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SEP-08-1987 02:42pm 87-267069

CERTIFICATE OF AMENDMENT TO
FOUNTAINS SOUTH ATRIUM HOMES
DECLARATION OF COVENANTS AND RESTRICTIONS

WHEREAS, the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS was recorded on January 7, 1987, in Official Record Book 5134, at Page 139, of the Public Records of Palm Beach County, Florida (the "ATRIUM HOMES DECLARATION"); and

WHEREAS, the FIRST AMENDMENT TO FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS was recorded on February 25, 1987, in Official Record Book 5186, at Page 404, of the Public Records of Palm Beach County, Florida (the "FIRST AMENDMENT"); and

WHEREAS, Paragraph 11.3 of the ATRIUM HOMES DECLARATION specifically provides that the ATRIUM HOMES DECLARATION may be amended by an instrument executed by the holders of two-thirds (2/3) of the voting interests of membership of the Homeowners Association; and

WHEREAS, pursuant to the provisions of the ARTICLES OF INCORPORATION of FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC., the Developer (THE FOUNTAINS OF PALM BEACH, a Florida General Partnership) is, as of the date of this Certificate, the holder of more than two-thirds (2/3) of the voting interests of membership of the Homeowners Association; and

WHEREAS, it has become apparent to the Developer and to the other members of the Homeowners Association that it is essential that the provisions of Articles 11 and 12 of the ATRIUM HOMES DECLARATION be amended as same are currently in conflict with general insurance provisions for detached single-family residences; and

WHEREAS, there is attached to this Certificate of Amendment, a Second Amendment to the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS which Second Amendment amends the provisions of Article 11 and Article 12 of the ATRIUM HOMES DECLARATION as required; and

WHEREAS, this Certificate and the attached Second Amendment to FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS shall be recorded in the Public Records of Palm Beach County, Florida.

NOW, THEREFORE, the ATRIUM HOMES DECLARATION be and the same is hereby amended in the particulars as stated in the Second Amendment to FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS which is attached hereto; said Amendment shall run with the real property described in the ATRIUM HOMES DECLARATION, as amended, and shall be binding on all parties having right, title, or interest in the said real property or and part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

RETURN TO:

This Instrument was prepared by:
ROBERT M. SCHWARTZ, ESQ.
DeSantis, Cook & Gaskill, P.A.
11891 U.S. Highway One
North Palm Beach FL 33408

85411 P1197

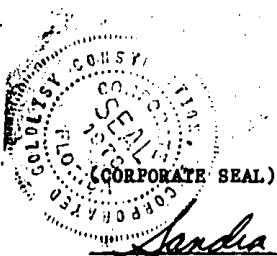
CERTIFICATE OF ADOPTION OF AMENDMENT

WE HEREBY CERTIFY that the attached Second Amendment to FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS has been duly adopted as an Amendment to the ATRIUM HOMES DECLARATION.

IN WITNESS WHEREOF, we have hereby set our hands and seals this 31st day of August, 1987.

FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC., a Florida Corporation

By THE FOUNTAINS OF PALM BEACH, a Florida Joint Venture, the holder of three-fourths (3/4) of the voting interests of membership of the FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC.



Sandra J. Pote
Deborah C. Truscinski

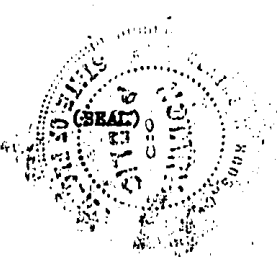
By Stephen M. Platt
Stephen M. Platt as Vice President of Goldlist Construction Incorporated, a Florida Corporation

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared Stephen M. Platt to me known to be the individual described in and who executed the foregoing instrument as Vice President of Goldlist Construction Corporation Incorporated, a Florida corporation, acknowledged to and before me that he executed such instrument as Vice President of said Corporation and that the seal affixed to the foregoing instrument is the corporate seal of the corporation and that it was affixed to the foregoing instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and seal this 31st day of August, 1987.



