



Escape
CONDOMINIUMS

**10811 San Luis Pass Rd.
Galveston, Texas 77551**

SECTION 1

CONDOMINIUM DECLARATION

FOR

SEASCAPE CONDOMINIUMS

CONDOMINIUM DECLARATION
FOR
SEASCAPE

THE STATE OF TEXAS \$
 \$
COUNTY OF GALVESTON \$

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, FUNDERBURK GOLDMAN DEVELOPMENT, INC., a Texas corporation, having its principal office at 5225 Katy Freeway, Suite 600, Houston, Texas 77007, hereinafter called "Declarant," is the Owner of certain real property situated in the County of Galveston, State of Texas, being described more fully on Exhibit "A," which by this reference is made a part hereof ("Real Property"); and

WHEREAS, Declarant desires to establish a Condominium Regime under the Condominium Act of the State of Texas, Article 1301a, Revised Civil Statutes of Texas, herein called the "Act"; and

WHEREAS, Declarant has prepared plans for the construction of a cluster of two (2) multi-family buildings and other improvements, structures and facilities appurtenant thereto on the Real Property which when completed shall consist of one hundred thirty-five (135) separately designated Condominium Residential Units which will be known as SEASCAPE; and

WHEREAS, Declarant does hereby establish a plan for the individual ownership in fee simple of estates consisting of the area or space contained in each of the Units, herein called the "Condominium Regime," in the two (2) buildings and the co-ownership by the individual and separate Unit Owners thereof, as tenants in common, of all the remaining property, which includes both Limited Common Elements and General Common Elements, as hereinafter defined in Paragraph 1.1 hereof, and which are hereinafter collectively referred to as the "Common Elements" or "Common Areas."

NOW, THEREFORE, Declarant does hereby submit the Real Property and all improvements thereon, to the provisions of the Act and the

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SEASCAPE

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Condominium Regime, and does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and to any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I

DEFINITIONS AND TERMS

1.1 Definitions of Terms. As used in this agreement, the following terms shall have the following meanings unless the context shall expressly provide otherwise:

(a) "Board" or "Board of Directors" shall refer to the Board of Directors of SEASCAPE;

(b) "Common Assessment" means the charge against each Unit Owner and his Unit, representing a portion of the total costs to the Association of maintaining, improving, repairing, replacing, managing and operating the Property, which are to be paid uniformly and equally by each Unit Owner of the Association, as provided herein. This shall also include charges assessed against each Unit Owner to maintain a reserve for replacement fund and to cover costs incurred by the Association to participate in any condemnation suit, as provided in Paragraph 6.3 hereof;

(c) "Common Elements" means and includes all of the Real Property, and all of the improvements thereto and thereon located, excepting all Units. Common Elements shall consist of the General Common Elements and the Limited Common Elements;

(d) "Common Expenses" means and includes:

(i) All sums lawfully assessed against the Common Elements by the Managing Agent or Board;

(ii) All expenses of administration and management, maintenance, operation, repair or replacement of and addition to the Common Elements (including unpaid special assessments);

(iii) Expenses agreed upon as Common Expenses by the Unit Owners; and

(iv) Expenses declared to be Common Expenses by this Declaration or by the Bylaws;

(e) "Completed Unit" means a completely finished Unit, including, but not limited to, the installation of all appliances and utilities, rendering it ready for occupancy by an Owner other than the Declarant;

(f) "Condominium Owners Association" or "Association" means THE SEASCAPE OWNERS ASSOCIATION, INC., a Texas non-profit corporation, the Bylaws of which shall govern the administration of this Condominium Property and the membership of which shall be composed of all the Owners of the Condominium Units according to such Bylaws;

(g) "Condominium Residential Unit" or "Residential Unit" shall mean a Unit used as a single-family residence. The boundaries of each such Unit space shall be and are the interior surfaces of the perimeter walls, floors, ceilings, windows, window frames, and doors and door frames and trim and the space includes both the portions of the building so described and the air space so encompassed, excepting the Common Elements. In interpreting deeds, mortgages, deeds of trust and other instruments, the existing physical boundaries of the Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries regardless of settling, rising or lateral movement of the building and regardless of variances between boundaries shown on the plat and those of the building. The individual ownership

of each apartment space herein defined shall further include the interior construction, partitions, appliances, fixtures and improvements which are intended to exclusively serve such Unit space, such as interior room walls, floor coverings or finish, closets, cabinets, shelving, individual bathroom and kitchen fixtures, plumbing and appliances, individual lighting and electrical fixtures and other separate items or chattels belonging exclusively to such Unit, any of which may be removed, replaced, disposed of or otherwise treated without affecting any other Unit space or the ownership, use or enjoyment thereof;

(h) "Condominium Unit" shall mean an individual Unit together with the interest in the Common Elements (General or Limited) appurtenant to such Unit;

(i) "Construction Period" means that period of time during which Declarant is developing the premises and selling the Condominium Units, which time period shall extend from the date hereof until such time as the Declarant transfers title to all of the Condominium Units, including all Units annexed to this Condominium Regime pursuant to the provisions of Paragraph 2.11 hereof;

(j) "Declarant" shall mean FUNDERBURK GOLDMAN DEVELOPMENT, INC., a Texas corporation, or its successors or assigns, who is developing the Property as a condominium;

(k) "Declaration" shall mean this Condominium Declaration instrument as the same may be amended pursuant to Paragraph 2.11 hereof;

(l) "General Common Elements" shall mean the Real Property the Buildings, and all other improvements located on the Real Property, except for those portions herein defined as Units. Without limiting in any way the generality of the foregoing, the General Common Elements shall include those items defined as "General common elements" in the Act, including

foundations, bearing walls and columns, roofs, halls, stairways, entrances, exits, communication ways, swimming pool, tennis court, club rooms, if any, mail rooms, if any, areas used for storage of janitorial supplies, maintenance equipment and materials, guard posts, driveways, all parking spaces, and in general all apparatus and installations existing for common use, or necessary or convenient to the operations, maintenance, and use of the Project as a condominium.

(m) "Lienholder" and "First Mortgagee" shall mean the holder of a first mortgage lien on any Unit in the Condominium Project;

(n) "Limited Common Elements" means and includes those Common Elements which are reserved for the exclusive use of an individual Owner of a Unit or a certain number of individual Owners of Units, for the exclusive use of those Owners, which may include:

(i) "Air handlers," air conditioning compressors, 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, entry ways, and all associated fixtures and structures therein, as lie outside the Unit boundaries; and

(ii) Balcony or patio structures serving exclusively a single Unit or one (1) or more adjoining Units;

(o) "Majority of Unit Owners" means those Owners with fifty-one percent (51%) of the votes entitled to be cast;

(p) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner;

(q) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combina-

tion thereof, who owns, of record, title to one (1) or more Condominium Units;

(r) "Plat," "Survey Map," "Map," and "Plans" mean or include the engineering survey of the land, locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of, or all of, the improvements, same being herewith filed, consisting of the sheet, labeled Exhibit "B" and incorporated herein.

It is expressly agreed and each and every purchaser of a Unit, his heirs, executors, administrators, assigns and grantees, hereby agree that the square footage, size and dimensions of each Unit as set out or shown in this Declaration or in the survey Plats exhibited hereto are approximate and are shown for descriptive purposes only. The Developer does not warrant, guarantee or represent that any Unit actually contains the area, square footage or dimensions shown by the Plat thereof. Each Purchaser and Owner of a Unit or interest therein agrees that the Unit has been or will be purchased as actually and physically existing at the time such purchase is closed. Each purchaser of a Unit expressly waives any claim or demand which he may have against the Developer or any person whosoever on account of any difference, shortage or discrepancy between the Unit as actually and physically existing and as it is shown on the respective Plat thereof exhibited hereto. It is specifically agreed that in interpreting deeds, mortgages, deeds of trust and other instruments for any purposes whatsoever or in connection with any matter, the existing physical boundaries of the Unit shall be conclusively presumed to be the boundaries regardless of settling, rising or lateral movements of the building, and regardless of variances between boundaries as shown on the Plat and those of the buildings;

(s) "Premises," "Project," or "Property" mean and include the land, the buildings and all improvements and structures thereon and all rights, easements and appurtenances belonging thereto;

(t) "Special Assessments." In addition to the common assessments described above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of deferring, in whole or in part:

(i) The cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; or

(ii) The expense of any other contingencies or unbudgeted costs; provided that any such assessment shall have the assent of sixty percent (60%) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to the interest in the Common Elements owned by each. The Association, after due notice and hearing, shall also have the authority to establish and fix a special assessment upon any Unit to secure the liability of the Owner of such Unit to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach shall require an expenditure by the Association for repair or remedy. Special assessments may be billed or collected on a monthly basis. The above-mentioned liability of any Owner is to be established as set forth in this Declaration; and

(u) "Unit" shall mean the elements of an individual Condominium Unit which are not owned in common with the Owners of the other Condominium Units in the Project as shown on the

Maps, which are exhibits attached hereto, and each Unit shall include the air space assigned thereto. The boundaries of each such Unit shall be and are the interior surfaces of the perimeter walls, floors, ceilings, window frames, doors, and door frames and trim; and the space includes both the portions of the building so described and the air space so encompassed, excepting the Common Elements. In interpreting deeds, mortgages, deeds of trust and other instruments, the existing physical boundaries of the Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries, regardless of settling, rising or lateral movement of the building and regardless of variances between boundaries shown on the Plat and those of the building. The individual ownership of each Unit space herein defined shall further include the interior construction, partitions, appliances, fixtures and improvements which are intended to exclusively serve such Unit space, such as interior room walls, floor coverings or finish, closets, cabinets, shelving, individual bathroom and kitchen fixtures, plumbing and appliances, individual lighting and electrical fixtures and other separate items or chattels belonging exclusively to such Unit, any of which may be removed, replaced, disposed of or otherwise treated without affecting any other Unit space or ownership, use or enjoyment thereof. None of the land in this Project on which any Unit space or patio space is located shall be separately owned, as all land in this Project shall constitute part of the "Common Elements" of the Property as herein defined, and shall be owned in common by the Owners of the Units in this Condominium Project. It is intended the term "Unit," as used in this Declaration, shall have the same meaning as the term "Apartment" as used in the Act.

ARTICLE II

CONDOMINIUM UNIT DESIGNATIONS AND DESCRIPTIONS

2.1 Recordation of Plat. The Plat shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to the first conveyance of any Condominium Unit. Such Plat consists of and sets forth:

- (a) The legal description of the surface of the land;
- (b) The linear measurements and location, with reference to the exterior boundaries of the land, of the buildings and all other improvements constructed, or to be constructed, on said land by Declarant;
- (c) The exterior boundaries and number of each Unit, expressing its approximate square footage, and any other data necessary for its identification, which information will be depicted by a Plat of such floor of each building showing the letter of the building, the number of the floor and the number of the Unit; and
- (d) The location of the Limited Common Elements.

2.2 Designation of Units. The Property is hereby divided into one hundred thirty-five (135) Residential Units contained within the two (2) buildings. Each Unit is identified by number and each building is identified by letter on the Map. The remaining portion of the Premises, referred to as the Common Elements, shall be owned in common by the Owners. The Owners of each Unit shall own an undivided interest in said Common Elements, the percentage or fraction thereof for each Unit being as shown on the attached Exhibit "C."

2.3 Limited Common Elements. Portions of the Common Elements are set aside and reserved for the exclusive use of the individual Owners, such areas being Limited Common Elements. The Limited Common Elements reserved for the exclusive use of the individual Owners are the patio and balcony structures. Such spaces and structures

are allocated and assigned by the Declarant to the respective Units, as indicated on the Plat. Such Limited Common Elements shall be used in connection with the particular Unit, to the exclusion of the use thereof by the other Owners, except by invitation.

2.4 Regulation of Common Areas. Portions of the Common Areas are intended as recreation areas, and are improved with green areas, concession areas, tennis court, swimming pool, terrace, lobby, general storage areas, laundry rooms and other facilities. Reasonable regulations governing the use of such facilities by Owners and by their guests and invitees shall be promulgated by the Declarant, or by the Board of Directors of the Association. Such regulations shall be permanently posted at the office and/or elsewhere in said recreational areas, and all Owners shall be furnished with a copy thereof. Each Owner shall be required to strictly comply with said Rules and Regulations, and shall be responsible to the Association for the compliance therewith by the members of their respective families, relatives, guests or invitees, both minor and adult.

2.5 Inseparable Units. Each Unit and its corresponding pro rata interest in and to the Common Elements appurtenant thereto shall be inseparable and may not be conveyed, leased or encumbered separately, and shall at all times remain indivisible.

2.6 Descriptions. Every deed, lease, mortgage, trust deed or other instrument may legally describe a Condominium Unit by its identifying building letter and Unit number, as shown on the Map, followed by the words SEASCAPE and by reference to this recorded Declaration and Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the Common Elements.

2.7 Encroachments. If any portion of the Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and

does exist. If any portion or portions of a Unit or Units encroach upon the Common Elements, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. A valid easement also exists to that portion of the General Common Elements and of the Limited Common Elements occupied by any part of an Owner's Unit not contained within the physical boundaries of such Unit, including, but not limited to, space occupied by heating and air conditioning equipment, utility lines and similar equipment which serves only one (1) Unit. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or the individual Units.

2.8 Governmental Assessment. Declarant shall give written notice to the Assessor's Office of the creation of Condominium Ownership of this Property, as is provided by law, so that each Unit and its percentage or fraction of undivided interest in the Common Elements shall be deemed a separate parcel and subject to separate assessment and taxation.

2.9 Use and Occupancy Restrictions.

(a) Subject to the provisions of this Declaration and Bylaws, no part of a Residential Unit may be used for purposes other than housing and the related common purposes for which the Property was designed. Each Residential Unit or any two (2) or more adjoining Residential Units used together shall be used for residential purposes or such other uses permitted by this Declaration, and for no other purposes. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from:

- (i) Renting his individual Unit;
- (ii) Maintaining his personal professional library;
- (iii) Keeping his personal business or professional records or accounts; or

(iv) Handling his personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions;

(b) 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, receiving rooms, terrace, storage spaces, laundry rooms, swimming pool, tennis court, picnic area, and any other areas designed for specific use shall be used for the purposes approved by the Board.

(c) The use, maintenance and operations of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and may be subject to lease, concession or easement, presently in existence or entered into by the Board at some future time;

(d) Without limiting the generality of the foregoing provisions of this Paragraph 2.9, use of the Property by the Unit Owners shall be subject to the following restrictions:

(i) Nothing shall be stored in the Common Elements without prior written consent of the Board, except in storage areas or as otherwise herein expressly provided;

(ii) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or the Common Elements which will result in the cancellation of insurance on any Unit, or any part of the Common Elements, or which will be in violation of any law;

(iii) No waste shall be committed in or on the Common Elements;

(iv) Subject to Declarant's rights under Paragraph 2.9(d)(xv)(4) of this Declaration, no sign of any kind shall be displayed to the public view on or from any Unit or Common Elements without the prior written consent of the Board or the written consent of the Managing Agent acting in accord with the Board's direction;

(v) No noxious or offensive activity shall be carried on, in or upon the Common Elements, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any other Unit Owner. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine in accordance with the Bylaws if any such noise, odor or activity constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television or radio reception of any Unit Owner in the Property, shall be located, used or placed on any portion of the Property or exposed to the view of other Unit Owners without the prior written approval of the Board;

(vi) Except as expressly provided hereinabove, nothing shall be altered or constructed in or removed from the Common Elements and individual Units, except upon the written consent of the Board;

(vii) No structure of a temporary character, trailer, tent, shack, garage, barn or other out-buildings shall be permitted on the Property at any time temporarily or permanently, except with the prior written consent of the Board; provided, however, the temporary structures may be erected for use in connection with the repair or rebuilding of the buildings or any portion thereof;

(viii) No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Unit or the Common Elements, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its occupants. There shall be no exterior fires, including and without limitation the use or operation of outdoor barbeque equipment, except in areas designated by the Association. No clothing or household fabrics shall be hung, dried or aired in such a way in the Property as to be visible to other Property and no lumber, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property, except within an enclosed structure or if appropriately screened from view;

(ix) No Unit Owner shall park, store or keep any vehicle except wholly within the parking space designated therefor, and any inoperable vehicle shall not be stored in a parking space or within the Common Elements in general. No Unit Owner shall park, store or keep within or adjoining the Property any large commercial-type vehicle, dump truck, cement-mixer truck, oil or gas truck, delivery

truck and any other vehicle equipment, mobile or otherwise, or any recreational vehicle, camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle. No Unit Owner shall conduct major repairs or major restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Common Elements. Parking spaces shall be used for parking purposes only;

(x) Except within individual Units, no planting, transplanting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Property, except as approved by the Board;

(xi) Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within the Property, except as needed by the Management Company and except for the purpose of transportation directly from a parking space to a point outside the Property, or from a point outside the Property directly to a parking space;

(xii) No animals of any kind whatsoever, including and without limitation dogs, cats, livestock, reptiles, or poultry of any kind shall be raised, bred or kept in any Unit or the Common Elements;

(xiii) Every lease on a Unit shall provide that the lessee shall be bound by and subject to all of the obligations under the Declaration and Bylaws, of the Unit Owner making such lease and failure to do so shall be a default thereunder. The Unit Owner making such lease shall not be relieved thereby from any of said obligations; and

(xiv) No waterbeds or other water filled furniture shall be permitted on the Property or in any Unit;

(xv) In order that Declarant may establish the Property as a fully occupied Condominium, no Unit Owner nor the Association shall do anything to interfere with, and

nothing in the Declaration shall be understood or construed to:

1. Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing in any Unit owned by them whatever they determine to be necessary or advisable in connection with the completion of any work thereon;

2. Prevent Declarant, its successors or assigns, or its or their representatives, from erecting, constructing and maintaining on the Common Elements or any Unit owned or controlled by Declarant, its successors or assigns, or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing any work and establishing the Property as a Condominium and disposing of the same by sale, lease or otherwise;

3. Prevent Declarant, its successors or assigns, or its or their representatives, from maintaining a Management and/or sales office, and maintaining and showing model Units to aid in the marketing of the Units during the Construction Period; or

4. Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from maintaining such sign or signs for marketing of Units in the Property; and

(xvi) The Association, in accordance with the provisions of the Bylaws or the Rules and Regulations, may provide such additional rules and regulations for use of the Common Elements, the Limited Common Elements, the parking Spaces, the storage Areas, the patio Areas and the Units as are necessary or desirable in the judgment

of the Association for the operation of the Condominium; provided, that such Rules and Regulations and Bylaws are not in conflict with the provisions of this Declaration. Such Bylaws and Rules and Regulations shall be applicable to the Common Elements the Limited Common Elements, the parking areas, storage areas, the patio areas, and the Units as if set forth herein.

