaid Assessments. Any first mortgagee who obtains title to the unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, or pursuant to a deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall not be liable for such unit's unpaid assessments or charges which accrued prior to the acquisition of title to such unit by the holder of such mortgage, except for claims for a pro-rata reallocation of such assessments or charges to all units including the mortgaged unit.

(m) Taxes, Assessments and Charges. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual condominium units and not to the condominium project as a whole.

(n) Other Acts by Association requiring Approval of First Mortgagees. Unless 75% of the first mortgagees have given their prior written approval, the Association shall not be entitled to: (i) partition or subdivide any condominium unit, (ii) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer, the common elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause; (iii) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the condominium project, or except as otherwise provided in this Declaration.

(o) No provision contained in this Declaration shall be construed as giving a condominium unit owner, or any other part, priority over any rights of first mortgagees in the case of a distribution to condominium unit owners of insurance proceeds or

condemnation awards for losses to or taking of condominium unit and/or common elements.

(p) Notwithstanding anything in this Declaration to the contrary, Developer, its Successors or assigns may amend this Declaration during the period it continues to own any Unit in the Condominium to conform with the requirements of the Veterans Administration, Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or any similar duly constituted governmental authority, by written instrument executed by said Developer, and duly recorded in the Office of the Clerk of Court for East Baton Rouge Parish, State of Louisiana.

**XXVIII. LEASES.** With the exception of a lender in possession of a Condominium Unit following a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and the By-Laws, and that any failure by the lessee to comply with the terms of such documents shall be default under the lease. All leases shall be in writing.

**XXVIX. DAMAGE OR DESTRUCTION.** In any event of substantial damage to or destruction of any Unit or any part of the Common Elements, the holder of any Mortgage on a Unit will be entitled to timely written notice of any such damage or destruction.

**XXX. EMINENT DOMAIN.** If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association shall be entitled to participate in proceedings incident thereto at its expense. Each Unit Owner irrevocably appoints the Association as its lawful agent and attorney in fact respecting any such condemnation proceeding. The Association shall give timely written notice of the existence of such proceedings to all Unit Owners and to all Mortgagees known to the Association to have an interest in any Unit. The expense of participation in such proceedings by the Association shall be borne by the Association. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for such taking shall be deposited with the Association and such damages or awards shall be applied as provided to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceedings. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Unit Owner's interest thereon. After the damages or awards for

such taking are determined, such damages or awards shall be paid to the account of each Unit Owner and first Mortgagees, if any, as their interest may appear in proportion to their percentage ownership interest in the Common Elements to be applied or paid as set forth in the attached Exhibit F unless restoration takes place as herein provided. If it deems advisable, the Board may call a meeting of the Unit Owners at which meeting the Unit Owners, by a majority vote, shall decide whether to or not to replace or restore as far as the Common Elements so taken or damaged. In the event it is determined that the Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Plat attached hereto shall be duly amended by an instrument executed by the Association on behalf of the Unit Owners. In the event such eminent domain proceeding results in the taking of or damages to one (1) or more, but less than sixty-six and two-thirds percent (66 2/3%) of the total number of Units, then the damages and awards for such taking shall be determined for each Unit and the following shall apply:

(a) the Association shall determine which of the Units damaged by such taking may be made tenantable for the purposes set forth in the Declaration, taking into account the nature of this Condominium and the reduced size of each Unit so damaged.

(b) The Association shall determine whether it is reasonably practical to operate the remaining Units of the Condominium including those damaged Units which may be tenantable, as a condominium in the manner provided in this Declaration.

(c) In the event the Association determines it is not reasonably practical to operate the undamaged Units and the damaged Units which can be made tenantable, then the Property shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interest by all Unit Owners, as owners in indivision, in the percentage ownership interest previously owned by each Unit Owner in the Common Elements.

(d) In the event the Association determines it will be reasonably practical to operate the undamaged Units and the damaged Units which can be made tenantable then the damages and awards made with respect to each Unit which has been determined to be capable of being made tenantable shall be applied to repair and to reconstruct such Unit so that it is made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against those Units which are tenantable, and the award made shall be paid as set against those Units which are tenantable, and the award made shall be paid as set forth in Exhibit F of the Declaration and the remaining portion of such Units, if any, shall become a part of the Common Elements. Upon payment of such award for the account of such Unit Owner as provided herein, such Unit shall no longer be susceptible of independent ownership as a part of the Property and the percentage ownership interest in the Common Elements appurtenant to each remaining Unit which shall continue as a part of the Property shall be equitably adjusted to distribute the ownership of the undivided interest in the Common Elements among the reduced number of Unit Owners. If the entire

