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DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
NORTH BEACH ISLAND

THIS DOCUMENT PREPARED BY:

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INDEX OF DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
NORTH BEACH ISLAND

ARTICLE I MUTUALITY OF BENEFIT AND OBLIGATION

- Section 1.1 Mutuality
- Section 1.2 Benefits and Burdens

ARTICLE II DEFINITIONS

- Section 2.1 Association
- Section 2.2 Board
- Section 2.3 Common Area
- Section 2.4 Developer
- Section 2.5 Limited Common Area
- Section 2.6 Lot
- Section 2.7 Owner
- Section 2.8 Property or Subdivision
- Section 2.9 Surface Water or Stormwater Management System

ARTICLE III PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS AND DELETIONS

- Section 3.1 No Implied Extension of Covenants
- Section 3.2 Additional Lands
- Section 3.3 Withdrawal of Lands

ARTICLE IV THE ASSOCIATION

- Section 4.1 Membership
- Section 4.2 Classes and Voting

ARTICLE V COMMON AREA RIGHTS

- Section 5.1 Conveyance of Common Area
- Section 5.2 Owners' Easement of Enjoyment
- Section 5.3 Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area
- Section 5.4 Maintenance of Common Area and Compliance with Applicable Permits
- Section 5.5 Easement for Maintenance Purposes

ARTICLE VI ARCHITECTURAL CONTROL

- Section 6.1 Architectural Review and Approval
- Section 6.2 Architectural Review Board
- Section 6.3 Powers and Duties of the ARB
- Section 6.4 Compensation of ARB
- Section 6.5 Review of Initial Construction by Developer
- Section 6.6 Variance
- Section 6.7 Limited Liability

ARTICLE VII COVENANTS FOR MAINTENANCE ASSESSMENTS

- Section 7.1 Creation of the Lien and Personal Obligation of Assessments
- Section 7.2 Purpose of Assessments
- Section 7.3 Calculation and Collection of Assessments
- Section 7.4 Effect of Non-Payment of Assessment: Lien, Personal Obligation, and Remedies of Developer
- Section 7.5 Subordination of Lien to Mortgages
- Section 7.6 Developer's Assessments

ARTICLE VIII EXTERIOR MAINTENANCE ASSESSMENT

- Section 8.1 Exterior Maintenance
- Section 8.2 Assessment of Costs
- Section 8.3 Access

ARTICLE IX UTILITY PROVISIONS

- Section 9.1 Water System
- Section 9.2 Sewage System
- Section 9.3 Garbage Collection
- Section 9.4 Utility Service

ARTICLE X USE RESTRICTIONS AND RIGHTS AND EASEMENTS RESERVED BY DEVELOPER

- Section 10.1 Residential Use
- Section 10.2 Living Area
- Section 10.3 No Detached Buildings
- Section 10.4 Setbacks
- Section 10.5 Landscaping
- Section 10.6 Motor Vehicles and Boats
- Section 10.7 Nuisances
- Section 10.8 Antenna

- Section 10.9 Lakes
- Section 10.10 Insurance and Casualty Damages
- Section 10.11 Trees
- Section 10.12 Artificial Vegetation
- Section 10.13 Signs
- Section 10.14 Lighting
- Section 10.15 Animals
- Section 10.16 Maintenance of Lots and Limited Common Areas
- Section 10.17 Shared Docks
- Section 10.18 Fences
- Section 10.19 Maintenance of Driveways
- Section 10.20 Window Air Conditioning
- Section 10.21 Compliance with Laws
- Section 10.22 Platting and Additional Restrictions
- Section 10.23 Jurisdictional Areas and Permits

ARTICLE XI RIGHTS AND EASEMENTS RESERVED BY DEVELOPER

- Section 11.1 Easement for Ingress, Egress, Utilities and Drainage
- Section 11.2 Drainage Flow
- Section 11.3 Future Easements
- Section 11.4 Cable Television or Radio
- Section 11.5 Easements for Maintenance Purposes
- Section 11.6 Developer Rights Re: Temporary Structures, Etc.