2.10 Reservation of Variance. Notwithstanding any provision of this Declaration to the contrary, the Declarant reserves unto itself the exclusive right to amend the Condominium Plat and to vary the size, shape, physical layout or location of the unsold Units and to correspondingly adjust the sales price and the percentage or fraction of ownership of the Common Elements or the respective Units remaining unsold. Such adjustment in the percentage or fraction of ownership of the Common Elements will only affect those Units owned by the Declarant, and will not change or affect the percentage or fraction of ownership of any other Unit. This reservation shall be effective for the annexed and merged Condominium Regime but shall not work to re-adjust or re-allocate any vested interests in the Common Elements appurtenant to any sold Units.

2.11 Reservation of Right of Merger and Annexation.

(a) For a period of five (5) years from the date of recordation of this Declaration, the Declarant reserves the right, authority and power to annex the adjoining land described in the attached Exhibit "D" for the purpose of establishing, annexing and merging one (1) additional Condominium Regime. It is contemplated that Declarant will annex approximately one hundred thirty-five (135) additional Units to the Project, but nothing contained herein shall restrict Declarant to this number of Units or obligate Declarant to annex this number of Units. The one (1) Regime shall, notwithstanding Paragraph 2.10 hereof, conform in basic respects to the general

restrictions, limitations and benefits contained in this Declaration. The intended improvements in the future annexation tract must be substantially completed prior to annexation. Upon the recordation of a Condominium Declaration Supplement or Declaration of Annexation and Merger in compliance with Paragraph 2.11, this Declaration shall further apply to and affect all of the Property described in this Declaration and the Property described in such Declaration Supplement or Declaration of Annexation and Merger, and shall also bind all owners of any part of the subsequent Regime with the same effect as if the Regime was originally subject to and described in this Declaration. Thereafter, the powers and responsibilities of the Board and Association shall be co-extensive with regard to all Property included within the expanded Condominium and the Board and Association shall, pursuant to the provisions of this Declaration, constitute the Board and Association for the entire Condominium, as expanded. The rights, obligations and duties of each Owner shall be the same and identical to the rights, obligations and duties of the Owners prior to recordation of such Declaration Supplement or Declaration of Annexation and Merger, except as each Owner's percentage or fraction of ownership interest may be modified as herein provided;

(b) The Association shall continue to maintain one (1) Common Expense Fund for the collection and disbursement of monies as required and permitted hereby for the maintenance, repair, replacement and operation of the expanded Condominium and in all respects and meanings, the Condominium, as expanded, shall be deemed to be a single Condominium Project for the purposes of and in accordance with the provisions of this Declaration and the Act; and

(c) The annexation and merger shall entail buildings, amenities and Units of comparable design, size and quality and shall be accomplished by the filing of an appropriate Declaration Supplement or Condominium Declaration of Annexation and Merger. Said document shall be recorded in the Condominium Records of Galveston County, Texas, which will, *inter alia*:

- (i) Be executed by only the Declarant or its successors or assigns;
- (ii) Contain a legal description of the land to be annexed to the Condominium;
- (iii) Contain a sufficient description of the Units built or to be built on the annexed land;
- (iv) Contain a re-allocation of percentage or fraction of ownership interest in the Common Areas (as expanded by annexation) among all Units in the Condominium. Such re-allocation will be calculated by determining the square footage of the individual Units in proportion to the new total square footage of all the Units; and
- (v) Any other information required by law or necessary to effectuate the intent of this Article.

ARTICLE III

RIGHTS AND OBLIGATIONS OF OWNERSHIP

3.1 Ownership. A Condominium Unit will be a fee simple estate and may be held and owned by any person, firm, corporation or other entity singularly, as joint tenants, as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

3.2 Partition. The Common Elements (both General and Limited) shall be owned in common by all of the Owners of the Condominium Units and shall remain undivided, and no Owner shall bring any action for partition or division of the Common Elements other than

that as specifically provided for hereinafter in Paragraph 6.2, "Judicial Partition." Nothing contained herein shall be construed as limitation of the right of partition of a Condominium Unit between the Owners thereof, but such partition shall not affect any other Condominium Unit.

3.3 Exclusiveness of Ownership. Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner may use the Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

3.4 One-Family Residential Dwelling. Each Condominium Residential Unit shall be occupied and used or leased by the Owner only as and for a residential dwelling for the Owner, his family, his social guests or his tenants; provided, however, that a two (2) bedroom Unit shall be occupied, used or leased by no more than eight (8) persons, and a one (1) bedroom Unit shall be occupied, used or leased by no more than six (6) persons. (The foregoing being the number of beds available in a one and two bedroom unit.)

3.5 Mechanic's and Materialman's Liens. No labor performed or materials furnished and incorporated in a Unit, notwithstanding the consent or request of the Owner, his agent, contractor or subcontractor, shall be the basis for filing of a lien against the Common Elements owned by such other Owners. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request.

3.6 Right of Entry. The Association shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or

at any time for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units.

3.7 Owner Maintenance. An Owner shall maintain and keep in repair the interior, and patio and/or balcony space of his own Unit, including the fixtures thereof. All fixtures and equipment installed with the Unit, commencing at a point where the utility lines, pipes, wires, conduits or systems (hereinafter referred to as "utilities") enter the Unit, shall be maintained and kept in repair by the Owner thereof; and an Owner shall be obliged to promptly repair and replace any broken or cracked glass in windows and doors. An Owner shall be totally responsible for his own heating and cooling system.

3.8 Alteration.

(a) An Owner shall do no act nor any work that will impair the structural soundness and integrity of the building or impair any easement or hereditament.

(b) No Owner shall have any right to modify, alter, repair, decorate, redecorate, or improve the exterior of any Unit, or to take any such action with respect to the interior or exterior of any of the Common Elements or the Limited Common Elements.

(c) Each Owner shall have the right to modify, alter, repair, decorate, redecorate, or improve the interior of such Owner's Unit provided that such action does not impair the structural integrity, weaken the support, or otherwise adversely affect any of the Property or any Limited Common Element or Common Element, and provided that all such action is performed in a good and workmanlike manner. Provided, however, no part of any curtains, blinds, shades, draperies, or other window coverings visible from the exterior of any Unit shall be used in any Unit unless same are white or beige or other similar uniform color approved by the Board.

(d) Each Owner shall maintain such Owner's Unit (including the portions thereof which are not located within the physical

boundaries of the Unit) in good order and repair at all times. If any Owner shall fail to maintain a Unit or any portion thereof, the Association shall have the right (but not the obligation) to perform such work as is necessary to put such Unit in good order and repair, and the cost thereof shall be deemed a debt of such Owner to the Association, payable on demand, and payment thereof shall bear interest and be secured in the same manner as for Maintenance Assessments set out in Article V. herein.

(e) The Common Elements, including without limitation the Limited Common Elements, shall be maintained by the Association; the Owner of any Unit as to which any Limited Common Elements are appurtenant shall have no right to modify, alter, repair, decorate, redecorate, improve, or take any other similar action with respect to such Limited Common Elements, it being the obligation of the Association under this Declaration to maintain such Limited Common Elements in a uniform and attractive manner for the benefit of all Owners.

3.9 Restriction of Ownership. As a restriction of the ownership provisions set forth in Paragraph 1.1(v), "Unit," an Owner shall not be deemed to own the unfinished surfaces of the perimeter walls, floors ceilings and roofs surrounding his Unit, nor shall such Owner be deemed to own the utilities running through his Unit which are utilized for, or serve, more than one (1) Unit, except as a tenant in common with the other Owners. An Owner shall be deemed to own and shall maintain the inner, finished surfaces of the perimeter and interior walls, floors and ceilings, doors, windows and other such elements consisting of paint, wall paper and other such finishing material.

3.10 Liability for Negligent Acts. In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, and is not covered or paid for by insurance either on such Unit or the Common Elements,

the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Unit is subject, pursuant to Article IV hereof. Such liability is limited to the liability Owner has under Texas law.

3.11 Subject to Declaration and Bylaws. Each Owner and the Association shall comply strictly with the provisions of this Declaration, the Bylaws and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief, or both, maintainable by the Association on behalf of the Owners or, in proper case, by an aggrieved Owner against another Owner or against the Association.

ARTICLE IV

MANAGEMENT AND ADMINISTRATION

4.1 Bylaws. The administration of this Condominium Property shall be governed by the Bylaws of the Association. An Owner of a Condominium Unit, upon becoming an Owner, shall be a Member of the Association and shall remain a Member for the period of his ownership. The Association shall be managed by a Board of Directors, duly appointed or elected, pursuant to the terms and conditions of the Bylaws. In addition, the Association shall enter into a management agreement upon the terms and conditions established in the Bylaws, and said management agreement shall be consistent with this Declaration.

4.2 Declarant Control. Notwithstanding, Paragraph 4.1 and for the benefit and protection of the Unit Owners and any First Mortgagees of record for the sole purpose of insuring a complete and orderly buildout as well as a timely sellout of the Condominium Project, including the annexation as provided in Paragraph 2.11, the Declarant will retain control of and over the Association for a maximum period not to exceed June 1, 1989, or upon the sale of

seventy-five percent (75%) of the Units, including the annexation, whichever occurs first. It is expressly understood the Declarant will not use said control for any advantage over the Unit Owners by way of retention of any residual rights or interests in the Association or through the creation of any management agreement with a term longer than three (3) years, which agreement shall be terminable by either party upon ninety (90) days or less prior written notice, without cause and without payment of a termination fee. Should Declarant elect not to annex the adjoining tract, then its control shall extend no longer than five (5) years from the recordation of this Condominium Declaration. In no event shall control extend beyond June 1, 1989, if the proposed phase is annexed and incorporated hereinto by merger. At the end of the Declarant Control Period, the Declarant, through the Board of Directors, shall call the first annual meeting of the Association.

4.3 Temporary Managing Agent. During the period of administration of this Condominium Regime by Declarant, the Declarant may employ or designate a temporary manager or managing agent, who shall have and possess all of the rights, powers, authority, functions and duties as may be specified in the contract of employment or as may be delegated by Declarant to him. The Declarant may pay such temporary manager or managing agent such compensation as it may deem reasonable for the services to be rendered, which compensation shall constitute a part of the Common Expenses of this Condominium Regime and shall be paid out of the Association budget.

4.4 Specific Power to Restrict Use and Enjoyment. Every Owner and the Declarant shall have a beneficial interest of use and enjoyment in the Common Elements subject to the following limitations, restrictions and provisions:

(a) The right of the Association to publish rules and regulations governing use of the Common Areas and the improve-

ments and facilities located thereon, and to establish and enforce penalties for infractions thereof;

(b) The right of the Association to charge reasonable fees for the use of facilities within the common Area, if such facilities are not used by all Members equally;

(c) The right of the Association to borrow money and mortgage the Common Area and improvements for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property; providing, however, that the rights of any such Mortgagee in such property shall be subordinate to the rights of the Owners hereunder, and in no event shall any such Mortgagee have the right to terminate the Condominium Regime established by this Declaration;

(d) The right and duty of the Association to suspend the voting rights and the right to the use of the recreational facilities by an Owner for any period during which any assessment against the Owner's Condominium Unit remains unpaid;

(e) The right of Declarant or the Association after the Declarant Control Period to dedicate or transfer all or any part of the Common Area for utility easements to any public agency, authority or utility for the purposes, and subject to the conditions, of such agency, authority or utility. No such dedication or transfer shall be effective unless approved by all First Mortgagees and two-thirds (2/3rds) vote of the quorum of Owners present at a meeting of the Association specifically called for the purpose of approving any such dedication or transfer, and unless an instrument signed by the Board of Directors reflecting such vote of the Owners agreeing to such dedication or transfer and First Mortgagee approval has been duly recorded in the Condominium Records of Galveston County, Texas;

(f) The right of the Association to adopt, implement and maintain a private security system for the Premises consistent with applicable laws;

(g) The right of the Association to establish rules and regulations governing traffic within the Common Area, and to establish sanctions for any violation or violations of such rules and regulations;

(h) The right of the Association to regulate noise within the Premises, including, without limitation, the right of the Association to require mufflers on engines and to prohibit the use of devices producing excessive noise; and

(i) The right of the Association to control the visual attractiveness of the property, including, without limitation, the right to require Owners to eliminate objects which are visible from the Common Area and which, in the Association's judgment, detract from the visual attractiveness of the Property.

4.5 Membership, Voting, Quorum, Proxies.

(a) Membership. Any person on becoming an Owner of a Condominium Unit shall automatically become a Member of the Association. Such membership shall terminate without any formal Association action whenever such person ceases to own a Condominium Unit, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with Seascape during the period of such ownership and membership of the Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Directors may, if it so elects, issue one (1) membership card to the Owner(s) of a

Condominium Unit. Such membership card shall be surrendered to the Secretary whenever ownership of the Condominium Unit designated thereon shall terminate.

(b) Voting. Unit ownership shall entitle the Owner(s) to cast one (1) vote per Unit in the affairs of the Association, which vote will be weighted to equal the proportionate share of ownership of the Unit Owner in the Common Elements. Voting shall not be split among more than one (1) Unit Owner. The present number of votes that can be cast by the Unit Owners is one hundred thirty-five (135). Should additional property be annexed in accordance with Paragraph 2.11 hereof, the total number of votes shall be increased accordingly, and the weighted average adjusted to total one hundred percent (100%).

(c) Quorum. Except as otherwise provided for herein, the majority of the Unit Owners as defined in Article I shall constitute a quorum.

(d) Proxies. Votes may be cast in person or by proxy. Proxies may be filed with the Secretary before the appointed time of each meeting.

4.6 Insurance.

(a) The Association shall obtain and maintain at all times insurance of the type and kind provided hereinafter, including such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to any Condominium buildings, fixtures, equipment and personal property, similar in construction, design and use, issued by responsible insurance companies authorized to do business in the State of Texas. The insurance shall be carried in blanket policy form naming the Association and all Mortgagees as the insured. In addition, each policy or policies shall identify the interest of each Condominium Unit Owner and shall provide for a standard, non-contributory mortgage clause in favor of

each First Mortgagee. Further, the policy shall insure against loss or damage by fire, vandalism, malicious mischief or 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. Each Owner irrevocably designates the Owners Association, as Attorney-In-Fact, to administer and distribute such proceeds as is elsewhere provided in this Declaration. Such insurance policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after thirty (30) days prior written notice to each First Mortgagee. The Board of Directors shall, upon request of any First Mortgagee, furnish a certified copy of each blanket policy and a separate certificate identifying the interest of the Mortgagor.

(b) The Association shall keep a comprehensive policy or policies of public liability insurance covering the Common Elements of the Project and such policy or policies shall include a "Severability of Interest Endorsement" or equivalent coverage which will preclude the insurer from denying the claim of a Unit Owner because of negligent acts by the Association, its Board of Directors or a Unit Owner. Such policy or policies shall be in amounts of not less than One Hundred Thousand Dollars (\$100,000.00) per person, Three Hundred Thousand Dollars (\$300,000.00) per accident and Fifty Thousand Dollars (\$50,000.00) property damage, plus an umbrella policy for not less than One Million Dollars (\$1,000,000.00) for all claims for personal injury, including death, and/or property damage arising out of a single occurrence; and the policy shall include water damage liability, liability for non-owned and hired automobiles, liability for property of others and

such other coverage as is customarily deemed necessary with respect to projects similar in nature.