Property is taken, or sixty-six and two-thirds percent (66 2/3%) or more of the Units are taken or damaged by such taking, all damages and awards shall be paid to or for the accounts of the Unit Owners of Units or their first Mortgage; if any, as their interest may appear, as provided herein, in proportion to their percentage ownership interests in the Common Elements; and this Condominium Regime shall terminate upon such payment provided the termination is approved by Unit Owners constituting fifty-one (51%) percent of the votes of the Association and fifty-one (51%) percent of the holders of first mortgages. Upon such termination, the Property shall be owned in undivided interest by all Unit Owners in the percentage ownership interest previously owned by each Unit Owner in the Common Elements. Any damages or awards provided in this paragraph shall be paid to or for the account of any Unit Owner and first Mortgagee, if any, as their interests may appear.

**XXXI. TERMINATION OF DECLARANT CONTROL.** Notwithstanding anything to the contrary contained in this Declaration or in the By-Laws, the Declarant shall retain control of the Association until such time as seventy-five (75%) of the Units shall have been sold by the Declarant and paid for by the purchaser or until December 31, 1985, whichever is earlier.

**XXXII. FIDELITY COVERAGE.** The Association shall maintain adequate fidelity coverage to protect against dishonest acts by its officers, directors and employees who are responsible for handling Association funds. Said coverage shall name the Association as obligee, be written in an amount of at least one hundred fifty (150%) percent of the estimated annual operating budget, contain waivers of any defense based on exclusion of employees who serve without compensation, and shall not be cancelled or substantially modified without at least thirty (30) days' notice to all first Mortgagees of record.

IN WITNESS WHEREOF, Declarant has executed this Condominium Declaration in the presence of the undersigned witnesses, both persons of full age and competency and me, Notary, after due reading of the whole, on the date and at the place set forth hereinabove.

WITNESSES:

Kathy W. Brooks  
J. C. O'Leary

DECLARANT:  
BAYOU ROUGE DEVELOPMENT

BY: Larry Walsh  
Larry Walsh Homes, Inc.

BY: Capital Financial Corporation  
Capital Financial Corporation

Richard Keith Colvin  
RICHARD KEITH COLVIN, NOTARY

**ATTACHMENT "A"**

One Certain tract or parcel of land, together with all the rights, ways, privileges, and appurtenances thereunto belonging or appertaining, situated in the Parish of East Baton Rouge, State of Louisiana, containing five and 347/1000 (5.347) acres more or less, and designated according to a "Map Showing Resubdivision of Tract "B" into Tracts B-1 and B-2, and located in Section 70, T-7-S, R-1-E, G.L.D. of Louisiana, East Baton Rouge Parish, Louisiana, for S. R. Wicker", prepared by Paul C. Boudreaux and Associates, Inc., dated October 22, 1968, a copy of which is attached to and recorded with Originals 43 and 46, Bundle 7027; as TRACT B-1, said tract fronting on the South side of Jefferson Highway, and being described according to said map as follows:

From a point on the South side of Jefferson Highway which fixes the Northeast corner of Tract "A" and the Northwest corner of Tract B-2, proceed South 65° 26' 10" East along the South line of Jefferson Highway a distance of 153.74' and corner; thence South 24° 33' 50" West 74.5' to the POINT OF BEGINNING; thence proceed South 65° 26' 10" East along the south line of the expanded right-of-way of Jefferson Highway a distance of 463.00' to a point and corner; thence proceed South 00° 00' 00" East a distance of 330.00' to a point on the line between Section 70 and Section 58, being the North line of Claycut Bayou right-of-way to a point and corner; thence proceed South 00° 00' 00" West a distance of 530.00' to a point and corner; thence proceed North 00° 00' 00" West a distance of 479.5' to a point and corner; thence proceed South 88° 18' 28" East a distance of 87.90' to a point and corner; thence proceed North 24° 33' 50" West a distance of 50.50' to the POINT OF BEGINNING.