ARTICLE XII GENERAL PROVISIONS

- Section 12.1 Remedies for Violations
- Section 12.2 Severability
- Section 12.3 Additional Restrictions
- Section 12.4 Titles
- Section 12.5 Termination or Amendment
- Section 12.6 Assignment of Permit Responsibilities and Indemnification
- Section 12.7 Conflict or Ambiguity in Documents
- Section 12.8 Usage
- Section 12.9 Effective Date
- Section 12.10 Disclaimers as to Water Bodies

- Exhibit A - Property
- Exhibit B - Articles of Incorporation
- Exhibit C - Bylaws
- Exhibit D - Common Area

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
NORTH BEACH ISLAND**

THIS DECLARATION is made this _____ day of _____, 200____, by **NORTH RIVER ISLAND L.L.C.**, a Florida limited liability company (the "Developer"), which declares that the real property described on Exhibit A attached hereto and made a part hereof (the "Property"), which is owned by the Developer, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property and shall be binding upon the Developer and all parties having or acquiring any right, title or interest in the Property or any part thereof.

**ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION**

Section 1.1 **Mutuality**. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

**ARTICLE II
DEFINITIONS**

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association**. The North Beach Island Homeowners Association, Inc., a Florida corporation not-for-profit. This is the Declaration to which the Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Association make reference. Copies of the Articles and Bylaws are attached as Exhibits B and C, respectively.

Section 2.2 **Board**. The Board of Directors of the Association.

Section 2.3 **Common Area**. All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which is owned by the Developer, or by the Association, and which the Developer has designated for the common use of the Owners by reference thereto in this Section 2.3, or by recording a Supplementary Declaration, pursuant to the terms of Section 5.3 hereof. The

Common Area initially designated by the Developer shall consist of the real property (and interests therein) more particularly described on Exhibit D attached hereto and made a part hereof together with all improvements constructed therein by Developer, but not owned or maintained by a public or private utility company.

Section 2.4 **Developer.** North River Island L.L.C. and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to North River Island L.L.C. as the Developer of the Property is not intended and shall not be construed, to impose upon North River Island L.L.C. any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from North River Island L.L.C. and develop and resell the same.

Section 2.5 **Limited Common Area.** The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the paved road surface (as it may exist from time to time) and between the rear Lot line and the nearest shore line of any lake contiguous to or within twenty (20) feet of the Lot, within the area bounded by the extension of the side Lot lines, together with any portion of the Property contiguous to a Lot which, as a result of the natural configuration of the Property, is primarily of benefit to such Lot. Any question concerning the boundary of a limited common area shall be determined by the Board of Directors of the Association.

Section 2.6 **Lot.** Any platted Lot or any other parcel of real property located within the Property, on which one or more residential dwellings have been or could be constructed.

Section 2.7 **Owner.** The record owner or owners of any Lot.

Section 2.8 **Property or Subdivision.** The real property described on the attached Exhibit A and such additions and deletions thereto as may be made in accordance with the provisions of Sections 3.2 and 3.3 of this Declaration.

Section 2.9 **Surface Water or Stormwater Management System.** A system which is designed and constructed or implemented within the Property to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 4OC-4, 4OC-40, or 4OC-42, F.A.C. or regulations of similar import. For purposes of this Declaration, the Surface Water or Stormwater Management System shall be deemed to be a part of the Common Area and shall include any drainage swales located within the Property.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 3.1 **No Implied Extension of Covenants.** Each Owner and each tenant of any improvements constructed on any Lot, by becoming an Owner or tenant, shall be deemed to have agreed that (a) the Property described on Exhibit A and such additional property as may be annexed pursuant to Section 3.2 hereof shall be the only Property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting, or requiring the Developer to subject any other property now or hereafter owned by the Developer to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 3.2 hereof.

Section 3.2 **Additional Lands.** Developer may, but shall not be obligated to, subject additional land to this Declaration (or to the assessment provisions of this Declaration) from time to time provided only that (a) any additional land subjected to this Declaration (or its assessment provisions) shall be contiguous to the Property then subject to this Declaration (for purposes of this Section 3.2, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous), and (b) the Owners of property within additional lands made subject to this Declaration (or its assessment provisions) shall be and become subject to this Declaration (or its assessment provisions), and shall be responsible for their pro rata share of common expenses for which assessments may be levied pursuant to the terms of Article VII of the Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer reserves the right to supplement this Declaration to add land to the scheme of this Declaration (or its assessment provisions) pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.

Section 3.3 **Withdrawal of Lands.** With the consent and joinder of Owners holding a majority of the votes in the Association, the Developer may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property from the terms and effect of this Declaration. Upon the Developer's request, the consent and joinder of each and every Owner to such withdrawal shall not be unreasonably withheld. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn.

ARTICLE IV
THE ASSOCIATION

Section 4.1 **Membership.** Each Owner, including the Developer (at all times so long as it owns any part of the Property), shall be a member of the Association, provided that any such

person or entity who holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot.