(c) The Association shall keep a policy or policies of (i) liability insurance insuring the Board of Directors, officers and employees of the Association against any claims, losses, liabilities, damages or causes of action arising out of, or in connection with, or resulting from any act done or omission to act by any such person or entities, (ii) workmen's compensation as required under the laws of the State of Texas, and (iii) such other insurance as deemed reasonable and necessary in order to protect the Project, the Unit Owners and the Association.

(d) The Association shall be responsible for obtaining insurance upon the Units, including all fixtures, installations or additions thereto contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings of such Unit, as initially installed or replacements thereof. The Association shall not be responsible for procurement or maintenance of any insurance covering the liability of any Unit Owner not caused by or connected with the Association's operation or maintenance of the Project. Each Unit Owner may obtain additional insurance at his own expense for his own benefit. Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner and casualty and public liability insurance coverage within each Unit are specifically made the responsibility of each Unit Owner, and each Unit Owner must furnish a copy of his insurance policy to the Association.

(e) Any insurance obtained by the Association or a Unit Owner shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against

the Unit Owners, Association or their respective servants, agents or guests.

ARTICLE V

MAINTENANCE ASSESSMENTS

5.1 Assessments for Common Expenses. All Owners shall be obligated to pay the estimated assessments imposed by the Association to meet the Common Expenses. Assessments for the estimated Common Expenses shall be due monthly in advance on or before the first (1st) day of each month. Failure to pay by the fifteenth (15th) day of each month shall require the imposition and assessment of a late charge to be determined by the Board of Directors. Contribution for monthly assessments shall be prorated if the ownership of a Condominium Unit commences on a day other than the first (1st) day of a month.

5.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the residents in the Property, and in particular for the improvement, maintenance and preservation of the Property, the services and the facilities devoted to said purposes that are related to the use and enjoyment of both the Common Elements and the Units situated upon the Property. Such uses may include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief and liability insurance for the Condominium Units; management costs, taxes, legal and accounting fees as may from time to time be authorized by the Association; construction of other facilities; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Property; mowing grass, caring for the grounds and landscaping; caring for the concession, tennis court, swimming pool and equipment, terrace, and storage spaces; roofs and exterior surfaces of

all buildings; garbage pickup; pest control; street maintenance; outdoor lighting; security service for the Property; water and sewer service furnished to the Property by or through the Association; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur. In addition, the Association shall establish a long term reserve for repair, maintenance painting and other charges as specified herein.

5.3 Determination of Assessments. The assessments shall be determined by the Board of Directors based upon the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements. This determination may include, among other items, taxes, governmental assessments, landscaping and grounds care, Common Area lighting, repairs and renovation, garbage collections, wages, water charges, legal and accounting fees, management costs and fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, expenses incurred in the operation and maintenance of recreation and administrative facilities, payment of any deficit remaining from a previous period and the creation of a reserve contingency fund. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or a release of the Owners from the obligation to pay.

5.4 Initial Assessment and Maximum Monthly Assessment.

(a) The monthly assessments shall be made according to each Owner's proportionate or percentage interest in and to the Common Elements provided in Exhibit "C" attached hereto.

(b) As of January 1st of the year immediately following the conveyance of the first (1st) Condominium Unit to an Owner other than the Declarant, the Board of Directors may set the monthly assessment for the next succeeding twelve (12) months

period. If the Board determines at any time during the calendar year that a greater increase of the monthly assessment is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Board may call a special meeting of the Owners. By the assent of a two-thirds (2/3rds) vote of the quorum of Owners, present at such meeting, the monthly assessment may be set at whatever level such Owners approve.

5.5 Special Assessments for Improvements. In addition to the annual assessments authorized above, at any time the Association may levy in any calendar year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall be approved by a sixty percent (60%) vote of the quorum of Owners voting in person or by proxy at a meeting duly called for this purpose. The Declarant will be treated as all other Unit Owners for purposes of special assessments.

5.6 Commencement of Assessments. The monthly assessments provided for herein shall be due on the first (1st) day of the month. The assessments shall be prorated if the ownership of a Unit commences on a day other than the first (1st) day of the month. On Units owned by the Declarant, the assessment shall commence on the first (1st) day of the month after the Declarant Control Period is terminated, or the first (1st) day of the month following the transfer to the Association of the responsibility for maintenance of the building in which the Unit is located in accordance with Paragraph 5.11 herein. The Board shall fix the amount of the monthly assessments against such Unit at least thirty (30) days prior to January 1st of each year; provided, however, that the Board shall have a right to adjust the monthly assessments, as long as any such

adjustment does not exceed the maximum permitted hereunder, with thirty (30) days' written notice given to each Owner. Written notice of the monthly assessment adjustment shall be sent to every Owner subject thereto. The due date shall be established by the Board, and unless otherwise provided or unless otherwise agreed by the Association, the Board shall collect the assessments monthly in accordance with Paragraph 5.1 hereof.

5.7 No Exemption. No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements or by abandonment of his Unit.

5.8 Lien for Assessments.

(a) All sums assessed but unpaid by a Unit Owner for its share of Common Expenses chargeable to its respective Condominium Unit, including interest thereon at ten percent (10%) per annum, shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances, except only for:

(i) All taxes and special assessments levied by governmental and taxing authorities; and

(ii) All liens securing sums due or to become due under any duly recorded mortgage vendor's lien or deed of trust.

(b) To evidence such lien the Association may, but shall not be required to, prepare written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such notice shall be signed by one (1) of the Board of Directors and may be recorded in the Office of the Clerk and Recorder of Galveston County, Texas. Such lien for the Common Expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting Owner's Condominium Unit by the Association. Any

such foreclosure sale is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Article 3810 of the Revised Civil Statutes of the State of Texas, or in any manner permitted by law. Each Owner, by accepting a deed to his Unit, expressly grants to the Association a power of sale, as set forth in said Article 3810, in connection with the assessment lien. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect same. The Association shall have the power to bid in the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

(c) The amount of the Common Expenses assessed against each Condominium Unit shall also be a debt of the Owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

(d) In addition, to the extent permitted by law, Declarant reserves and assigns to the Association, without recourse, a vendor's lien against each Unit to secure payment of a common assessment or special assessment which is levied pursuant to the terms hereof. Said liens may be enforced by appropriate judicial proceedings and the expenses incurred in connection therewith, including, but not limited to, interest, costs and reasonable attorney's fees, shall be chargeable to the Owner in default. Such lien shall be subordinated and inferior to those liens listed in Subparagraphs 5.8(a)(i) and (ii).

(e) Any encumbrancer holding a lien on a Condominium Unit may pay any unpaid Common Expense payable with respect to such Unit, and upon such payment, such encumbrancer shall have a lien on such Unit for the amount paid of the same rank as the lien of his encumbrance.

5.9 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any recorded mortgage or mortgages granted or created by the Owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Unit. Sale or transfer of any Unit shall not affect the assessment lien; provided, however, that the sale or transfer of any Condominium Unit pursuant to a foreclosure, a deed in lieu of foreclosure, assignment in lieu of foreclosure under such purchase money or improvement mortgages or deeds of trust shall extinguish the lien of such assessments as to payments thereof coming due prior to such sale or transfer, except for claims for its pro rata share of such assessments resulting from a re-allocation among all Units, which re-allocation, if necessary, will require a re-adjustment of the common assessment as provided in Paragraph 5.4(b). No sale or transfer shall relieve such Condominium Unit, or the Owners thereof, from liability for any assessments thereafter becoming due or from the lien thereof.

5.10 Statement of Assessments. Upon the written request of any Owner or any encumbrancer or prospective encumbrancer of a Condominium Unit, the Association, by its Board of Directors, shall issue a written statement setting forth the unpaid assessments, if any, with respect to the subject Unit, the amount of the current monthly assessments, the date of such assessment and the due date, credit for advance payments or for prepaid items, including but not limited to, insurance premiums, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied

with within ten (10) days, all unpaid assessments which become due prior to the date of making of such request shall be subordinate to the lien of the person requesting such statement.

The purchaser, donee or other transferee of a Unit, by deed or other writing (herein called "Grantee"), shall be jointly and severally liable with the transferor of such Unit (herein called "Grantor") for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from Grantor the amounts paid by the Grantee, but such transferee shall be personally liable only if he expressly assumes such liability. The Grantee shall be entitled to a statement from the Board of Directors, setting forth the amount of the unpaid assessments, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date such assessment becomes due, as well as any credit for advanced payments or for prepaid items, including, but not limited to, insurance premiums. This statement shall be conclusive upon the Association. Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, such Grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the subject Condominium Unit accruing prior to such ten (10) day period.

5.11 Obligation of Declarant for Assessments and Maintenance. During the Declarant Control Period, as provided in Paragraph 4.2 hereof, the Declarant shall be responsible for the difference between the cost of maintenance and assessments received from the Unit Owners of each building until all Units in said building have been completed, as defined herein, or until the estimated operating expenses are accurately determined, or until Declarant transfers responsibility for said maintenance to the Association, as provided in Paragraph 4.2 hereof, whichever first occurs. So long as Declar-

ant is responsible for the maintenance of a building, as provided herein, Declarant shall not be limited to the regular monthly assessment for any Units owned by Declarant in' said building. With respect to the buildings which Declarant is responsible for maintaining, as provided herein, said maintenance shall be at the level of maintenance established in accordance with Paragraph 5.3 hereof. During the Declarant Control Period, Declarant shall provide any additional funds necessary to pay actual cash outlays required to fund current operating expenses of the Association. After the Declarant Control Period is terminated, Declarant shall pay the regular monthly assessment for each Unit or Units it owns. In no event shall Declarant's liability for assessments be less than required by the Act.

ARTICLE VI

DESTRUCTION OR OBSOLESCENCE OF IMPROVEMENTS

6.1 Destruction or Obsolescence.

(a) The Declaration hereby makes mandatory the irrevocable appointment of an Attorney-In-Fact to deal with the Property upon its destruction, obsolescence or condemnation. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any Grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Attorney-In-Fact herein provided. ALL OF THE OWNERS IRREVOCABLY CONSTITUTE AND APPOINT THE ASSOCIATION, OR ITS SUCCESSOR NON-PROFIT CORPORATION, IF SAME BE HEREAFTER ORGANIZED, THEIR TRUE AND LAWFUL ATTORNEY IN THEIR NAME, PLACE AND STEAD, FOR THE PURPOSE OF DEALING WITH THE PROPERTY UPON ITS DESTRUCTION, OBSOLESCENCE OR CONDEMNATION, AS HEREINAFTER PROVIDED. As Attorney-In-Fact, the Association, by its authorized officers shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of

a Condominium Unit Owner which is necessary and appropriate to exercise the powers herein granted.

(b) Repair and reconstruction of the improvement(s), as used in the succeeding subparagraphs, means restoring the improvement(s) to substantially the same condition in existence prior to the damage, with each Unit and Common Elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacements, unless all of the Owners and all of the First Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter:

(i) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as Attorney-In-Fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed;

(ii) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than two-thirds (2/3) of all the Common Elements, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as Attorney-In-Fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the Owners and their Condominium Units. Such deficiency assessment shall be a special assessment made pro rata according to each Owner's proportionate interest in and to the Common Elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have the

authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article V hereof. The lien provided for herein shall be subordinate to any recorded first mortgage lien, as provided in Paragraph 5.9 of this Declaration. Should the Association choose to foreclose said lien, as provided in Article V, the proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as Attorney-In-Fact, in the following order:

1. For payment of taxes and special assessment liens in favor of any governmental assessing entity;
2. For payment of the balance of the lien of any first mortgage;
3. For payment of unpaid Common Expenses;
4. For payment of junior liens and encumbrances in the order and extent of their priority; and
5. The balance remaining, if any, shall be paid to the Condominium Unit Owner.

(iii) If more than two-thirds (2/3) of all of the Common Elements, not including land, are destroyed or damaged, and if the Owners representing the aggregate ownership of one hundred percent (100%) of the Common Elements, do not voluntarily, within one hundred (100) days thereafter, make provision for reconstruction, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire remaining Premises shall be sold by the Association, as

Attorney-In-Fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Plat and the Bylaws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Unit Owner's interest (as such interests appear on the policy or policies), and such divided proceeds shall be paid into one hundred thirty-five (135) separate accounts, plus any annexed Units, each such account representing one (1) of the Condominium Units in the total Project. Each such account shall be in the name of the Association, and shall be further identified by the number of the Unit and the name of the Owner. From each separate account, the Association, as Attorney-In-Fact, shall use and disburse the total amount (of each) of such accounts, without contribution from any one (1) account to another, toward the full payment of the lien of any first mortgage against the Condominium Unit represented by such separate account. There shall be added to each such account, the apportioned amount of the proceeds derived from the sale of the entire Property. Such apportionment shall be based upon each Condominium Unit Owner's proportionate interest in the Common Elements. The total funds of each account shall be used and disbursed, without contribution from one (1) account to another, by the Association, as Attorney-In-Fact, for the same purposes and in the same order as is provided in Subparagraphs b(ii)1 through 5 of Paragraph 6.1 hereof. Any decision to terminate the condominium status as herein provided must have the approval of First Mortgagees holding mortgages on Units which have a least two-thirds (2/3) of the votes of the Association.

(iv) If the Owners representing a total ownership interest of one hundred percent (100%) of the Common Elements adopt a plan for reconstruction, then all of the Owners shall be bound by the terms and provisions of such plan. Any assessment made in connection with such plan shall be a Common Expense and made pro rata according to each Owner's proportionate interest in the Common Elements and shall be due and payable as provided by the terms of the plan. The Association shall have the authority to cause the repair and restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Paragraph 5.8 hereof, but will be subordinate to any prior recorded first mortgage lien, as provided in Paragraph 5.9 hereof. Should the Association foreclose said assessment lien, as provided in said Paragraph 5.8, the proceeds derived from sale of such Condominium Unit shall be used and disbursed by the Association, as Attorney-In-Fact, for the same purposes and in the same order as is provided in Subparagraphs (b)(ii)1 through 5 of Paragraph 6.1 hereof.

(v) The Owners representing an aggregate ownership interest of two-thirds (2/3) of the Common Elements or more, may agree that the Common Elements of the Property are obsolete and that the same should be renewed or reconstructed. In such instance, the expenses thereof shall be payable by all of the Owners as Common Expenses.

(vi) Any restoration, reconstruction or repair of the Project shall be performed substantially in accordance

with this Declaration and the original Plans and specifications, unless other action is approved by the holders of mortgages on Units which have at least two-thirds (2/3) of the votes of the Association.

(vii) The Owners representing an aggregate ownership interest of one hundred percent (100%) of the Common Elements and all holders of first mortgages may agree that the Common Elements of the Property are obsolete and that the same should be sold. In such instance, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's authorized officers, the entire Premises shall be sold by the Association, as Attorney-In-Fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Plat and the Bylaws. The sales proceeds shall be apportioned between the Owners and First Mortgagees as their interests may appear on the basis of each Owner's percentage or fraction of interest in the Common Elements, and such apportioned proceeds shall be paid into one hundred thirty-five (135) separate accounts, plus any annexed Units, each such account representing one (1) Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the Unit and the name of the Owner. From each separate account, the Association, as Attorney-In-Fact, shall use and disburse the total amount of each of such funds, without contribution from one fund to another, for the same purposes and in the same order as is provided in Subparagraphs (b)(ii)1 through 5 of Paragraph 6.1 hereof.

6.2 Judicial Partition. There shall be no judicial partition of the Common Elements, nor shall Declarant or any person acquiring

any interest in the Project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Paragraph 6.1 hereof in the case of damage or destruction or unless the Property has been removed from the provisions of the Texas Condominium Act; provided, however, that if any Condominium Unit shall be owned by two (2) or more co-tenants, as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition between such co-tenants, but such partition shall not affect any other Condominium Unit.

6.3 Condemnation.

(a) 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, as Attorney-In-Fact, and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all First Mortgagees known to the Association to have an interest in any Condominium Unit. The expense of participation in such proceedings by the Association shall be borne by the Common Fund. The Association, as Attorney-In-Fact, 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 any such taking shall be deposited with the Association, as Attorney-In-Fact, and such damages or awards shall be applied as provided herein. In the event that an action in eminent domain is brought to condemn a portion of the Common Elements (together with or apart from any Condominium Unit), the Association, as Attorney-In-Fact, in addition to the general

powers set out herein, shall have the sole authority to determine whether 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 proceeding.

