

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND AMENDMENT TO ARTICLES OF INCORPORATION
RELATING TO PORT ROYAL, PHASES I AND II

THIS AMENDMENT is entered into effective the 1st day of May, 1997, by and between the City of Pensacola, Florida, a municipal corporation, hereinafter called "Declarant", Port Royal Owners Association, Inc., a Florida corporation, hereinafter called "Port Royal", Port Royal Phase II, Inc., a Florida corporation, hereinafter called "Phase II", and Port Royal Community Association, Inc., hereinafter called "Association".

R E C I T A L S

WHEREAS, Declarant, Port Royal of Pensacola, Inc. and Association did enter into a Declaration of Covenants, Conditions and Restrictions dated July 9, 1984 which are recorded in Official Record Book 1937 at Page 248 et seq of the public records of Escambia County, Florida, as Exhibit "F" to the Declaration of Condominium of Port Royal, as recorded in Official Record Book 1937 at page 113 et seq of the public records of Escambia County, Florida (hereinafter "Declaration"), having as its subject (1) the real property and easements described in Lease Agreement between the City of Pensacola, as Lessor and Port Royal of Pensacola, Inc., as Lessee, dated November 15, 1982 and recorded in Official Record Book 1743 at page 754 et seq of the public records of Escambia County, Florida as amended ("Lease Agreement") and (2) the adjacent property owned by the City of Pensacola lying south of Main Street and contiguous to the property described in the Lease Agreement; and

WHEREAS, Port Royal is the successor beneficiary to Port Royal of Pensacola, Inc., the Developer of Port Royal, a condominium; and

WHEREAS, the City of Pensacola has entered into an Option Agreement with Port Royal Phase II, Inc. dated June 26, 1996, having as its subject the real property described in Exhibit "A" attached hereto lying northerly and adjacent to Port Royal, a condominium, to be developed as a single family residential subdivision consisting of 8 single family residences and 8 single family residences including a carriage house unit, all pursuant to the reservation by the City of Pensacola as contained in the Declaration of the right to designate the location and relocation of subsequent shared facilities and to supervise and determine the location and configuration of the second phase, and the location, configuration and land uses of subsequent phases; and

WHEREAS, the parties hereto desire to amend the Declaration and the Articles of Incorporation of the Association to reflect that the second phase of development of the property described in Exhibit "A", and generally known as part of the "Baylen Street property", will be single family residential lots and units rather than condominium units.

NOW, THEREFORE, the parties hereto, for and in consideration of the mutual covenants and conditions herein contained, agree as follows:

ARTICLE I

The Recitals set forth hereinabove are incorporated herein by this reference.

ARTICLE II

AMENDMENT TO DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS.

The Declaration of Covenants, Conditions and Restrictions dated July 9, 1984 and recorded in Official Record Book 1937 at Page 248 et seq of the public records of Escambia County, Florida ("Declaration") shall be amended as follows:

1. Article I entitled "Definitions" shall be amended as follows:

(a) Section II. Section II shall be deleted and in lieu thereof the following shall be inserted:

"Section II. "Owner" shall mean and refer to the record title holder of a partial assignment of long term lease on (1) a condominium unit in Port Royal, a condominium, or (2) a single family residential unit or lot in the second phase, which partial assignment of lease expires not earlier than the year 2080, and which carries with it the exclusive right to possession of said condominium unit or residential unit or lot.

(b) The following Sections shall be added to ARTICLE I.

Section IV. "Community Building" shall mean and refer to any building or structure including a health or work-out facility and a covered patio area, approved by Declarant and constructed in connection with the second phase and which shall come within the jurisdiction of the Association as illustrated in Exhibit "B" attached hereto.

Section V. "Second phase" shall mean and refer to the single family residential lots or units to be developed by Port Royal Phase II, Inc. located on the property described in Exhibit "A".

Section VI. "Condominium buildings" shall mean and refer to (1) the condominium developed by Port Royal of Pensacola, Inc. as Port Royal, a

condominium and (2) the single family residential units and lots developed by Port Royal Phase II, Inc. on the property described in Exhibit "A".

2. Section 3 of ARTICLE VI shall be amended by deleting the first and second sentences thereof and in lieu thereof the following shall be inserted:

"The annual assessment to provide for all necessary expenses, including insurance, maintenance of the pool and pool house, community building, guardhouse, easement areas, landscaping for easement areas, reserve fund for maintenance, providing a guard at the guardhouse, and other miscellaneous purposes for the shared facilities, shall be paid monthly by the 10th day of the month as follows: (1) 70% by the owners of Port Royal, a condominium, which assessments shall be allocated among the owners of Port Royal, a condominium as provided in the Declaration of Condominium of Port Royal as recorded in Official Record Book 1937 at page 113 et seq of the public records of Escambia County, Florida, and (2) 30% by the owners of residential lots and units in Port Royal Phase II, which assessments shall be allocated among owners of Port Royal Phase II as may be provided for the owners of residential units or lots in Port Royal Phase II according to the Declaration of Covenants, Conditions and Restrictions of Port Royal Phase II, and the Articles and By-laws of the Homeowners Association for that second phase; provided however, until all units in the second phase receive a Certificate of Occupancy from the Declarant, the annual assessment shall be paid and allocated between Port Royal and Phase II as follows:

A. No assessment shall be paid to the Association by Port Royal or Phase II until one (1) year after closing of the transfer to Port Royal Phase II pursuant to the Option Agreement referenced above having as its subject the property described in Exhibit "A"

("Closing Agreement") whereupon the assessments for the Association shall commence and be paid as provided hereinafter in an amount determined by the Board of Directors of the Association not to exceed the estimated annual budget of \$128,575.00. One year after closing of the transfer to Port Royal II referenced above, Phase II shall pay an annual assessment to the Association of \$14,250.00 per year payable monthly in the sum of \$1,107.50.

B. In addition, upon a dwelling being constructed in the second phase and granted a Certificate of Occupancy by Declarant, that lot or unit, through Phase II, shall pay to the Association the amount of \$1,104.00 per year or \$92.00 per month prorated for the balance of the year to become part of the annual assessment required to be paid by Phase II and thereupon the assessments being paid by Port Royal shall be adjusted to reflect the credit represented by that unit payment.

Notwithstanding the foregoing, Phase II shall commence construction on (a) not less than five (5) units or lots commencing two years after the date of the Closing Agreement, (b) a total of not less than ten (10) units or lots five (5) years after the date of the Closing Agreement, and (c) a total of all units or lots seven (7) years after the date of the Closing Agreement. All assessments payable monthly shall be paid by the 10th of the month.

The maximum annual assessment for Port Royal unit owners shall be the assessment budget amount for the Association less all amounts received from Phase II units or Phase II; provided however, the maximum annual assessment for Port Royal until all units in Phase II receive a Certificate of Occupancy shall be \$120,575.00.

At the time all units in Phase II have received a Certificate of Occupancy, the maximum annual assessment for Port Royal shall be \$90,000.00 or 70% of the Association's annual budget, whichever is lower and the maximum annual assessment for Phase II shall be \$38,575.00 or 30% of the Association's annual budget, whichever is lower. The annual assessment shall be pro-rated for the calendar year from its effective date, and after January 1, following the effective date of commencement of assessments. The maximum annual assessment may be increased by the Board of Directors of the Association without a vote of the membership by an amount not to exceed 115% of the prior years' assessment.

Until such time as the Certificate of Occupancy has been issued for all units in Phase II, Phase II shall be responsible for maintaining the property described in Exhibit "A", as if it were part of the common areas of the condominium property, including regular mowing of unoccupied lots and maintenance of common areas in Phase II, provided however, Phase II shall not be responsible for maintaining any area of the property shown on Exhibit "A" that is being used or occupied by Port Royal for any purpose including construction staging area or parking. Phase II shall construct the health and work-out facility and covered patio as illustrated in Exhibit "B" and to initially provide furnishings not to exceed \$6,500.00.

3. Section 4 of ARTICLE VI shall be amended by deleting the word "members" wherever it appears and insert the word "owners".

4. Section 5 of ARTICLE VI shall be deleted (relating to allocation and collection of assessments provided in Section 3 of ARTICLE VIII hereinbefore).

5. Section 7 of ARTICLE VI shall be amended by deleting (1) the first sentence thereof, (2) the last clause of the third sentence which states: "and for the first full calendar year of assessment, the annual assessment shall not

exceed \$250.00 per unit and (3) the last sentence (all of the foregoing being now set forth in the Amendment to Section 3 of ARTICLE VI hereinbefore).

6. Section 3 of ARTICLE VIII shall be deleted in its entirety and in lieu thereof the following shall be inserted:

The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of, and be enforceable by the Declarant, the Association or any owner, their respective legal representatives, heirs, successors and assigns, for the term during which the Lease Agreement entered into by and between the City of Pensacola and Port Royal of Pensacola, Inc. as recorded in Official Record Book 1937 at page 201 et seq of the public records of Escambia County, Florida, as amended, and the Lease Agreement between the City of Pensacola and Port Royal Phase II, Inc. having as subject the second phase property described in Exhibit "A", are and remain in full force and effect. This Declaration may be amended at any time by a document signed by the then Owners of 2/3rds of the condominium units and single family residential units or lots agreeing to change these covenants in whole or in part, and which amendment has been approved by Declarant, and thereupon recorded in the public records of Escambia County, Florida. Each condominium unit and each single family unit or lot shall have one (1) vote each for the purposes hereof to be determined by the owners of each unit or lot.

7. Section 7 of ARTICLE VIII shall be deleted (now covered by Amendment to Section 3 of ARTICLE VI above).

ARTICLE III

AMENDMENT TO ARTICLES OF INCORPORATION OF
PORT ROYAL COMMUNITY ASSOCIATION, INC.