Section 4.2 **Classes and Voting.** The Association shall have two classes of membership:

(a) **Class A Members.** The Class A Members shall be all Owners, with the exception of the Developer, who shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members of the Association. However, the vote for any such Lot shall be exercised as the Owner's thereof shall determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) **Class B Members.** The Class B Member shall be the Developer who shall be entitled to the number of votes allocated to all of the Class A Members combined plus one (1) vote. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) Three (3) months after ninety percent (90%) of the Lots have been conveyed to members of the Association other than the Developer; or

(ii) Such earlier date as the Developer may choose to terminate the Class B Membership upon notice to the Association.

ARTICLE V **COMMON AREA RIGHTS**

Section 5.1 **Conveyance of Common Area.** Developer agrees that all of the Common Area owned by Developer shall be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record, before the date which is ninety (90) days following the conveyance of the last Lot owned by the Developer to any party. Upon the recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds.

Section 5.2 **Owners' Easement of Enjoyment.** Each Owner shall have a right and easement of enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to, and shall pass with, the title to the land of such Owner, subject to the following:

(a) The right of the owner of the Common Area, with the consent of the Developer (if different from such owner) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility; provided however, the Common Area may not be mortgaged or conveyed free and clear of the provisions of this Declaration without the approval

of Members holding two-thirds (2/3) of the total votes that are allocated to the Association's members;

(b) All provisions of this Declaration, any plat of all or any parts of the Property, governmental restrictions;

(c) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;

(d) The rights of the Developer under Section 5.3 to add to or withdraw land from the Common Area;

(e) Easements, restrictions, agreements and other matters of record.

The foregoing easement of enjoyment in favor of the Owners shall not be construed to create or imply any other easements or rights not expressly created by this Declaration, it being the intent hereof to limit the Owners' rights of use of specific portions of the Common Area to only the intended purposes of such portions of the Common Area. For example, the creation of each Owner's right to drain such Owner's Lot into the portions of the Common Area included within the Surface Water or Stormwater Management System, does not create any right of access by any Owner to such portions of the Common Area over any other Owner's Lot or other privately owned portions of the Subdivision.

Section 5.3 Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area. Notwithstanding anything to the contrary contained in this Declaration, the Developer shall have the right, in its sole discretion, to designate land, easements, use rights and personal property owned by the Developer as Common Area, provided only that such land shall be located within the Property or contiguous to the Property (for purposes of this Section 5.3, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous). For so long as the Developer shall own any Lot, the Developer may, at any time, withdraw, or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect any Lot, or materially and adversely affect access, visibility, or drainage to or from any Lot, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Lot which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of St. Johns County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.3 hereof, or subsequently designated as such by the Developer pursuant to Section 2.3 hereof and this Section 5.3, even if the Developer consents or acquiesces to the use of such land by the Owners. In the event any land, easements, use rights, or personal property owned by the

Section 6.3 **Powers and Duties of the ARB.** The ARB shall have the following powers and duties:

(a) To recommend amendments to the architectural criteria to the Board at such time as the Board shall have the right to adopt or amend architectural criteria for the Property. For so long as the Developer shall be entitled to elect or appoint a majority of the members of the Board, only the Developer shall have the right to promulgate, amend, eliminate, or replace architectural criteria applicable to architectural review to be conducted by the Association. At such time as members of the Association shall elect a majority of the members of the Board, such architectural criteria shall be promulgated, amended, eliminated, or replaced by the Board. Any amendment of the architectural criteria shall be consistent with the provisions of this Declaration. Notice of any amendment to the architectural criteria, which shall include a verbatim copy of such amendment, shall be delivered to each member of the Association. The delivery to each member of the Association of notice and a copy of any amendment to the architectural criteria shall not, however, constitute a condition precedent to the effectiveness or validity of such amendment. It shall not be necessary for the architectural criteria, or any amendment thereto, to be recorded.

(b) To require submission to the ARB of three (3) complete sets of all plans and specifications for any improvement or structure of any kind requiring review and approval of the ARB pursuant to this Article VI. The ARB may also require submission of samples of building materials proposed for use on any Lot, and may require tree surveys to show the effect of the proposed improvements on existing tree cover, and such additional information as reasonably may be necessary for the ARB to completely evaluate the proposed structure or improvement in accordance with this Declaration and applicable architectural criteria.

(c) To approve or disapprove in accordance with the provisions of this Article VI, any improvements or structures of any kind (other than Initial Construction), or any change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot, and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon. All decisions of the ARB may, but need not be evidenced by a certificate in recordable form executed under seal by the President or any Vice President of the Association. Any party aggrieved by a decision of the ARB shall have the right to make a written request to the Board, within thirty (30) days of such decision, for a review thereof. The determination of the Board upon review of any such decision shall be dispositive.