(b) With respect to any such taking, all damages and awards shall be determined for the taking of the individual Units and for the taking of the Common Elements and for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to the account of each Owner for the loss of the individual Unit plus an amount in proportion of his percentage or fractional ownership interest in the Common Elements to be applied or paid as set forth in Subparagraphs 6.1(b)(ii)1 through 5 hereof, unless restoration takes place as herein provided. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore, as far as possible, the Common Elements so taken or damaged. In the event it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Map attached hereto shall be duly amended by instrument executed by the Association, as Attorney-In-Fact, on behalf of the Owners. In the event that such eminent domain proceeding results in the taking of or damage to one (1) or more, but less than two-thirds (2/3) of the total number of Condominium Units, then the damages and awards for such taking shall be determined for each Condominium Unit and the following shall apply:

(i) The Association shall determine which of the Condominium Units damaged by such taking may be made tenantable for the purposes set forth in this Declaration,

taking into account the nature of this Condominium Project and the reduced size of each Condominium Unit so damaged;

(ii) The Association shall determine whether it is reasonably practicable to operate the remaining Condominium Units of the Project, including those damaged Units which may be made tenantable, as a Condominium in the manner provided in this Declaration;

(iii) In the event that the Association determines that it is not reasonably practicable to operate the undamaged Condominium Units and the damaged Units which can be made tenantable, then the Condominium Project shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interest by all Owners, as tenants in common, in the proportionate ownership interest previously owned by each Owner in the Common Elements. Any decision to terminate the condominium status of the Project must have the approval of First Mortgagees holding the mortgages on Units which have at least two-thirds (2/3) of the votes in the Association.

(iv) In the event that the Association determines it will be reasonably practicable to operate the undamaged Condominium Units and the damaged Units which can be made tenantable as a Condominium Unit, 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 Condominium Unit so that it is made tenantable. The restoration shall be performed in accordance with this Declaration and the original Plans and specifications, unless other action is approved by holders or mortgages on the remaining Units which have at least two-thirds (2/3) of the votes in the Association. If the cost of such work exceeds the amount

of the award, the additional funds required shall be assessed against those Condominium Units which are tenantable. With respect to those Units which may not be tenantable, the award made shall be paid as set forth in Subparagraph 6.1(b)(ii)1 through 5 hereof; and the remaining portion of such Units, if any, shall become part of the Common Elements. Upon the payment of such award for the account of such Owner as provided herein, such Condominium Unit shall no longer be a part of the Condominium Project, and the proportionate ownership interest in the Common Elements appurtenant to each remaining Condominium Unit which shall continue as part of the Condominium Project shall be equitably adjusted to distribute the ownership of the undivided interest in the Common Elements among the reduced number of Owners based upon the square footage of the individual remaining Units in proportion to the total square footage of all the remaining Units. If two-thirds (2/3) or more of the Condominium Units are taken or damaged by such taking, all damages and awards shall be paid to the accounts of the Owners of Units, as provided herein; and this Condominium Regime shall terminate upon such payment. Upon such termination, the Condominium Units and Common Elements shall be deemed to be regrouped and merged into a single estate owned in undivided interest by all Owners as tenants in common in the proportionate ownership interest previously owned by each Owner in the Common Elements. The Owners representing an aggregate ownership interest of sixty-seven percent (67%) of the Common Elements and holders of first mortgages on Units which have at least sixty-seven percent (67%) of the votes on Units subject to first mortgages may agree

that the Property should be sold. In such instance, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's authorized officers, the entire Premises shall be sold by the Association, as Attorney-In-Fact, for all of the Owners, free and clear of the provisions contained in the Declaration, the Plat and the Bylaws. The sales proceeds shall be apportioned between the Owners and First Mortgagees as their interest may appear on the basis of each Owner's proportionate ownership interest in the regrouped estate. Any damages, awards, or sales proceeds provided in this paragraph to be paid to or for the account of any Owner by the Association shall be applied as set forth in Subparagraphs 6.1(b)(ii)1 through 5 hereof.

ARTICLE VII

PROTECTION OF MORTGAGEE

7.1 Notice to Association. An Owner who mortgages his Unit shall notify the Association, giving the name and address of his Mortgagee. Each Mortgagee shall be permitted to notify the Association of the fact that such Mortgagee holds a deed of trust or mortgage on a Condominium Unit. The Board shall maintain such information in a book entitled "Mortgagees of Condominium Units."

7.2 Notice of Default; Lapse in Insurance. The Association shall notify a First Mortgagee in writing, upon written request of such Mortgagee identifying the name and address of the Mortgagee and the Unit number, of any default by the Mortgagor in the performance of such Mortgagor's obligations, as set forth in this Declaration, which is not cured within sixty (60) days. The Association, upon written request, shall notify a First Mortgagee of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

7.3 Examination of Books. The Association shall permit First Mortgagees to examine the books and records of the Association upon request.

7.4 Reserve Fund. The Association shall establish adequate reserve funds for replacement of Common Element components and fund the same by regular monthly payments rather than by extraordinary special assessments. In addition, there shall be established a working capital fund for the initial operation of the Condominium Project equal to at least two (2) months' estimated Common Assessments charge for each Unit, said deposit to be collected at closing of Unit sale.

7.5 Annual Audits. Upon written request 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.

7.6 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 meetings, one (1) such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

7.7 Notice of Damage or Destruction. The Association shall furnish the First Mortgagees timely written notice of any substantial damage or partial destruction of any Unit on which the First Mortgagee holds the mortgage if such loss exceeds Five Thousand Dollars (\$5,000.00) and of any part of the Common Elements if such loss exceeds Fifty Thousand Dollars (\$50,000.00).

7.8 Management Agreements. After the passage of control to the Association pursuant to the provisions of Paragraph 2.11 hereof, the Association shall enter into a management agreement the term of which shall not exceed three (3) years at any one time, and shall be terminable by either party upon thirty (30) days prior written notice.

and, which shall provide experienced, bonded, professional management of the project; provided, however, self-management by the Association may be established with prior consent of Owners of Units to which at least sixty-seven percent (67%) of the votes are allocated and the prior approval of first mortgage holders holding mortgages on Units which have at least sixty-seven percent (67%) of the votes of the Association.

7.9 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.

ARTICLE VIII.

MISCELLANEOUS PROVISIONS

8.1 Amendments to Declaration; Approval of Owners and Mortgagees.

(a) Covenants and restrictions of this Declaration may be amended by duly recording an instrument executed and acknowledged by at least sixty-seven percent (67%) of the authorized votes of members, unless otherwise herein provided. No amendment to this Declaration shall affect the rights of a mortgagee of any prior first lien mortgage which is made in good faith and for value; provided that any such mortgage is recorded prior to the recordation of such amendment.

(b) The approval of unit Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association and First Mortgagees holding Mortgages on Units representing at least sixty-seven percent (67%) of the votes of condominium units that are subject to mortgages held by First Mortgagees holding Mortgages on Units shall be required to amend the provisions of this Declaration or to the Bylaws which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Rights to use of the Common Areas;
- (vi) Responsibility for maintenance and repair of the Units and Common Elements;
- (vii) Boundaries of any Unit, except as provided in Paragraph 2.10 herein;
- (viii) Convertibility of Units into Common Elements, or Common Elements into Units;
- (ix) Leasing of Units;
- (x) Any provisions which are for the express benefit of first mortgage holders, insurers, or guarantors of first mortgages.

(c) The consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of First Mortgagees holding mortgages on Units which have at least sixty-seven percent (67%) of the votes of Units subject to Mortgages, shall be required to:

- (i) Partition or subdivide any Unit. In addition to the approval of the Owner any mortgage holder, if any, must be obtained;
- (ii) By act or omission, seek to abandon, partition, subdivide, encumber, or transfer the Common Elements, other than the granting of easements for public utilities or other public uses; or
- (iii) Use hazard insurance proceeds for losses to any condominium property for other than the repair, replacement or reconstruction of such property, except as provided by

statute in the case of substantial loss, and as provided in Paragraph 6.1b(3).

(d) The consent of Owners of Units to which at least one hundred percent (100%) of the votes of the Association are allocated and the approval of First Mortgagees holding mortgages on Units which have at least sixty-seven percent (67%) of the votes of Units subject to mortgages shall be required to terminate or abandon the condominium status of the Project by act or omission, except for a termination due to destruction or condemnation.

(e) Any amendment which would change the percentage or fraction of interest of the Unit Owners in the Common Elements, except as provided in Paragraph 2.11 herein, will require the consent of Owners of sixty-seven percent (67%) of the votes allocated in the Association and the approval of First Mortgagees holding mortgages on Units which have at least sixty-seven percent (67%) of the votes of Units subject to mortgages, provided that the change of percentage or fraction of ownership must have the approval of each Unit Owner affected by said amendment.

(f) Any first Mortgagee who receives a written request to approve additions or amendments to the Declaration or Bylaws, and who does not deliver or post to the requesting party a negative response within thirty (30) days, shall be deemed to have approved such request.

(g) Unless otherwise provided in this Paragraph 8.1 or elsewhere in this Declaration, any of the provisions herein may be amended by the consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, but no amendment shall affect the rights given to the Declarant, herein, without the consent of the Declarant.

8.2 Correction of Error. Declarant reserves, and shall have the continuing right, until the end of the Construction Period, without the consent of the other Owners or any Mortgagee to amend this Declaration or the Bylaws for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration.

8.3 Ownership of Common Personal Property. Upon termination of the Construction Period, as defined herein, Declarant shall execute and deliver a Bill of Sale to the Association transferring all items of personal property located on the Premises, furnished by Declarant, and intended for the common use and enjoyment of the Condominium Unit Owners and occupants. No Owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the Owner's termination of possession of his Condominium Unit.

8.4 Change in Documents. Upon written request, the holder of any mortgage covering any of the Condominium Units shall be entitled to written notification from the Association thirty (30) days prior to the effective date of any change in the Condominium documents.

8.5 Notice. All notices, demands or other notices intended to be served upon an Owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such Owner in care of the Unit number and building address of such Owner. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association, shall be sent by ordinary or certified mail, postage prepaid, to 5225 Katy Freeway, Suite 600, Houston, Texas 77007, until such address is changed by a notice of address change duly recorded in the Galveston County Condominium Records.

8.6 Conflict Between Declaration and Bylaws. Whenever the application of the provisions of this Declaration conflict with the application of any provision of the Bylaws adopted by the Association, the provisions or application of this Declaration shall prevail.

8.7 Invalidation of Parts. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

8.8 Omissions. In the event of the omission from this Declaration of any word, sentence, clause, provision or stipulation which shall be necessary for the accomplishment of the intent and purposes hereof, or any part hereof, then such omitted matter shall be supplied by inference and/or by reference to the Act.

8.9 Texas Condominium Act. The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Texas and to all other provisions of law.

8.10 Gender. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural, the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed, sealed and delivered by its proper corporate officers and its corporate seal to be affixed, this 12th day of June, 1984.

FUNDERBURK GOLDMAN DEVELOPMENT, INC.

By: 
James R. Funderburk, President

ATTEST:

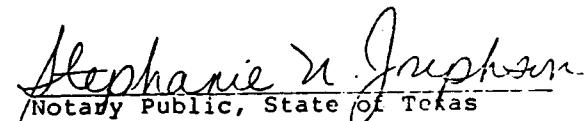

Stuart N. Goldman, Secretary

THE STATE OF TEXAS S

COUNTY OF HARRIS S

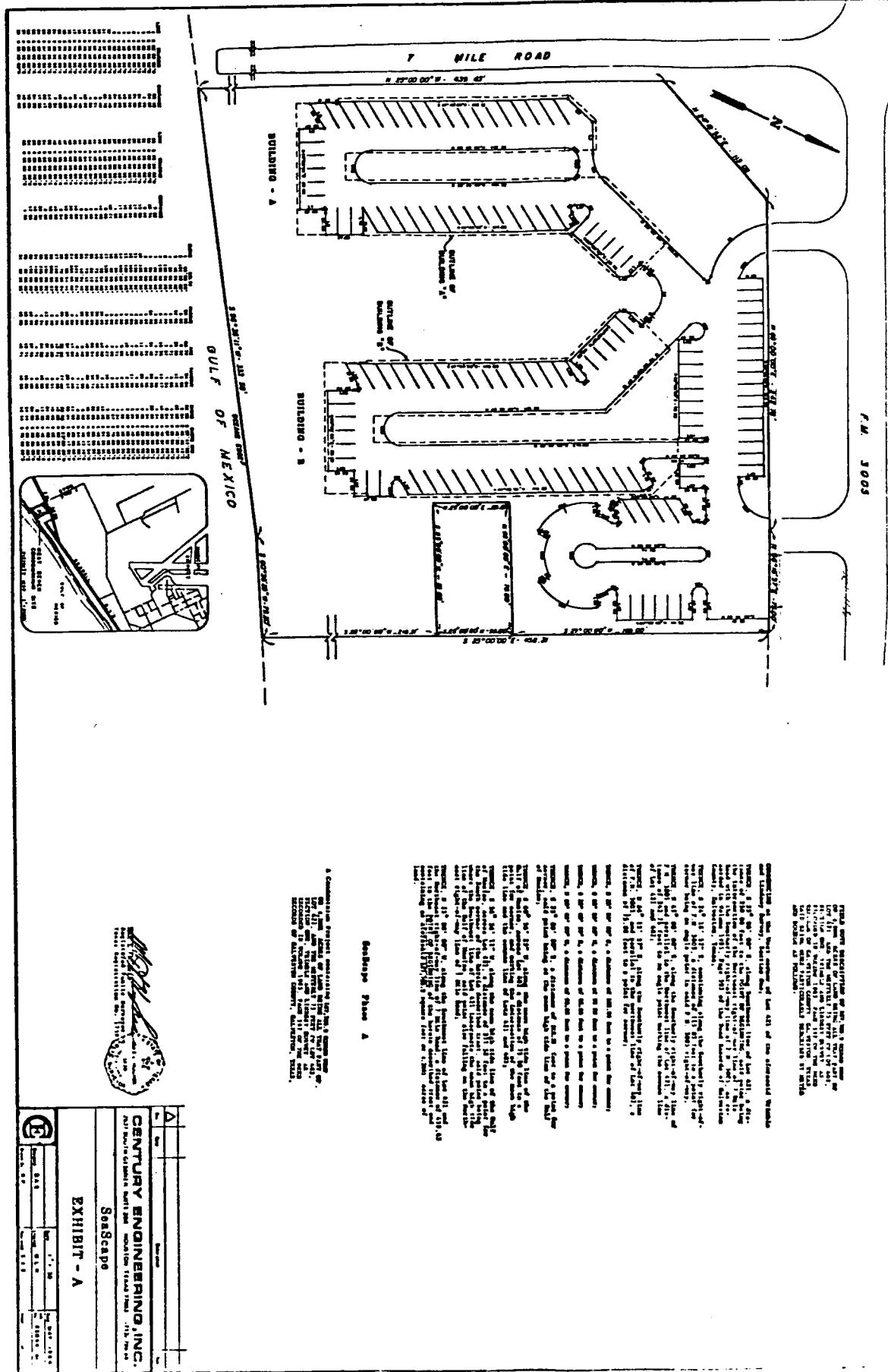
BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared JAMES R. FUNDERBURK, President of FUNDERBURK GOLDMAN DEVELOPMENT, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

June 12th day of
1984.