846 9694  
ORIGINAL FILED AND RECORDED  
EAST BATON ROUGE, LOUISIANA

1983 AUG -9 PM 4:03

149

CERTIFIED TRUE COPY

31-26330

**SEE ATTACHMENT**

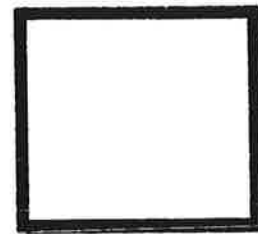
ORIGINAL 846 9594

# **M A P**

Original 846 Bundle 9594

**OF THE MAP RECORDS**

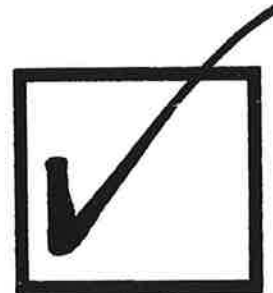
**RECORDED  
PLAN MAP**



**AND**

**RECORDED  
ATTACHED MAP**

(9)



**Date Recorded** 7-29-83

**H. M. MIKE CANNON  
CLERK OF COURT  
EAST BATON ROUGE PARISH  
BATON ROUGE, LOUISIANA**

Exhibit "C"

Filed (Date) 9 Aug 83  
at (Time) 4:01 a.m./p.m.  
Original 844 Bundle 9594  
EBR



**James H. "Jim" Brown**  
SECRETARY OF STATE

*As Secretary of State, of the State of Louisiana, I do hereby Certify that*  
a copy of the Articles of Incorporation of

**BAYOU ROUGE CONDOMINIUM ASSOCIATION, INC.,**

Domiciled at Baton Rouge, Louisiana, Parish of East Baton Rouge,

A corporation organized under the provisions of R. S. 1950, Title 12,  
Chapter 2, as amended,

By Act before a Notary Public in and for the Parish of East Baton Rouge,  
State of Louisiana, on July 29, 1983,

Was recorded in this Office on August 8, 1983, the date when corporate  
existence began, and filed in the Record of Non-Profit Corporations  
Book 341,

And all fees having been paid as required by law, the corporation is  
authorized to transact business in this State, subject to the restrictions  
imposed by law, including the provisions of R. S. 1950, Title 12, Chapter 2,  
as amended.

*In testimony whereof, I have hereunto set  
my hand and caused the Seal of my Office  
to be affixed at the City of Baton Rouge on,  
August 8, 1983,*

*Jim Brown*

*Secretary of State*



at (time) 4:01 a.m./p.m.  
Original 843 Bundle 952  
EBR

UNITED STATES OF AMERICA

State of Louisiana

James H. "Jim" Brown  
SECRETARY OF STATE

*As Secretary of State, of the State of Louisiana, I do hereby Certify that  
the annexed transcript was prepared by and in this office from the record  
on file, of which purports to be a copy, and that it is full, true and correct.*

*In testimony whereof, I have hereunto set  
my hand and caused the Seal of my Office  
to be affixed at the City of Baton Rouge on,*  
AUG 8 1983

*Jim Brown*

*Secretary of State*



ESTIMATED  
ANNUAL OPERATING BUDGET  
FOR BAYOU ROUGE  
CONDOMINIUMS

Exhibit "E"

UNIT SERVICES:

	<u>Annual</u>
Water	4500.00
Pest & Termite	1497.60
Trash Removal	3240.00
Miscellaneous	600.00
Total	<u>9837.60</u>

BUILDING SERVICES:

Grounds	13200.00
General Maintenance & Lighting	5700.00
Pool Maintenance	1200.00
Total	<u>20100.00</u>

ADMINISTRATIVE:

Management	11400.00
Supplies & Printing	900.00
Insurance	15129.96
Accounting Audit & Filing	600.00
Legal Collection	900.00
Miscellaneous	600.00
Total	<u>29529.96</u>

RESERVES FOR REPLACEMENT:

Streets, Parking, Sidewalks	1800.00
Roofs	2400.00
Painting	6240.00
Pool	600.00
Total	<u>11040.00</u>

TOTAL	70507.56
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ESTIMATED  
PER UNIT  
ASSOCIATION FEE

1 Bedroom  
49.00/month

2 Bedroom  
61.00/month

BAYOU ROUGE CONDOMINIUM



UNIT DESIGNATION

SQUARE FOOTAGE  
ATTRIBUTABLE TO  
EACH UNIT

PERCENTAGES OF UNDIVIDED  
OWNERSHIP OF COMMON  
ELEMENTS APPERTANENT TO  
EACH UNIT AND PERCENTAGES  
OF OBLIGATIONS FOR COMMON  
EXPENSES AND COMMON SURPLUS

11, 12, 13, 14  
21, 22, 23, 24  
31, 32, 33, 34  
41, 42, 43, 44  
51, 52, 53, 54

776 Sq. Ft.

2%

15, 16, 17, 18,  
25, 26, 27, 28,  
35, 36, 37, 38,  
45, 46, 47, 48,  
55, 56, 57, 58,

968 Sq. Ft.

3%

ATTACHED  
TO

AUG 10 1983

ORIG 9416 BDLE 9594

APA

8000

JA