(d) To adopt a schedule of reasonable fees for processing requests for ARB approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the ARB.

Section 6.4 **Compensation of ARB.** The Board may, at its option, pay reasonable compensation to any or all members of the ARB.

Section 7.2 Purpose of Assessments.

7.2.1 The annual assessments levied by the Association shall be used for the purposes of management and accounting fees, taxes, insurance, and utility charges relating to the Common Area, to fund the obligations of the Association set forth in Section 5.4 hereof, and for all other purposes reasonably contemplated by this Declaration, the Articles, the Bylaws, or any cost sharing or similar agreement to which the Association is or may become a party. Further, such annual assessments may be levied to fund reasonable reserves for deferred maintenance of, or non-recurring expenses related to, the Common Area including, the Surface Water or Stormwater Management System. The maintenance responsibilities of the Association payable through assessment of the Owners shall specifically include, but not be limited to, the perpetual maintenance of all retention ponds, drainage swales, and all other drainage and stormwater management improvements lying within the Property, and all other such improvements, constituting a part of the Surface Water or Stormwater Management System permitted by the St. Johns River Water Management District under Permit No. 40-109-87042-1 (the "Surface Water Permit") including all operation, sampling, testing, monitoring and maintenance requirements as specified by the Surface Water Permit. Assessments collected by the Association to fund reserves shall be separately accounted for, it being the requirement of this Declaration that such funds shall be used exclusively for deferred maintenance of, or non-recurring expenses related to, the Common Area including the Surface Water or Stormwater Management System.

7.2.2 The Board of Directors may levy special assessments for any purpose relating to permissible or required activities of the Association pursuant to this Declaration, the Articles, or the Bylaws. Any funds collected pursuant to such a special assessment shall be used solely for the purpose or purposes identified by the Board of Directors at the time such special assessment is levied.

Section 7.3 Calculation and Collection of Assessments. Annual assessments shall be established by the Board of Directors based upon an annual budget. Each Owner's pro rata share of the total annual assessment or any special assessment shall be based upon the following calculations:

(a) Owners of Lots shall pay a pro rata share of annual and special assessments which shall be allocated among the Owners as provided in subparagraph (b) of this Section 7.3, 7.4. Except as hereafter provided, the annual assessment amount allocated to each Lot is hereby established to be Nine Hundred Fifty-Five Dollars and No/100 Dollars (\$955.00) per Lot. From and after December 31, 2004, such amount may be decreased, or increased by an amount not to exceed ten percent (10%) of the prior annual assessment amount per Lot, such annual increases to be cumulative and self-operative. Further, by a vote of not less than three-fifths of the members of the Board of Directors, the foregoing assessment amount per Lot may be increased above the ten percent (10%) limitation set forth in this Section 7.3.

Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer.

Section 10.2 **Living Area**. Each detached single family residence constructed upon a Lot shall contain a minimum of two thousand (2700) square feet of heated and air conditioned living area.

Section 10.3 **No Detached Buildings**. No tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the prior written consent of the Developer. This provision is not meant to deter detached garages.

Section 10.4 **Setbacks**.

10.4.1 **Front**. No dwelling shall be erected within twenty-five (25) feet of any front Lot line.

10.4.2 **Side**. No dwelling shall be erected within eight (8) feet of any side Lot line.

10.4.3 **Rear**. No dwelling shall be erected within ten (10) feet of any rear Lot line.

10.4.4 **Easement Areas**. No dwelling shall be erected within any easement area shown on any plat of all or any portion of the Property or within any easement reserved by Section 11.1 of this Declaration.

10.4.5 **Measurement of Setbacks**. All setbacks shall be measured from the exterior wall or roof eave of the dwelling to the applicable Lot or parcel boundary.

Section 10.5 **Landscaping**. Landscaping shall be installed on each Lot as stated hereafter.

10.5.1 Except for landscaping installed by the Developer, a landscaping plan for each Lot and Limited Common Area appurtenant thereto must be submitted to and approved by the Developer at the time of Initial Construction of a residence on such Lot. Maximum utilization of existing trees and shrubs, and natural landscaping techniques shall be encouraged. Sodding with St. Augustine grass varieties only will be required as set forth in the architectural criteria established pursuant to Article VI hereof. All Lots and appurtenant Limited Common Areas that are not landscaped or left in a natural wooded state shall be grassed to the paved roadway and/or lake's edge where such Lot abuts a roadway and/or lake.