Stephanie N. Josephson
Notary Public, State of Texas

Stephanie N. Josephson
Printed Name of Notary

My Commission Expires: 12/21/85



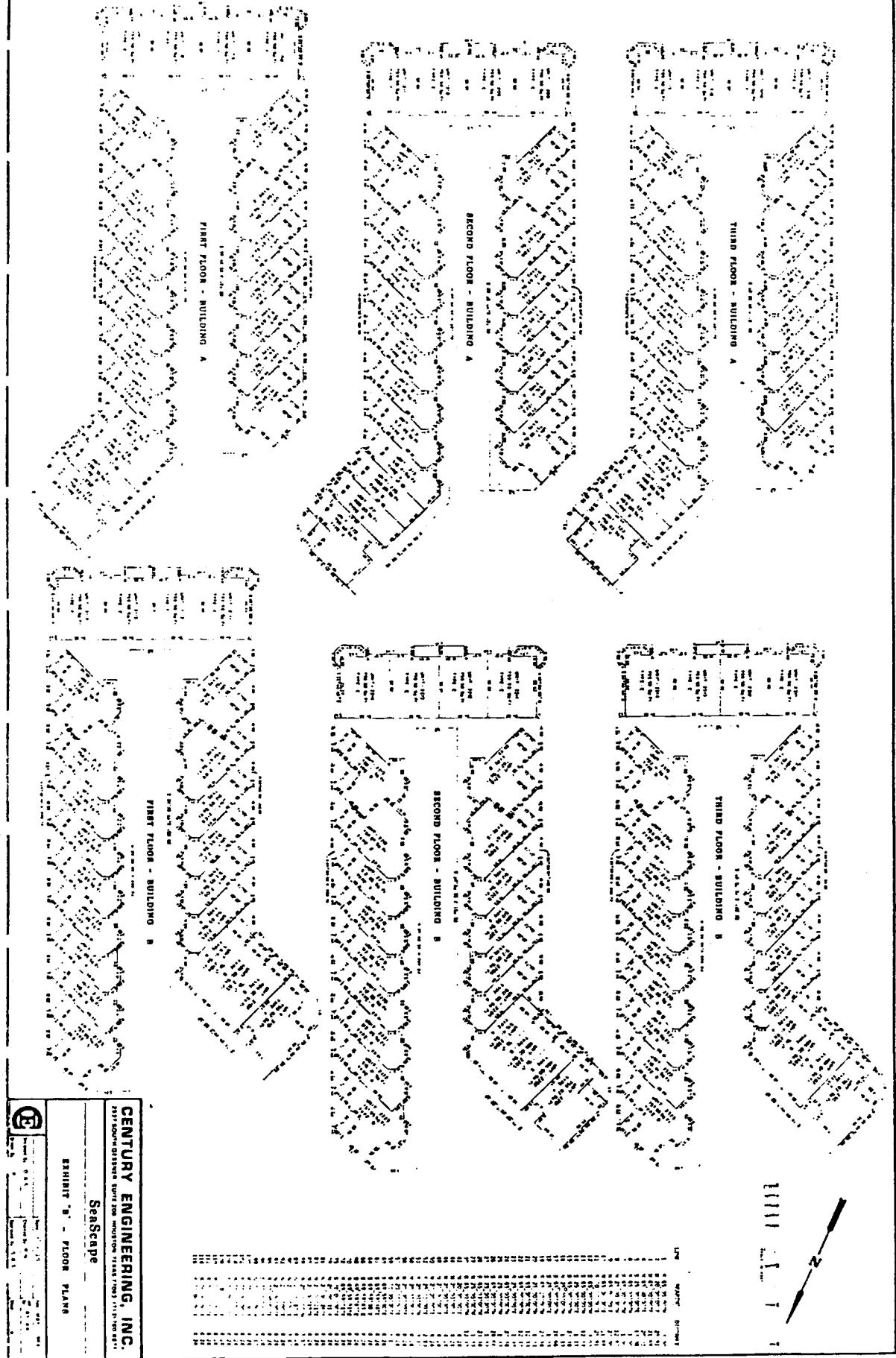


EXHIBIT "C"

SEASCAPE

<u>Unit Type</u>	<u>Square Footage</u>	<u>Fractional Undivided Ownership in Common Elements</u>	<u>Total Unit Types</u>
A	512.85	.006109	51
A	516.41	.006151	12
B	486.00	.005788	12
C	759.58	.009047	24
D	757.95	.009028	6
D	782.11	.009315	12
E	754.67	.008989	12
F	758.82	.009038	6

FIELD NOTE DESCRIPTION OF 121990 SQUARE FEET OR 2.8005 ACRES OF LAND BEING ALL THAT PART OF LOT 402, SECTION ONE, TRIMBLE AND LINDSEY SURVEY, AS RECORDED IN VOLUME 1985, PAGE 592 OF THE DEED RECORDS OF GALVESTON COUNTY, GALVESTON, TEXAS, SAID BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at the west corner of Lot 421 of the aforesaid Trimble and Lindsey Survey, Section One;

THENCE, S 25° 00' 00"E, along southwest line of Lot 421, a distance of 250.00 feet, said point being the intersection of the northeast right-of-way line of 7 mile road with the southerly right-of-way line of F.M. 3005, as recorded in Volume 1985, Page 592 of the Deed Records of Galveston County, Galveston, Texas;

THENCE, N 24° 18' 52"E, continuing along the southerly right-of-way line of F.M. 3005, a distance of 115.05 feet to a point for corner being an angle point in said F.M. 3005 right-of-way;

THENCE, N 65° 00' 00"E, along the southerly right-of-way line of F.M. 3005 also being the northwest line of said lot 421, at 242.76 feet pass a 3/8 inch iron rod marking the north corner of said Lot 421 and marking the west corner of said Lot 402, also marking the west corner of a 0.7953 acre tract of land;

THENCE, N 66° 15' 37"E, with the southerly right-of-way line of FM 3005, also being the northwest line of said Lot 402, 75.00 feet to the PLACE OF BEGINNING;

THENCE, N 66° 15' 37"E, with the southerly right-of-way line of F.M. 3005, also being the northwest line of said Lot 402, 255.08 feet pass a 5/8 inch iron rod lying in the westerly right-of-way line of a 50.00 feet wide County Road right-of-way, abandoned as per City of Galveston Ordinance 83-11, a total distance of 280.08 feet to a point lying in the center line of the said abandoned 50.00 feet wide road right-of-way, also marking the north corner of said Lot 402, also marking the west corner of Lot 401 of the said Trimble and Lindsey Survey;

THENCE, S 25° 00' 00"E, with the center line of said abandoned road, also being the northeast line of said Lot 402, also being the northwest line of said Lot 401, 416.70 feet to a point marking the mean high tide line of the Gulf of Mexico;

THENCE, S 64° 59' 52"W, along the mean high tide line, 25.00 feet to a point lying in the westerly right-of-way line of said abandoned road;

THENCE, S 56° 57' 54"W, along the mean high tide line 257.55 feet to a point marking the south corner of the herein described tract of land, also marking the east corner of the said 0.7953 acre tract of land;

THENCE, N 25° 00' 00"W, along the Northeast line of the said 0.7953 acre tract of land, 458.31 feet to the PLACE OF BEGINNING and containing 2.8005 acres of land.

ARTICLES OF INCORPORATION

OF

THE SEASCAPE OWNERS ASSOCIATION, INC.

We, the undersigned natural persons of the age of eighteen (18) years or more, acting as incorporators of a corporation ("Corporation") under the Texas Non-Profit Corporation Act ("Act") do hereby adopt the following Articles of Incorporation for such corporation.

Corporate Name

1. The name of the corporation is The Seaside Owners Association, Inc. ("Association").

Legal Status

2. The Association is a non-profit corporation organized pursuant to the Texas Non-Profit Corporation Act.

Duration

3. The period of the duration of the Association is perpetual.

Purposes

4. The purposes for which the Association is formed as follows:

(a) Specifically and primarily to provide an organization consisting of the co-owners of Seaside, a Condominium Project located at Galveston County, State of Texas, and more particularly described in the Declaration ("Condominium Project"), in order to provide for the management, maintenance, preservation, and architectural control of the Condominium Project.

(b) Generally:

(i) To promote the health, safety, and welfare of the co-owners of the Condominium Project;

(ii) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration and Bylaws;

(iii) To fix, levy, collect, and enforce payment of any charges or assessments as set forth in the Declaration; to pay all expenses in connection therewith and all office and other expenses incidental to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(iv) To acquire (by gift, purchase, or otherwise), own, hold, improve, build on, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;

(v) To borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(vi) To have and to exercise any and all powers, rights, and privileges which a corporation organized under the Texas Non-Profit Corporation Act by law may now or hereafter have or exercise;

(vii) To act in the capacity of principal, agent, joint venturer, partner, or otherwise.

(c) The foregoing statement of purposes shall be construed as a statement both of purposes and of powers, and the purposes and powers in each clause shall not be limited or restricted by reference to or inference from the terms and provisions of any other clause but shall be broadly construed as independent purposes and powers. Notwithstanding any of the above statements of purposes the Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Association.

Initial Registered Office and Agent

5. The street address of the initial registered office of the Association is 5225 Katy Freeway, Suite 600, Houston, Texas 77007,

and the name of its initial registered agent at such address is James R. Funderburk.

Board of Directors

6. The affairs of the Association shall be managed by a Board of Directors. The number of directors constituting the initial Board is five (5).

The names and addresses of the persons who are to serve as the initial Directors are:

Name	Address
James R. Funderburk	5225 Katy Freeway, Suite 600 Houston, Texas 77007
Stuart N. Goldman	5225 Katy Freeway, Suite 600 Houston, Texas 77007
Kenneth A. Jacobson	5225 Katy Freeway, Suite 600 Houston, Texas 77007
Paul G. Rockna	5225 Katy Freeway, Suite 600 Houston, Texas 77007
Tony Dely	2701 Revere, #211 Houston, Texas 77098

Incorporators

7. The names and street address of the incorporators of this Association are:

Name	Address
James R. Funderburk	5225 Katy Freeway, Suite 600 Houston, Texas 77007
Stuart N. Goldman	5225 Katy Freeway, Suite 600 Houston, Texas 77007
Kenneth A. Jacobson	5225 Katy Freeway, Suite 600 Houston, Texas 77007

Membership

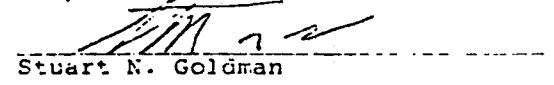
8. The authorized number of and qualifications for memberships in the Association along with the voting rights and other privileges due Unit owners in the Condominium Project shall be as set forth in the Declaration. Every person or entity who is a record owner of a fee or undivided fee interest in any Unit which is subject to

the Declaration shall be a member of the Association, provided, however, that persons or entities who hold an interest merely as security for the performance of an obligation shall not be members. Membership shall be appurtenant to and may not be separate from ownership of any Unit which is part of the condominium.

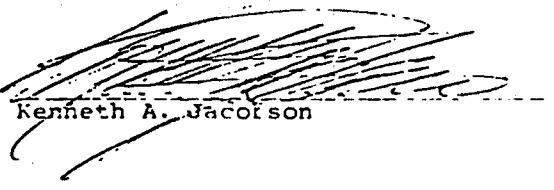
IN WITNESS WHEREOF, we have hereunto set our hands, this 12th day of June, 1984.



James R. Funderburk



Stuart N. Goldman



Kenneth A. Jacobson

STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, a notary public, on this day personally appeared James R. Funderburk, Stuart N. Goldman, Kenneth A. Jacobson, known to me to be the persons whose names are subscribed to the foregoing document and, being by me first duly sworn, severally declared that the statements herein contained are true and correct.

Given under my hand and seal of office this 12th day of June, 1984.



Notary Public, State of Texas

Jeanne C. Conkright

My Commission Expires: 1-16-88

SECTION 3

BYLAWS

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THE SEASCAPE OWNERS ASSOCIATION

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BYLAWS

OF

THE SEASCAPE OWNERS ASSOCIATION

THE SEASCAPE OWNERS ASSOCIATION, INC., also known as The Seaside Owners Association ("Association") is a Texas non-profit corporation referred to in the Declaration of Condominium (the "Declaration") of The Seaside Condominium (the "Condominium"), a condominium regime in Galveston, Galveston County, Texas, created pursuant to the provisions of the Texas Condominium Act (Texas Revised Civil Statutes Article 1301a) (the "Condominium Act"). This Association shall have all the powers of the "Co-Owners" as authorized by the Condominium Act. The terms used in these Bylaws shall have the same meanings as set forth in the Declaration, unless otherwise specifically provided. In the event of any conflict between the terms and provisions of these Bylaws and the Declaration or the Condominium Act, or both, the Condominium Act shall control over both the Declaration and these Bylaws.

ARTICLE I

Purpose and Owner Obligation

1.01. Purpose. The purpose for which this non-profit Association is formed is to govern the Condominium situated in the City of Galveston, County of Galveston, State of Texas, which Condominium is described by metes and bounds in the Declaration.

1.02. Owner Obligation. All present or future owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of any unit ("Unit") in the Condominium or the mere act of occupancy of any such Unit shall evidence that these Bylaws are accepted, ratified and will be strictly followed.

ARTICLE II

Voting by Owners

2.01. Voting. Each Owner of a Unit in the Condominium shall be entitled to one (1) vote for each Unit owned by a Owner, which vote shall be weighted to equal the proportionate share of ownership of the Owner in the Common Areas. Voting shall not be split among more than one (1) Owner. The present number of votes that can be cast by the Owners is one hundred thirty-five (135). The combined weighted votes calculated in accordance with Exhibit "C" to the Declaration shall equal one hundred percent (100%). Should additional property be annexed in accordance with Paragraph 2.11 of the Declaration, the total number of votes shall be increased accordingly, and the weighted average adjusted to total one hundred percent (100%). Each Owner of a Unit, whether such ownership interest is whole or fractional, shall be a member ("Member") of the Association who will have the responsibility of administering the Condominium through a Board of Directors.

2.02. Notice of Membership. No Member, other than the Declarant, shall be entitled to vote at any meeting of the Association until such Member has presented evidence of ownership of a Unit in the Condominium to the Secretary of the Association.

2.03. Termination of Membership. Membership in the Association shall terminate without any formal Association action whenever such Member ceases to own a Unit. Such termination shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with the Condominium during the period of such ownership and membership in the Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and Member arising out of or in connection with such ownership and membership and the covenants and obligations incident thereto.

ARTICLE III

Administration

3.01. Declarant Control. Notwithstanding any provision herein to the contrary, and in accordance with Paragraphs 4.2 and 4.3 of the Declaration, Funderburk Goldman Development, Inc. ("Declarant") shall retain control over the management of the affairs of the Association. This retention of control shall be for the benefit of the Owners of each Unit and any Mortgagees of record and for the purpose of insuring both a complete and orderly build-out and a timely sell-out of the Condominium, including any annexations. This control shall last no longer than June 1, 1989, or upon the sale of seventy-five percent (75%) of the Units, including subsequent annexations, whichever occurs first ("Declarant Control Period").

ARTICLE IV

Meetings

4.01. Annual Meetings. The first meeting of the Members of the Association shall be called by the Declarant after the end of the Declarant Control Period upon not less than ten (10) days nor more than thirty (30) days notice to each Member before such meeting. Thereafter, an annual meeting of the Members of the Association shall be held in the principal office of the Association or at such other place as may be designated by the Board of Directors at 8:00 o'clock p.m. on the third Tuesday in March of each calendar year (or the first business day thereafter if such day is a governmental or religious holiday). At the discretion of the Board of Directors, the annual meeting of the Members of the Association may be held at such other reasonable time (not more than sixty (60) days prior to or subsequent to the aforesaid date) as may be designated by written notice of the Board of Directors delivered to the Members not less than ten (10) nor more than thirty (30) days prior to the date fixed for said meeting.

4.02. Notice. Any notice permitted or required to be given to a Member may be delivered personally, by mail or by placing such notice in the mail distribution facilities ("distribution facilities") of each Member, if such facilities are present in the Condominium. If delivery is made by mail, or by placing the same in the distribution facilities, it shall be deemed to have been delivered seventy-two (72) hours after deposit in the distribution facilities or U.S. Mail, postage prepaid, addressed to a Member at his Unit or to such other address as the Member may have given in writing to the Secretary of the Association for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Secretary. For the purpose of determining the Members entitled to notice of a meeting and to vote at any meeting, the membership of the Association

shall be determined at the close of business on the twenty-fifth (25th) day preceding such meeting. Such notice shall be delivered personally, by mail or by placing the same in the Condominium's mail distribution facilities not less than ten (10) days nor more than thirty (30) days before the date of such meeting and shall state the date, time and place of the meeting and the purpose or purposes thereof.

4.03. Special Meetings. Special meetings of the Members may be called by the President or any Vice President of the Association at any time or may be called upon petition to the President by ten percent (10%) of the Members in the Association or by a majority of the Board of Directors. Written or printed notice stating the place, day and hour of such special meeting and the purpose or purposes for which the special meeting is called shall be delivered to each Member not less than ten (10) nor more than thirty (30) days before the date of such meeting. No other business shall be transacted at a special meeting except as stated in the notice unless by consent of eighty percent (80%) of the Owners of Unit present, either in person or by proxy.

4.04. Quorum. The presence in person, or by proxy of the Members representing an aggregate of more than fifty percent (50%) of the votes entitled to be cast by the Members, shall constitute a quorum for holding any meeting of the Association. If, however, such quorum shall not be present or represented at any meeting of the Association, the Members present in person or represented by proxy shall have the power to adjourn and reconvene the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such reconvened meeting, at which a quorum shall be presented or represented by proxy, any business may be transacted as was set out in the notification of the original meeting.

4.05. Proxies. At any meeting of the Association votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Association at or before the appointed time of each meeting of the Association.

4.06. Majority Vote. When a quorum is present at any meeting of the Association, the vote by the Members present in person or by proxy at such meeting of a majority (an aggregate of more than fifty percent (50%) of the votes entitled to be cast by the Members present or represented by proxy at such meeting) shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of the Condominium Act, the Declaration or these Bylaws, a different vote is required, in which case such express provision shall govern and control a vote on such question.

4.07. Cumulative Voting Prohibited. At meetings of the Association, cumulative voting shall be prohibited.

4.08. Order of Business. The order of business at all meetings of the Owners of Units shall be as follows:

- (A) Roll Call;
- (B) Proof of notice of meeting or waiver of notice;
- (C) Reading of minutes of preceding meeting;
- (D) Reports of Officers;
- (E) Reports of Committees;
- (F) Election of Directors;
- (G) Unfinished Business; and
- (H) New Business.

ARTICLE V

Board of Directors

5.01. Number, Qualification and Election. The affairs of the Association shall be governed by a Board of Directors composed initially of five (5) persons who, except in the case of the First Board, the Second Board and the Third Board, as such terms are defined below in this Article 5.01, are members of the Association, spouses of members or, in the event that a Unit is owned by a corporate or other business entity, an officer or director of such entity who resides in the Unit owned by such entity. The foregoing persons shall act in such capacity and shall manage the affairs of the Association until their successors are elected, as follows:

(A) Prior to the first meeting of the Members of the Association, the five (5) Directors comprising the Board of Directors shall have been appointed by the Declarant ("the First Board"), and such Directors shall serve for such first meeting and shall thereafter continue to serve until the first annual meeting of the Members of the Association.