The following amendments to the Articles of Incorporation of Port Royal Community Association, Inc. are approved pursuant to ARTICLE VIII of the Articles entitled "Amendments".

1. ARTICLE III entitled "Membership" shall be amended by adding following sentence:

"The term "condominium unit" shall be deemed to include "residential lot or unit".

2. ARTICLE V entitled "Board of Directors" shall be amended by deleting the five (5) names and addresses in said Article and inserting the following:

Ed Hinkle
City Manager
or his successor or
designee
City of Pensacola
City Hall
Pensacola, FL 32501

John S. Carr
c/o Carr & Associates
125 S. Alcaniz
Pensacola, FL 32501

Keith Bullock
200 S. Tarragona
Pensacola, FL

Leighton Breazeale
504 Port Royal Way
Pensacola, FL 32501

Karin Streetman
Port Royal Way, Unit 12
Pensacola, FL 32501

3. There shall be added to the Articles of Incorporation, an ARTICLE XIII which will be as follows:

ARTICLE XIII

The word condominium or condominiums as used herein shall also be deemed to include "residential subdivision or subdivisions" and the word "condominium associations" as used herein shall be deemed to include "homeowners association" and these Articles shall be construed so as to include the condominium association for Port Royal, a condominium and the residential subdivision

homeowners association for Port Royal Phase II and all By-Laws shall be so modified and construed.

ARTICLE IV

This Amendment shall become effective upon approval of 75% of the Owners in Port Royal and Phase II and thereafter upon final approval by Declarant to be evidenced by Lease Agreement between Declarant and Phase II covering the property described in Exhibit "A".

IN WITNESS WHEREOF, the foregoing was executed effective MAY 1st, 1997, by all parties hereto pursuant to dues and legal action of the respective parties.

Witnesses:

[Signature]
Print: DENNIS R. FLEWING

[Signature]
Print: JOYCE E. LEWIS

Witnesses:

[Signature]
Print: JUDITH B. BRETHERFIELD

[Signature]
Print: GERALD L. BROWN

Witnesses:

[Signature]
Print: STEPHEN E. MARCHAND

[Signature]
Print: GERALD L. BROWN

Witnesses:

[Signature]
Print: GERALD L. BROWN

[Signature]
Print: LINDA S. LEVINS

City of Pensacola

By: [Signature]
Print: EDWARD R. HINKLE
Its: CITY MANAGER

Port Royal Owners Association, Inc.

By: [Signature]
Print: SALLY GOLDENBERG
Its: PRESIDENT

Port Royal Phase, II

By: [Signature]
Print: JOHN S. CARR
Its: PRESIDENT

Port Royal Community Association, Inc.

By: [Signature]
Print: LEIGHTON BREAECAL
Its: PRESIDENT

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 1 day of MAY, 1997 by Ed Hinkle, as City Manager of The City of Pensacola, a Florida municipality, on behalf of the municipality. He () is personally known to me or (✓) has produced _____ as identification and did not take an oath.

Catherine Sue Bartoo (SEAL)

Printed name: _____
Notary Public - State of Florida
My commission expires: _____
Commission number: _____

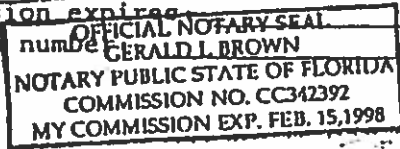


Catherine Sue Bartoo
MY COMMISSION # CC548950 EXPIRES
April 21, 2000
BONDED THIRD PARTY FARM INSURANCE, INC.

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 6 day of MARCH, 1997 by STAN GORDON PERG, as PRESIDENT of Port Royal Owners Association, Inc., a Florida corporation, on behalf of the corporation. He/She (✓) is personally known to me or () has produced _____ as identification and did not take an oath.

[Signature] (SEAL)
Printed name: _____
Notary Public - State of Florida
My commission expires: _____
Commission number: _____

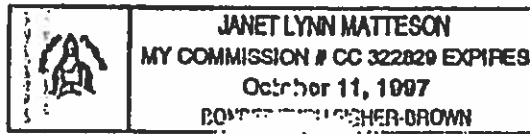


STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me, this 15th day of May, 1997 by John S. Carr, as President of Port Royal Phase II. He/She () is personally known to me or () has produced _____ as identification and did not take an oath.

Janet Lynn Matteson (SEAL)
Printed name: Janet Lynn Matteson
Notary Public - State of Florida
My commission expires: 10-11-97
Commission number: CC 322829

STATE OF FLORIDA
COUNTY OF ESCAMBIA



The foregoing instrument was acknowledged before me this 5th day of March, 1997 by Leighton Brazzale, as President of Port Royal Community Association, Inc., on behalf of the corporation. He/She () is personally known to me or () has produced _____ as identification and did not take an oath.

Linda S. Lewis (SEAL)
Printed name: _____
Notary Public - State of Florida
My commission expires: _____
Commission number: _____

LINDA S. LEWIS
Notary Public-State of Florida
My Commission Expires Dec. 7, 1997,
CC327430