10.5.2 Subsequent to approval by the Developer of landscaping plans submitted pursuant to Section 10.5.1 above, the Owner shall be obligated to complete the landscaping of

STATE OF FLORIDA)
COUNTY OF FLORIDA)SS

The foregoing instrument was acknowledged before me this 30 day of September, 2003, by Mark Ambach, the Managing Member of **NORTH RIVER ISLAND L.L.C.**, a Florida limited liability company, on behalf of the company.



Kim M. Steeg
My Commission DD193384
Expires March 13, 2007

Kim M Steeg
(Print Name Kim M Steeg)
NOTARY PUBLIC, State of
Florida at Large
Commission # _____
My Commission Expires: _____
Personally Known X _____
or Produced I.D. _____
[check one of the above]
Type of Identification Produced _____

CONSENT AND JOINDER

ATLANTIC STATES BANK, a federal savings bank ("Mortgagee") is the holder of that certain Real Estate Mortgage, Assignment and Security Agreement ("Mortgage") recorded in Official Records Book 1986, at page 1615 of the public records of St. Johns County, Florida. Mortgagee joins in the foregoing Declaration of Covenants and Restrictions for North Beach Island to which this Consent is attached ("Declaration") to evidence its consent and joinder to the provisions of the Declaration and its agreement that its security interest as evidenced by the Mortgage shall be subordinated thereto.

Kim M Steeg
 (Name Printed)
Angela Jones
 (Name Printed)

ATLANTIC STATES BANK, a federal savings bank

By:

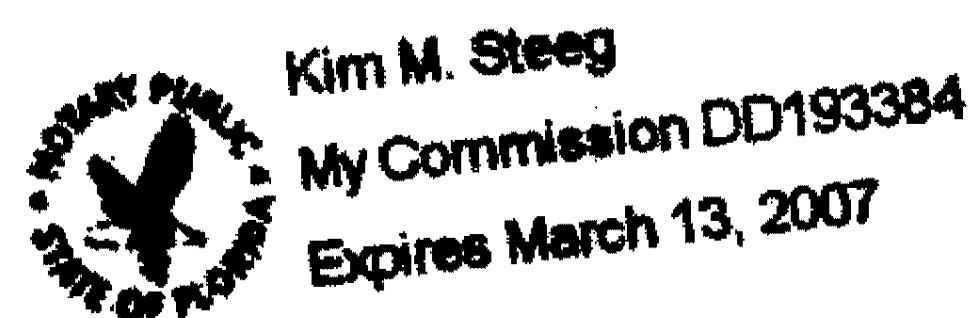
Scott Taccati
 (Name Printed)

Title:

SENIOR VICE PRESIDENT

STATE OF FLORIDA)
 COUNTY OF Duval)

The foregoing instrument was acknowledged before me this 30 day of September, 2003, by Scott Taccati, the Senior Vice President of ATLANTIC STATES BANK, a federal savings bank, on behalf of the bank.



Kim M Steeg
 (Print Name)
 NOTARY PUBLIC, State of
 Florida at Large
 Commission # _____
 My Commission Expires: _____
 Personally Known X
 or Produced I.D. _____
 [check one of the above]
 Type of Identification Produced _____

EXHIBIT A

Legal Description of the Property

All of North River Island according to the plat thereof recorded in Map Book 47, Pages 71 through 74 of the public records of St. Johns County, Florida.

EXHIBIT B

Articles of Incorporation

EXHIBIT C

Bylaws

C. For elections of the Board of Directors, the Members shall vote in person or by proxy at a meeting of the Members, or by a written ballot that each Member personally casts.

XII. **SEAL.**

The Association shall have a seal in circular form having within its circumference the words: North Beach Island Homeowners Association, Inc., not for profit, 2003.

XIII. **AMENDMENTS.**

These Bylaws may be altered, amended or rescinded by majority vote of the Board of Directors at a duly constituted meeting of the Board. Amendments shall be effective on the date of passage by the Board and no amendment need be recorded in the public records of St. Johns County, Florida.

XIV. **INCONSISTENCIES.**

In the event of any inconsistency between the provisions of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration and Articles of Incorporation shall control.

EXHIBIT D

Common Area

River Shore Lane, Oak Avenue, Tracts A and B, and easements for access, utilities and drainage over Lots 3, 4, 13, 14 and 15 of North River Island according to the plat thereof recorded in Map Book 47, Pages 71 through 74 of the public records of St. Johns County, Florida.