(B) At the first annual meeting of the Members of the Association, two (2) Directors shall be elected by the Members, to serve for a term of three (3) years ("the Second Board"). The two (2) Directors so elected shall replace two (2) of the original five (5) Directors initially appointed by the Declarant, and the Declarant shall designate which two (2) Directors shall be so replaced.

(C) At the second annual meeting of the Members of the Association, two (2) Directors shall be elected by the Members, to serve for a term of three (3) years ("the Third Board"). The two (2) Directors so elected shall replace two (2) of the original five (5) Directors initially appointed by the Declarant, and the Declarant shall designate which two (2) Directors shall be so replaced.

(D) At the third annual meeting of the Members of the Association, one (1) Director shall be elected by the Members to serve for a term of three (3) years. The one (1) Director so elected shall replace the remaining one (1) Director initially appointed by the Declarant.

(E) At the fourth annual meeting of the Members of the Association, and at each annual meeting of the Members of the Association thereafter, two (2) and/or one (1) Directors, as the case may be, shall be elected by the Members of the Association to serve for a term of three (3) years.

The Directors (other than those appointed by the Declarant) shall serve for their respective designated terms, commencing at the time of their election until their death, resignation, removal or until they are no longer Members of the Association, whichever occurs first. Those Directors appointed by the Declarant shall serve from their appointment until their death, resignation, removal, appointment of a successor Director by the Declarant, or until such time as their position as Director is filled by means of election by the Members of the Association as provided for in this Article 5.01, provided, however, that the Declarant shall at all times have the right to remove any such appointed Director, with or without cause, and appoint a successor Director for the unexpired portion of such removed Director's term.

5.02. Nomination. For those Directors to be elected by the Association, nomination for election to the Board of Directors shall be made by a nominating committee which shall consist of a chairman, who shall be a Director, and two or more Members, who shall have been appointed by the Board of Directors prior to each annual meeting of the Members (except the initial nominating committee, which shall be appointed by the initial Board of Directors to serve from the close of the first meeting of the Members of the Association until the close of the first annual meeting) and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it determines in its discretion to be appropriate, but not less than the number of vacancies that are to be filled.

5.03. Election. Election to the Board of Directors, or to fill a vacancy left on the Board of Directors as a result of a vote cast by the Association, shall be by secret written ballot. The Members may cast, in person or by proxy, in respect to each vacancy on the Board of Directors such votes as they are entitled to exercise under the provisions of the Declaration. Persons receiving the largest number of votes shall be elected.

5.04. Removal and Vacancies. Any member of the Board of Directors appointed by the Declarant may be removed from membership on the Board of Directors, for cause only, by the affirmative vote of two-thirds (2/3rds) of the votes represented at a special meeting of the Members of the Association called to consider such action, or at an annual meeting. A replacement for such Director other than those Directors appointed by the Declarant may be removed from membership on the Board of Directors with or without cause, by the affirmative vote of two-thirds (2/3rds) of the votes represented at a special meeting of the Members of the Association called to consider such action, or at an annual meeting. Any Director whose removal has been proposed by the Association shall be given an opportunity to be heard at the meeting. Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Each Director so elected shall serve out the remaining term of his predecessor.

5.05. Compensation and Expenses. No Director shall receive any compensation from the Association for acting as such, but shall be reimbursed for reasonable expenses incurred while serving in such capacity.

5.06. Action by Written Consent. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

5.07. Regular Meetings. The annual meeting of the Board of Directors shall be held each year immediately following the annual meeting of the Association, at the place of such annual meeting, for the election of officers and consideration of any other business that may be properly brought before such annual meeting. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings shall be given

to each Director, personally or by mail, telephone or telegraph, at least two (2) days prior to the date designated for such meeting. Regular meetings of the Board of Directors may be either open or closed to persons other than Directors, as the Board of Directors may in its sole discretion determine.

5.08. Special Meetings. Special meetings of the Directors may be called by the President or Secretary, or upon the written request of at least two (2) Directors. Not less than three (3) days' notice of the meeting shall be given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors may be either open or closed to persons other than Directors, as the Board of Directors may in its sole discretion determine.

5.09. Notice. Any notice permitted or required to be given to a Director may be delivered personally or by certified or registered mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after deposit in the U.S. Mail, postage prepaid, addressed to the Director at the address given in writing by such Director to the Secretary of the Association for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Secretary.

5.10. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver, if in writing and signed by such Director, shall be deemed equivalent to the giving of notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time and place and purpose thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

5.11. Quorum. A quorum at a meeting of the Board of Directors shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number is required by the Declaration or by these Bylaws. If, at any meeting of the Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without additional notice.

5.12. Consent to Action. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

5.13. Powers and Duties. All of the powers and duties of the Association existing under the Condominium Act, the Declaration and these Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by the Members when such approval is specifically required. Such powers and duties shall include, but shall not be limited to, the following, subject, however, to the provisions of the Condominium Act, the Declaration and these Bylaws:

(A) To fix, determine and collect the monthly prorated assessments to be paid by each of the Members, and to adjust or increase the amount of the monthly assessments subject to

the provisions of the Declaration; to collect special assessments in order to meet increased operating, legal, or maintenance expense or costs, and additional capital expense. To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from a Member, as provided in the Declaration and Bylaws;

(B) To maintain and operate the Condominium, and to repair or replace any property or facilities pertaining thereto and as provided in the Declaration;

(C) To purchase insurance upon the Condominium for the protection of the Members as required by, and pursuant to, the Declaration;

(D) To protect and defend the Condominium from loss and damage by suit or otherwise;

(E) To establish, make and enforce compliance with rules for the orderly operation, use and occupancy of the Condominium (a copy of such rules and regulations shall be mailed or delivered to each Member upon adoption thereof).

(F) To administer and enforce the covenants, conditions, restrictions, uses, limitations, obligations and all other provisions set forth in the Declaration;

(G) To approve or disapprove of the transfer of Units by sale in the manner provided by the Declaration;

(H) To arrange for and purchase water, sewer, garbage, electrical, chilled water, gas, and other necessary utility services for the Common Area and (to the extent not separately metered and charged) for the Units;

(I) To contract for management of the Condominium and to delegate to a Managing Agent all powers and duties of the Board of Directors except such as are specifically required by the Condominium Act, the Declaration and these Bylaws to have approval of the Members.

(J) To employ personnel to perform the services required for proper operation of the Condominium;

(K) To borrow funds in order to pay for any required expenditure or outlay to execute all such instruments evidencing such indebtedness which shall be the several obligations of all of the Owners of Units in the same proportion as their interest in the Common Elements;

(L) To enter into contracts within the scope of their duties and powers;

(M) To establish a bank account for the common treasury for all separate funds which are required or may be deemed advisable by the Board of Directors;

(N) To keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements and to permit examination thereof upon the request in writing

by an owner, and to cause a complete audit of the books and accounts by a competent accountant, once each year. The Association shall cause to be prepared and delivered annually to each Owner an audited statement showing all receipts, expenses or disbursements since the last such statement; and

(O) In general, to carry on the administration of this Association and to do all of those things, necessary and reasonable, in order to carry out the communal aspect of Condominium ownership, including and without limitation the fiscal management, physical management, and administrative management of the Condominium.

ARTICLE VI

Officers

6.01. Executive Officers. The executive officers of the Association shall be a President, a Vice President, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors from among the Members of the Board of Directors and who may be pre-emptorily removed with or without cause by vote of the Board of Directors at any meeting. Any person may hold two or more offices, except that the President shall not also be the Secretary. The Board of Directors may, from time to time, elect such other officers and designate their powers and duties as the Board of Directors shall find to be required to manage the affairs of the Association.

6.02. President. The President shall be the chief executive officer of the Association and shall have all of the powers and duties which are usually vested in the office of President of an organized association including, but not limited to, the power to appoint committees from among the Owners from time to time that, in the exercise of the President's discretion, are determined to be appropriate to assist in the conduct of the affairs of the Association.

6.03. Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President and shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board of Directors.

6.04. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of the Secretary. The Secretary shall compile and keep up-to-date at the principal office of the Association a complete list of Members and their last known addresses as shown on the records of the Association. Such list shall show opposite each Member's name, the number of Members living in the Unit and the parking space and storage space assigned for use in connection with such Unit. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

6.05. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors

shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board of Directors, including authority to: sign all checks and promissory notes of the Association; keep proper books of account; cause an annual statement of the Association's books to be made at the completion of each fiscal year; prepare an annual budget and a statement of income expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members; and perform all other duties assigned to him by the Board of Directors.

6.06. Compensation. The compensation of all officers and employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the Condominium.

ARTICLE VII

Delegation of Board of Directors Duties

7.01. Subject to the provisions of Article 5.13(I), above, the Board of Directors may delegate any of its duties, powers or functions to a Managing Agent, upon terms and conditions agreed upon by the Board of Directors. The Members of the Board of Directors shall not be liable for any omission or improper exercise by the Managing Agent of any such duty, power or function so delegated by written instrument executed by a majority of the Board of Directors.

ARTICLE VIII

Records

8.01. The Board of Directors or the Managing Agent shall keep or cause to be kept a set of financial books containing a detailed account of the receipts and expenditures affecting the Condominium and its administration, the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Condominium. Such financial books and records shall be available for examination by all of the Owners (or their designees) at convenient hours established by the Board of Directors or the Managing Agent on working days. All books and records shall be kept in accordance with generally accepted accounting procedures.

ARTICLE IX

Indemnification of Officers and Directors

9.01. **Indemnification.** The Association shall indemnify every Director or officer, their respective heirs, legal representatives, successors or assigns, against all loss, cost and expense, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or officer of the Association, except in matters of gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters in which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such Director or officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director or officer may be entitled. All liability, loss,

damage, cost and expense incurred or suffered by the Association in connection with the foregoing indemnification provision shall be treated and handled by the Association as Common Expenses; provided, however, nothing contained in this Article IX shall be deemed to obligate the Association to indemnify any Member or Owner of a Unit, who is or has been a Director or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Declaration as a Member or Owner of a Unit covered thereby.

ARTICLE X

Obligations of the Owners

10.01. Assessments. All Owners of Units shall be obligated to pay the monthly assessments imposed by the Association to meeting the Common Expenses as defined in the Declaration. The assessments shall be made pro rata according to the proportionate share of the Unit Owner in and to the Common Elements and shall be due monthly in advance in accordance with the Declaration. A Member shall be deemed to be in good standing and entitled to vote at any annual or special meeting of Members, within the meaning of these Bylaws, only if he is current in the assessments made or levied against him and the Unit owned by him.

10.02. General. Each Owner shall comply strictly with the provisions of the Condominium Declaration for SEASCAPE. Each Owner shall always endeavor to observe and promote the cooperative purposes for which the Project was built.

10.03. Use of General Common Elements and Limited Common Elements. Each Owner may use the General Common Elements and the Limited Common Elements in accordance with the purposes for which they were intended.

10.04. Destruction or Obsolescence. Each Owner shall, if necessary, execute a power of attorney in favor of the Association, irrevocably appointing the Association his Attorney-In-Fact to deal with the Owner's Unit upon its destruction, obsolescence or condemnation, as is provided in Paragraph 6.1 of the Declaration.

ARTICLE XI

Other Transactions

11.01. Transactions with Members, Directors and Officers.

(A) Subject to the restrictions set forth in Article 11.01(B), below, the Association may enter into contracts or transact business with one or more of its Directors, officers, or a Member or with any firm of which one or more of its Directors, officers, or a Member are Members or employees, or in which they are otherwise interested, or with any corporation or association in which any of its Directors, officers, or a Member is a stockholder, director or officer, member, employee or otherwise interested. No such contract or other transaction shall be void or voidable or otherwise affected by reason of such directorship, office, membership in, employment by, stock ownership in or other interest in the corporation or association or any such membership in, employment by or interest in such other firm, notwithstanding that the Director, officer, or a Member of the Association having any such position, status or interest with such other firm, corporation or association was

present at the meeting necessary to authorize, approve, ratify or otherwise obligate the Association upon such contract or transaction, if Articles 11.01(B)(i) and (ii), below, are satisfied.

(B) Article 11.01(A), above, shall apply only if:

(i) The material facts of the relationship or interest of each such Director, officer, or Member are known or disclosed:

(a) To the Board of Directors and it authorizes, approves, or ratifies the contract or transaction by a majority of the Directors present at the meeting at which a quorum of Directors is present (or unanimously without a meeting), each such interested Director not to be counted (in the case of a meeting of the Board of Directors) in determining whether a quorum is present and not to be counted in calculating the majority necessary to carry the vote; or

(b) To the Association at an annual meeting or a meeting specially called for such purpose and it authorizes, approves or ratifies the contract or transaction by unanimous written consent or by a majority vote (as provided in Article 4.06, above) of those Members in attendance (in person or by proxy) at a meeting of the Association at which a quorum is present, each such interested Member not to be counted for both quorum and voting purposes; and

(ii) The contract or transaction is fair, just and beneficial to the Association at the time it is authorized, approved or ratified by the Board of Directors or the Association; provided, however, that such contract or transaction shall be presumed to be fair, just and beneficial to the Association at such time of authorization, approval or ratification merely upon the basis of satisfaction of Article 11.01(B)(i), above.

(C) This Article 11.01 shall not be construed to make any Director, officer or Member liable to account to the Association by reason of such directorship, office, or ownership for any profits realized by, from, or through any such transaction or contract with the Association.

(D) Nothing contained in this Article 11.01 shall create liability in the above-described events or prevent the authorization, ratification or approval of such transactions or contracts in any other manner permitted by law. This Article 11.01 shall not be construed to invalidate any contract or other transaction which would otherwise be valid under the common or statutory law applicable thereto or which would otherwise be valid in the absence of this provision.

ARTICLE XII

Amendments to Plan of Condominium Ownership

12.01. Bylaws.

(A) After relinquishment of Declarant Control Period of the Association, as set forth in Article III, these Bylaws may be amended by the Association at a duly constituted meeting for such purpose, and no amendment shall take effect unless approved by Owners representing at least sixty-six and two-thirds percent (66-2/3%) of the aggregate interest of the undivided Ownership of the Common Elements except for those amendments provided for in VII of the Declaration which shall require the approval of Owners and Mortgagees as provided therein. In no event shall the Bylaws be amended to conflict with the Declaration. In the event of a conflict between the two (2) documents, the Declaration shall control.

(B) Until relinquishment of Declarant Control Period of the Association, these Bylaws may be unilaterally amended by the Declarant to correct any clerical or typographical error or omission, or to change any provision to meet the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration. After the Declarant Control Period, the Board of Directors have the right to amend the Declaration or Bylaws, without the joinder of the other Owners, in order to correct any clerical or typographical errors or omissions, or in order to meet the requirements of one of the above listed agencies.

ARTICLE XIII

Mortgages

13.01. Notice to Association. An Owner who mortgages his Unit shall notify the Association giving the name and address of his Mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Condominium Units."

13.02. Notice of Unpaid Assessments. The Association shall, at the request of a Mortgagee of a Unit, report any unpaid assessments due from the Owner of such Unit.

ARTICLE XIV

Compliance

14.01. Legal Requirements. These Bylaws are set forth to comply with the requirements of the State of Texas Condominium Act. If any of these Bylaws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply.

ARTICLE XV

Non-Profit Association

15.01. Non-Profit Purpose. This Association is not organized for profit. Except as otherwise provided for in Article XI, no Unit Owner, Member of the Board of Directors or person from whom the Association may receive any property or funds shall receive or

shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be paid as a salary or as compensation to, or distributed to or inure to the benefit of any Member of the Board of Directors; provided, however, always (i) that reasonable compensation may be paid to any Member while acting as an agent or employee of the Association for services rendered in effecting one (1) or more of the purposes of the Association, and (ii) that any Member of the Board of Directors may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

ARTICLE XVI

Principal Office

16.01. Address. The principal office of the Association shall be located at 5225 Katy Freeway, Suite 600, Houston, Texas 77007, but may be located at such other suitable and convenient place as shall be permitted by law and designated by the Directors.

ARTICLE XVII

Execution of Instruments

17.01. Authorized Agents. The person who shall be authorized to execute any and all instruments of conveyance or encumbrances, including promissory notes, shall be the President and the Secretary of the Association.

ARTICLE XVIII

Corporate Seal

18.01. Corporate Seal. The Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association.

ARTICLE XIX

Definitions of Terms

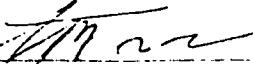
19.01. Definitions of Terms. The terms used in these Bylaws, to the extent they are defined in said Declaration, shall have the same definition as set forth in the Declaration, as the same may be amended from time to time, recorded in the office of the County Clerk of Galveston County, Texas.

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, complete and correct copy of the Bylaws of THE SEASCAPE OWNERS ASSOCIATION, INC., a Texas non-profit corporation, as adopted by the initial Board of Directors at its organization meeting on the 12th day of June, 1984.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Seal of the Corporation, this the 12th day of June, A.D., 1984.

FUNDERBURK GOLDMAN DEVELOPMENT, INC.

BY: 
STUART N. GOLDMAN, Secretary

SECTION 4

PROJECTED OPERATING BUDGET

SEASCAPE CONDOMINIUMS
10811 San Luis Pass Road
Galveston, Texas 77551

STATEMENT OF ANNUAL PROJECT OPERATING BUDGET AND RESERVES
FOR THE YEAR 1984

Gross Annual Income

Unit Assessment:

Unit Type	Number of Units				
A	63	x \$163.13/mo =	10,277.19	x 12 =	\$123,326.2
B	12	x \$154.40/mo =	1,852.80	x 12 =	\$ 22,234.0
C	24	x \$241.36/mo =	5,792.64	x 12 =	\$ 69,512.0
D	18	x \$241.36/mo =	4,344.48	x 12 =	\$ 52,134.0
E	12	x \$241.36/mo =	2,896.32	x 12 =	\$ 34,756.0
F	6	x \$240.41/mo =	1,442.46	x 12 =	\$ 17,310.0

Gross Annual Income/Unit Assessments: = \$319,272

Other Income (coin laundry, late charges, gazebo, vending machines, game room, misc.) 10,903

TOTAL ANNUAL INCOME \$330,175

EXPENSES:

Administrative Expenses:

Office expenses, supplies, equipment rental, etc.	\$ 7,300.00
Telephone	3,600.00
Office salaries: Manager	9,000.00
Accounting	5,000.00
Administrative Assistant	7,300.00
Management Fee (Riviera Management)	24,000.00
Legal and Audit	4,000.00
	1,000.00

Operating Expenses:

Utilities: Gas	12,000.00
Electricity	12,700.00
Water & Sewer	15,400.00
Trash and Garbage Removal	2,350.00
Exterminating	1,700.00
Supplies	1,700.00
Small Tools	2,500.00

Repairs and Maintenance:

Cleaning expenses and supplies	2,300.00
Building maintenance and repairs	13,900.00
Elevator maintenance and repairs	3,000.00
Heating and air conditioning maintenance and repairs	1,000.00
Pool maintenance and repairs	2,000.00
Parking area maintenance and repairs	1,000.00
Private Street maintenance and repairs	1,000.00
Gardening and yard maintenance and repairs (including shrub replacement)	7,200.00

Electrical repair, beach maintenance, tennis court maintenance

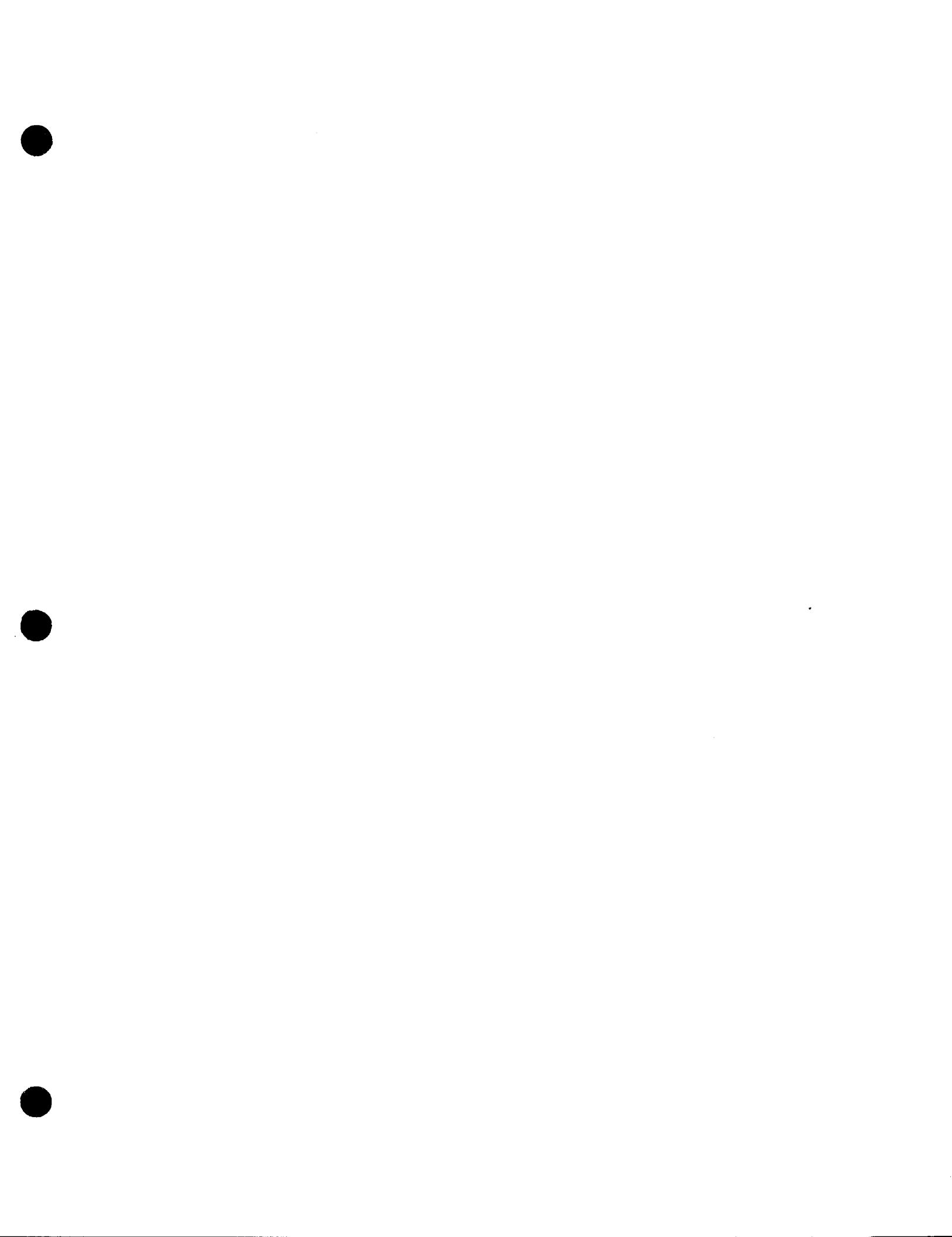
Salaries: Contract Securities	4,350.00
Contract Engineering	24,700.00
Contract Grounds	15,000.00
Contract Pool	10,000.00
Contract Common Area	4,000.00
	7,000.00

Fixed Expenses: Insurance premiums

97,500.00

Total Expenses:

303,500.00



Seascape Condominiums
Statement of Annual Project Operating Budget and Reserves
Page Two

Replacement Reserves:

	Yrs of Estimated Remaining Life	Expected Replace- ment Costs	Average Yearly Cos
Tennis Court	9	\$17,500.00	\$ 1,950.00
Roof	25	85,000.00	3,400.00
Boilers	15	14,000.00	900.00
Air Conditioning Systems	5	7,000.00	1,400.00
Fire and Sump Pump	15	12,000.00	800.00
Carpet and Tile/Common Area	4	2,500.00	625.00
Pool Equipment	3	1,200.00	400.00
Exterior Painting	3	49,200.00	16,400.00
Contingency	30	24,000.00	800.00
Total Replacement Reserves		10,903.00	

TOTAL ANNUAL EXPENSES AND REPLACEMENT RESERVES:

330,175.00

NOTES

1. Reserves are calculated using current cost data.
2. The amounts in the budgets are calculated using current cost data. Nevertheless, said amounts are estimates only and the actual amounts may vary depending upon changes in costs and services.
3. These budgets do not include items of expense that are personal to unit owners or which are not uniformly incurred by all unit owners or which are not provided for nor contemplated by the condominium documents, including but not limited to private telephone costs, cost of maintenance of the interior of the condominium units to the extent that such maintenance is not the obligation of the condominium or Association, the cost of maid or janitorial services privately contracted for by the unit owners, cost of utility bills billed directly to each unit owner for utility service or supplied to his unit, including cable television, insurance premiums other than those incurred in respect of policies obtained by the condominium or Association and applicable to the condominium or Association property in general, debt servicing upon any mortgage encumbering the individual unit but not encumbering the condominium or Association property as a whole, real estate taxes assessed directly to a condominium unit, and like personal expenses of the unit owner.
4. While the budgets reflect the estimated annual expenses of the Association and the unit owners, the By-Laws of the Association provide that the assessments will be determined annually in advance and will be due and payable in monthly installments.
5. At closing, each unit owner will pay a one time operating capital contribution in an amount equal to one quarter's assessment.

SECTION 5
RULES AND REGULATIONS

THE SEASCAPE OWNERS ASSOCIATION, INC.

Rules & Regulations

The pleasant atmosphere of condominium living is greatly enhanced by a congenial atmosphere in which all residents have proper regard for the comfort of others. For this reason these rules and regulations have been adopted by the Seaside Owners Association in order to assure residents and their guests that the condominium property will be properly used for the benefit of all those persons. All residents are requested to cooperate with the management in seeing that the rules and regulations are observed.

1. CONDOMINIUM LIVING. Condominium living requires that each resident regulate the occupancy and use of his unit so as not to unreasonably or unnecessarily disturb any other resident in the occupancy and use of his unit. All residents are requested to use their units accordingly.

2. RESIDENTS AND GUESTS. The facilities of Seaside are for the use and enjoyment of residents and house guests only. Visitors will be permitted to use the facilities only as guests of residents who will remain responsible for acts of their guests. Residents are requested to register their house guests with the management office in order to facilitate the receipt and forwarding of mail and the handling of telephone calls.

3. CHILDREN'S ACTIVITIES. Children are welcome in Seaside and there is no desire to restrict their normal activities. Nevertheless, they are required to observe the same restrictions that apply to adults. This precludes the playful use of equipment, the use of any common areas in the building for play areas, or any other conduct that will interfere with the quiet and comfort of the residents. Adult residents with whom children are living will be held responsible for the observance of these rules and regulations by the children.

4. SECURITY. The management will attempt to provide security for residents, but all residents must cooperate if effective security is to be obtained. This requires that all unit doors be locked at all times; solicitors are not allowed to enter a unit without an appointment; and all suspicious appearing persons or incidents should be reported immediately to the management.

5. USE OF UNITS.

(a) Air Conditioning. When the air conditioning unit is operating it is not advisable to open windows or doors. This is because the moisture in the warm air which is admitted will condense with resultant dampness and mildew in the unit.

(b) Equipment Failure. Equipment shall be used only for the purposes intended. Failure of any equipment shall be reported immediately to the management regardless of the responsibility for maintenance in order that proper precautions may be taken to avoid damage of other equipment. Each unit owner shall be liable for all damage caused by misuse of equipment by the residents or guests of the owner's unit.

(c) Fire Hazards. No article shall be stored nor any use made of any part of the condominium property that will constitute a fire hazard.

(d) Hanging of Objects. The hanging of bathing suits, clothing, rugs, towels or other items upon balconies or railings or from windows is prohibited.

(e) Installations. Only such awnings, blinds, shades and sunscreens shall be used in balconies or windows as are approved by the Board of Directors ("Board") in accordance with the Condominium Declaration for Seascapes.

(f) Signs. A resident may identify his unit by a name plate of a type and size approved by the Board and mounted in the place and manner approved by the Board. No other signs may be displayed in any manner except for sale or for rent signs approved by the Association and except signs of the Developer pending sale of the units.

(g) Exterior of Building. No one may mount any object upon the exterior or roof of the building without approval of the Board in writing. No one may install or use any awnings, decoration, illumination, plants or signs without approval of the Board in writing.

(h) Swimming Pool. The use of the swimming pool is limited to residents and their house guests. All bathers are required to observe the following regulations in order to comply with the requirements of public health authorities and to ensure the comfort and safety of all concerned:

(1) The pool may be used only during the hours posted near the pool.

(2) All bathers must shower immediately before entering the pool.

(3) Bathers must remove suntan lotions, creams, and bobby pins before entering the pool.

(4) No glassware may be brought into the pool deck area.

(5) There shall be no running or shouting or boisterous games played within the pool area.

(6) Children under 12 years of age are not permitted within the pool area unless accompanied by an adult who is responsible for children.

(7) THE POOL IS NOT GUARDED AND ALL PERSONS USING THE POOL DO SO AT THEIR OWN RISK.

(8) Use of rafts or floats in the pool is prohibited.

6. MANAGEMENT. The management is employed to serve the residents of the condominium, but the cost and quality of that service depends largely upon the cooperation of the residents. Excessive demands for service will either deny service to some residents or increase the cost of service to all.

7. MAID SERVICE. Maid service is available to residents through the management. If a maid is to be employed directly, it is requested that management be advised for security purposes.

8. TAR REMOVAL. Tar removal supplies are available at the beach entrance and in each Unit. All residents are encouraged to use the available supplies as needed for tar removal.

9. RENTERS. For those residents who are renting a condominium in Seascape, please remember to treat the unit you are staying in as if it were owned by you.

SECTION 6

MANAGEMENT AGREEMENT

CONDOMINIUM MANAGEMENT AGREEMENT

This Condominium Management Agreement (hereinafter called the "Agreement") made and entered into this 16th day of July, 1984, by and between The Seascape Owners Association, a Texas non-profit corporation (hereinafter called the "Association"), F-G Management Inc., a Texas Corporation, doing business as Riviera Management, (hereinafter called the "Agent").

In consideration of the mutual agreements herein contained, the Association and the Agent agree as follows:

1. The Association hereby engages the Agent exclusively to manage the condominium property known as Seascape Condominiums, in Galveston County, Texas, initially consisting of 135 residential units and such other units as may be added (hereinafter called the "Condominium"), upon the terms and conditions hereinafter set forth, for a three year term (hereinafter referred to as "Term"), commencing July 16, 1984 and expiring on the third anniversary date hereof. This Agreement shall be terminable by either party upon ninety (90) days or less prior written notice, without cause and without payment of a termination fee.
2. The Agent agrees to accept the management of the Condominium to the extent, for the period, and upon the terms and conditions herein provided, and to furnish the services of its management organization to conduct the management of the Condominium as provided in this Agreement, and to use its best efforts to operate the Condominium as a first-class residential and condominium building within the policy guidelines and financial budget approved by the Association's Board of Directors (hereinafter called the "Board"). Agent also covenants to furnish its best skills and judgment, its well-recognized management expertise and to cooperate in furthering the interests of the Association. Agent agrees to furnish efficient and economical business administration, supervision and services and to perform its responsibilities, both administrative and advisory, consistent with the performance of other first-class management firms managing similar first-class condominium buildings in the Houston-Galveston metropolitan area.

The Association hereby gives to the Agent the following authority and powers and agrees to assume the expense in connection therewith:

- 2.1 The Agent shall collect and, as necessary, receipt for all monthly or other assessments and other charges due to the Association for operation of the Condominium and all rental or other payments from concessionaires, if any; provided that the Agent shall have no responsibility for collection of delinquent assessments or such other charges except sending notices of delinquency.
- 2.2 The Agent shall maintain records showing all its receipts and expenditures relating to the Condominium and shall promptly submit to the Board a cash receipts and disbursements statement for the preceding month and a statement indicating the balance or deficit in the Agent's account for the Condominium. In case funds on hand are insufficient to pay for expenses as they come due, the Board agrees to attempt to raise the necessary funds upon notification from the Agent of the deficiency pursuant to the procedures provided for in Article V of the Declaration.

- 2.3 The Agent shall prepare and submit to the Board a budget in accordance with Paragraph 5 below.
- 2.4 Within 30 days after the end of each budget year, the Agent shall submit to the Board a summary of all receipts and expenditures relating to the Condominium for the preceding year, provided that this service shall not be construed to require the Agent to supply an audit. Any audit required by the Board shall be prepared at its expense by accountants of its selection. Agent agrees to keep and maintain its books and records with respect to the Condominium in such form and substance as may be reasonably required by the Board.
- 2.5 Subject to the current budget approved by the Board, or otherwise at the direction of the Board and at the expense of the Association, the Agent shall cause the common elements of the Condominium to be maintained and operated according to the Condominium Declaration for Seascape dated June 12, 1984 (hereinafter called the "Declaration"), a copy of which has been furnished to Agent, and according to appropriate standards of maintenance and operation consistent with the first class character of the Condominium.
- 2.6 Agent shall, as necessary, select, hire and discharge, all personnel required to maintain and operate the Condominium. All such personnel shall be and remain employees of Agent. The Agent shall be reimbursed for all salaries, group medical insurance premiums, benefits, employment taxes and other similar expenses payable on account of these employees, and such reimbursement shall be shown as an operating expense of the Association.
- 2.7 Subject to the direction of the Board, the Agent shall negotiate and submit to the Board all service and/or supply contracts which are non cancellable by the Association upon sixty (60) days' notice without penalty. The Agent shall not execute any such contract on behalf of the Association unless specifically delegated the power to do so by the Board. The Agent shall purchase on behalf of the Association such equipment, tools, appliances, materials, and supplies as are necessary for the proper operation and maintenance of the Condominium. All such purchases and contracts shall be in the name of, and at the expense of, the Association.
- 2.8 The Agent shall pay from the funds of the Association all building and elevator inspection fees, water rates and other governmental charges, and all other charges or obligations incurred by the Association, with respect to the maintenance or operation of the Condominium or incurred by the Agent on behalf of the Association pursuant to the terms of this Agreement or pursuant to other authority granted by the Board.
- 2.9 Agent has no interests in any firms supplying goods or services to the Association and has disclosed any relationship it has or shall have with any individual member of the Board. Agent shall not enter into any agreement to provide goods or services to the Association with any party, partnership, corporation or other entity related to or affiliated with Agent, its directors, officers or employees without the prior written approval of the Board. For the purpose hereof, "affiliate" shall have the meaning set forth in Rule 405 of Regulation C of the Securities Act of 1933 as amended.
- 2.10 The Agent shall obtain insurance coverages on behalf of the Association and the Condominium in accordance with the Declaration and the direction of the Board. The

Agent shall maintain appropriate records of all insurance coverage carried by the Association. The Agent shall cooperate with the Board in investigating and reporting all accidents or claims for damage relating to the ownership, operation, and maintenance of the common elements of the Condominium including any damage or destruction to them. The Agent shall further review the insurance coverage periodically (at least annually) with competent insurance specialists and make recommendations to the Board consistent with the Declaration.

- 3.1 In discharging its responsibilities under Paragraph 2 above and subject to the provisions of said Paragraph 2, the Agent shall not make any expenditures exceeding the amount budgeted for such expenditure, nor make any capital expenditure not specifically identified in the budget without the prior consent of the Board. Notwithstanding these limitations, the Agent may, on behalf of the Association without prior consent, expend any amount reasonably required to deal with emergency conditions which may involve a danger of life or property or may threaten the safety of the Condominium or the owners of any of the units in the Condominium (hereinafter called the "Owners") or occupants or may threaten the suspension of any necessary service to the Condominium.
- 3.2 Except as approved by the Board, and except in an emergency situation as contemplated by Paragraph 3.1 above, all contractors employed to perform services or furnish materials to the Condominium of value in excess of \$1,000.00 shall, to the extent possible, be selected pursuant to competitive bidding procedures and written specifications with at least three (3) bids. Unless such contract would involve an expenditure not requiring Board approval under Paragraph 3.1, Agent shall submit a recommendation to the Board containing its evaluation of the bids, their adherence to the specifications, information as to the qualification of bidders of which the Agent has actual knowledge and such other information as may be helpful to the Board. After selection by the Board, the Agent shall oversee the activities of such contractors, including but not limited to the receiving of certificates of insurance, copies of bonds, manufacturers' warranties and releases of liens. Agent shall use its best efforts, in good faith, to review the quality of workmanship and to see that such contractors comply with the terms of their contracts and shall advise the Board of any instances in which any such contractor and Agent shall not approve payment for such services or materials until it is satisfied that all such services or materials have been supplied in conformance with such contracts; provided, however that if Agent is not negligent in its supervision of said contracts, Agent shall not be deemed to have approved the quality of any work performed by contractor or be liable in the event of a failure by any such contractor to perform according to the terms of any such contract. In each case where a contractor is retained pursuant to such competitive bidding, Agent shall maintain copies of each bid for a period of three years from the date of such bid, or during the term of management, whichever is less.
4. Agent shall furnish an on-site manager who shall perform the services customarily performed by an on-site condominium manager at similar facilities, including supervising the day-to-day operation of the Condominium including direction of all other personnel, coordinating all building repairs, maintenance and activities and performing such other services as shall be agreed upon between the Agent and the Association. Agent shall also provide a full time secretary for the on-site manager.

Agent shall also provide an appropriately furnished and equipped office located within the Condominium. The on-site manager and the head janitor, if any, shall not be hired by Agent without prior written Board approval and Agent shall promptly notify the Board of resignation of any of said personnel.

5. Not less than sixty (60) days before the beginning of each budget year (January 1), Agent shall prepare a proposed budget setting forth an itemized statement of anticipated receipts and disbursements of the Association for the prospective budget year. The Board shall consult with Agent in preparation of a final budget based upon the proposed budget and, not less than thirty (30) days prior to the commencement of the prospective budget year, Agent shall submit a final proposed budget for review and adoption by the Association. Monthly assessments for each budget year shall be based upon the final budget adopted by the Association. At such time as Agent submits the proposed annual budget of the Association to the Board, Agent shall deliver a statement outlining a proposed plan of operation and justification for the estimates made in such budget in form and content reasonably satisfactory to the Board. The budget shall be subject to review and modification by the Board and shall, as finally approved by the Association, constitute the limits on expenditures which may be made or contracted for by Agent on behalf of the Association. Except for emergency expenditures as provided in Paragraph 3 above and utility expenditures, without the prior consent of the Board, no expenses may be incurred for commitments made by Agent in connection with the operation of the Condominium in excess of the amounts allocated to the various classifications of expenses in the budget as finally approved.
6. Notwithstanding any other provision of this Agreement, the Agent has no authority or responsibility for maintenance of or repair to other than the Condominium common elements (which includes all limited common elements).
7. Notwithstanding anything to the contrary herein contained, Agent shall not commingle any Association funds with its own funds or those of any other entity. Any funds of the Association not reasonably required for the day-to-day operation of the Association shall be deposited in such banks or invested in such instruments as the Board shall direct. All funds deposited by Agent shall be fully insured by the F.D.I.C. unless the Board directs that funds be deposited in accounts which are not subject to full insurance coverage by the F.D.I.C. Agent shall not be responsible for the solvency or insolvency of any financial institution in which Association funds are deposited. Subject to Paragraph 3 above, all expenses of operation and management may be paid from the Association's funds held by the Agent and the Agent is authorized to pay any amounts owed to the Agent by the Association from such account at any time without prior notice to the Board. Subject to Paragraph 25 below, the Agent shall have no obligation to advance funds to the Association for any purpose. All of Agent's employees who handle or are responsible for the safekeeping of any monies of the Association shall be covered by a fidelity bond in an amount of not less than \$500,000.00 protecting the Association.
8. The Board shall designate one individual who shall be authorized to deal with the Agent on any matter relating to the day-to-day management of the Condominium. The Agent is directed not to accept directions or

instructions with regard to the day-to-day management of the Condominium from anyone else. In the absence of any other designation by the Board, the President of the Association shall have this authority. Any conflict in instructions from Board members shall be resolved by the President of the Association. Where Board approval is required under this Agreement, Agent may act upon the approval of the Board or its designee.

9. The Agent shall have no authority to make any structural changes in the Condominium or to make any other major alterations or additions in or to any building or equipment therein without consent of the Board, except such emergency repairs as may be required because of danger to life or property or which are immediately necessary for the preservation and safety of the Condominium or the safety of the Owners or occupants or are required to avoid the suspension of any necessary service to the Condominium.
10. Except as to any work undertaken by Agent under this Agreement, the Agent has no responsibility for the compliance of the Condominium or any of its equipment with the requirements of any ordinances, laws, rules, or regulations (including those relating to the disposal of solid, liquid, and gaseous wastes) of the City, County, State, or Federal Government, or any public authority or official thereof having jurisdiction over it, except to notify the Board promptly of, or forward to the Board promptly, any complaints, warnings, notices or summonses received by it relating to such matters. The Agent shall then take such action as may be necessary to comply promptly with any and all orders or requirements affecting the property by any governmental agency having jurisdiction over the same, unless specifically instructed by the Board that it intends to contest such orders or requirements, and that the Agent shall not comply with the same. Subject to paragraph 11 below, the Association agrees to indemnify, defend and hold harmless the Agent, its representatives, servants, and employees, of and from all loss, cost, damage, expense and liability whatsoever (including reasonable attorneys fees) which may be imposed on them or any of them by reason of any present or future violation or alleged violation of such laws, ordinances, rules or regulations.
- 11.1 Agent shall carry comprehensive public liability, boiler, and elevator liability (if elevators are part of the equipment of the Condominium) naming the Association and the Agent as insured parties requiring thirty (30) days' prior written notice to each insured prior to cancellation, and adequate to protect their respective interests and, in form, substance, and amounts reasonably satisfactory to the Agent.
- 11.2 Agent shall indemnify, defend and save the Association and its members, officers, directors, agents and employees from and against all loss, cost, damage, liability or expense (including reasonable attorneys' fees) arising from, or in connection with, or relating to any claims, suits, causes of action and actions in connection with any of the matters set forth above in subparagraphs (a) and (b) or any alleged or actual violation of state and federal labor laws.
- 11.3 The Agent shall be relieved from their respective obligations of indemnity under this paragraph 11 to the extent that any insurance proceeds are paid to the indemnitee with respect to any indemnified damage, loss or liability.

12. The Association shall pay the Agent a management fee equal to \$24,000.00 per annum for the first year of the term of this Agreement. The management fee shall be paid monthly in advance. No further charge shall be made by the Agent for the services pursuant to Paragraph 2, lock box services and the other services of the Agent's professional staff, except as otherwise expressly provided in this Agreement. Any clerical services performed for the Board, such as bookkeeping preparation, circulation, mailing and production costs of notices, newsletters, and general correspondence of the Board shall be at the expense of the Association. During the additional two-year period of the term, Agent's monthly management fee during said additional period shall be (the amount charged the agent in the second year of the initial term) multiplied by a fraction which shall have as its numerator the twelve-month average of the U.S. Consumer Price Index, all Urban Consumer, Houston Area Only (the "CPI") for the calendar year (the Base Period), and as its denominator, the twelve-month average of the CPI for the current calendar year. The monthly management fee increase in the additional two-year period shall be limited to 12%.
13. All matters of policy concerning the operation of the Association shall be within the sole and absolute discretion of the Board. Agent shall be responsible for implementation of the policies of the Board and for the day-to-day operation and maintenance of the Condominium. Agent shall assist the Board in the administration of the provisions of the Condominium instruments and the policies, rules and regulations of the Board.
14. At least fourteen (14) days prior to the annual meeting of the members of the Association, Agent shall furnish the Board with a written annual status report on the financial status and physical condition of the Condominium containing summaries of the foregoing items in form and detail satisfactory to the Board. Agent shall furnish, on or before the fifteenth (15th) business day of each month: (a) a bank reconciliation for the prior month; (b) a monthly financial statement for the prior month, including an income and expense statement, balance sheet and budget variance report; and (c) a statement of delinquent assessments.
15. Agent shall (a) advise the Board of any new statutes, laws, ordinances, and regulations relating to the physical structure of the condominium building or to hiring practices, of which the Agent has received actual notice (neither passage nor publication shall constitute actual notice hereunder), within 30 days of receipt of such notice, and (b) comply with fair housing, fair employment, equal employment and other similar laws, statutes, ordinances and regulations, except to the extent non-compliance therewith is the result of specific Board direction to the contrary.
16. Agent shall promptly investigate and make full written reports to the Board as to all accidents and claims for damage relating to personal injury or property damage in the common elements of the Condominium of which Agent becomes aware, and unless otherwise directed by the Board, shall cooperate and promptly make any and all reports required by any insurance company in connection therewith. Agent shall advise the Board as to any correspondence or notification received from any governmental body with respect to the Condominium.
17. Agent shall maintain a comprehensive system of office records in a manner satisfactory to the Board and books

and accounts in the same form as the Condominium Financial Reports presented to the Board prior to the execution hereof. Copies of contracts, filings with public agencies and financial books and accounts shall, as requested by the Board, be maintained at the Condominium. Originals of all records will be maintained by Agent; however, they shall be deemed the property of the Association; and upon request of the Board, any original contracts or other documents shall be promptly delivered to the Association. Such books, records, contracts and other documents shall be available for inspection only by the Board or its representatives or authorized agents, or the members of the Association to the extent provided by law, upon reasonable notice during normal business hours.

18. Agent shall maintain complete records of the names, telephone numbers and addresses of all owners and tenants. Agent shall furnish all information required by law in connection with re-sale of any units in the Condominium on forms submitted by the Board and collect all fees and all other charges imposed by the Board. The cost of credit reports and other charges in connection with such matters shall be expenses of the Association.
19. In the event it is alleged or charged that the Condominium or any equipment therein or any act or failure to act by the Board with respect to the Condominium or the sale, rental, or other disposition thereof fails to comply with, or is in violation of, any of the requirements of any constitutional provision, statute, ordinance, law, or regulation of any governmental body or any other or ruling of any public authority or official thereof having or claiming to have jurisdiction thereover, and the Agent in its sole and absolute discretion considers that the action or position of the Board with respect thereto may result in damage or liability to the Agent, the Agent shall have the right to cancel this Agreement at any time by written notice to the Board of its election to do so, which cancellation shall be effective upon the service of such notice. Such cancellation shall not release the indemnities of the Association or the Agent set forth in Paragraph 11 above and shall not terminate any liability or obligation of the Association or the Agent to the other for any payment, reimbursement, or other sum of money then due and payable to the other hereunder.
20. If the Agent shall be adjudicated as bankrupt or insolvent and such adjudication is not vacated within thirty (30) days; or if a receiver or trustee shall be appointed and it shall not be vacated within thirty (30) days; or if a corporate reorganization of Agent or any arrangement by statute shall be filed; or if Agent shall make an assignment for the benefit of creditors; then the same shall be cause for termination of this Agreement by the Association, effective upon service of notice of such termination.
21. Either party may terminate this Agreement, with cause, upon not less than ninety (90) days' prior written notice to the other party, which notice shall state the effective date of termination. Upon the expiration or termination of this Agreement for any reason, all books, records, documents and other materials in Agent's possession or under Agent's control shall be promptly delivered to the Board. In the event this Agreement is terminated, Agent shall not be entitled to any termination fee or other payment other than payment of Agent's monthly fee through the date of termination and reimbursement for any authorized expenses or advances made by Agent. Upon the expiration or termination of

this Agreement for any reason, Agent shall submit to the Association a final written management report of all matters applicable to the operation of the Condominium and shall deliver to the Board within seven (7) days from the date of expiration or termination, as the case may be, all original books, records, vouchers, contracts, notices and other documents pertaining to the Association in Agent's possession or control. Notwithstanding anything to the contrary herein, such termination shall not release the Association or the Agent from their respective indemnities under Paragraph 11 above.

22. Agent shall make recommendations to the Board for capital improvements and other recommendations as may be appropriate for the maintenance of the improvements in the Condominium.
23. The Agent shall have the right, at its expense, to place on the Premises signs stating that the Premises are managed by the Agent, provided that it obtains the Board's prior written approval as to size, location, content, and nature of the signs.
24. Agent shall assist the Board in preparing for all meetings of members of the Association by preparing and sending to the members of the Association notices and agendas of such meetings and ascertaining the names of those persons entitled to vote at such meetings.
25. As soon as practicable, the Board shall furnish the Agent with listings and accountings of all Owners and tenants, including names, mailing addresses, monthly assessment amounts, along with assessment account balances, in each case, as of the date of commencement of this Agreement; provided that the Association shall not be deemed to be warranting the accuracy of such listings and accounts so furnished. After such listings and accountings are delivered to Agent, and in the event that Agent thereafter fails to mail correct monthly statements to Owners with respect to assessments due to the Association on or before the fifteenth (15th) day of each month, Agent will pay to the Association with respect to such untimely statements the late charge specified in the Declaration; provided that Agent shall not be liable for incorrect billing if based upon the accountings delivered to it by the Association hereunder. Agent also shall be responsible for any penalties or interest imposed as a result of Agent's failure to pay bills in timely fashion, unless failure is due to lack of funds or other causes beyond the reasonable control of Agent.
26. Any notice required or permitted to be served hereunder may be served by registered or certified mail or in person as follows:

If to the Agent:

Riviera Management
5225 Katy Freeway, Suite 600
Houston, Texas 77007

If to the Association:

The Seascape Owner's Association
10811 San Luis Pass Road
Galveston, Texas 77551

Either party may change the address for notice by notice to the other party. Notice served by mail shall be deemed to have been served upon delivery, refusal of

delivery or designation by the postal authorities of such notice as nondeliverable.

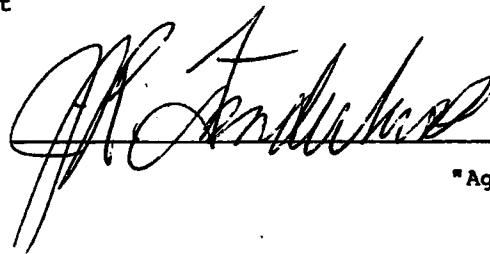
27. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Agent and the successors and assigns of the Association. Notwithstanding the preceding sentence, the Agent shall not assign its interest under this Agreement without the prior written approval of the Board and any such attempted assignment without such approval shall be invalid and ineffective.
28. This Agreement shall be governed by the laws of the State of Texas.
29. If any provision of this Agreement, or the application thereof to any person or circumstance shall to any extent be determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other provision of this Agreement, or the application thereof to any other person or circumstance and the remaining provisions or applications of provisions in this Agreement shall be enforced as if the invalid, illegal or unenforceable provision or application of a provision were not contained therein, and to that end, the parties hereto agree that the provisions or applications of provisions in this Agreement are and shall be severable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

The Seascape Owners Association, Inc.

By 
President "Association"

F-G Management Inc. d/b/a
Riviera Management

By 
"Agent"