Claire M. Hassac
Notary Public, State of Florida
at Large

My Commission Expires:
Notary Public, State of Florida At Large
My Commission Expires May 24, 1991
Became Notary Public by Order of the State of Florida

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SECOND AMENDMENT TO
FOUNTAINS SOUTH ATRIUM HOMES
DECLARATION OF COVENANTS AND RESTRICTIONS
(Underlining indicates additions; ----- indicates deletions)

11. GENERAL PROVISIONS.

- 11.1 Enforcement. The Homeowners Association, or any Unit Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provision of this Declaration. Failure by the Homeowners Association or by any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 11.2 Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
- 11.3 Duration; Amendment. The covenants and restrictions of this Declaration shall run with and bind the property subject hereto for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended by an instrument executed by the holders of two-thirds (2/3) of the voting interests of membership of the Homeowners Association. Notwithstanding the above, (a) any amendment affecting the maintenance provision hereof or the lien for such maintenance must be approved, if appropriate, by the County Attorney of Palm Beach County, Florida, and (b) the Developer, his successors, and/or assigns, shall have the right, until June 30, 1992, to amend this Declaration to clarify any ambiguities or conflicts, subject, however, to the requirements, if appropriate, of approval by the County Attorney. Any amendment must be recorded, and the portion of any plat containing open space may not be vacated in whole or in part unless the entire plat is vacated.
- 11.4 Limitation. No amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of members without approval in writing by all members and the joinder of all First Mortgagees of Record. No amendment shall be made that is in conflict with the Declaration nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to the Developer, any First Mortgagee of Record, or an affiliate of the Developer, unless the Developer and all First Mortgagees of Record shall join in the execution of the amendment.
- 11.5 Duty to Repair Units. ~~In the event a Unit is damaged, through an act of God or other casualty, the Homeowners Association shall promptly cause the Unit to be repaired or rebuilt substantially in accordance with the original architectural plans and specifications. It shall be the duty of the Homeowners Association to perform or have performed such repair and rebuilding of the Unit to comply with this responsibilities.~~
- 11.5 Duty to Repair Units. Notwithstanding any provision contained elsewhere in this Declaration, the Declaration of Party Facilities for Fountains South Atrium Homes Area, or in the Articles of Incorporation or By-Laws of the Homeowners Association. In the event a unit or any portion thereof is damaged, through an act of God or other casualty, it shall be

the responsibility and obligation of the Unit Owner(s) owning such Unit to promptly cause his or her Unit to be repaired or rebuilt substantially in accordance with the original architectural plans and specifications for same. Such repair or reconstruction shall be at the sole expense of the Unit Owner(s) of such Unit, supplemented by the proceeds of insurance required to be carried by the Unit Owner(s) as provided for herein.

11.6 Title to Units. Each Unit Owner will own fee simple title to his Unit. Ownership of these Units shall be subject to the DECLARATION OF PARTY FACILITIES FOR FOUNTAINS SOUTH ATRIUM HOMES AREA to be filed in the Public Records of Palm Beach County, Florida.

11.7 Easement for Enforcement. The Homeowners Association is granted an easement over the FOUNTAINS SOUTH ATRIUM HOMES AREA, subject to this Declaration, by each Unit Owner for the purpose of enforcing the provisions of this Declaration, and may go upon the property and Unit of each Unit Owner to remove or repair any existing cause of a violation hereof. If the Unit Owner, after written notice by the Homeowners Association to the Unit Owner to cure the violation, fails to do so, the Homeowners Association shall have the right to cure such violation, and all costs incident thereto, including court costs and reasonable attorneys' fees, shall become the personal obligation of the Unit Owner and be a lien against his Unit in the same fashion as if said sums represented monies due for unpaid assessments. Should the Homeowners Association fail to do so, the Property Owners Association may do so in its behalf.

12. INSURANCE.

12.1 The insurance, other than title insurance, that shall be carried upon the FOUNTAINS SOUTH ATRIUM HOMES AREA property (both real and personal) of the Homeowners Association, and the property of the Unit Owners shall be governed by the following provisions:

12.2 GENERAL. All insurance policies upon the FOUNTAINS SOUTH ATRIUM HOMES AREA PROPERTY, the Units and the property of the Homeowners Association shall be purchased by the Board of Directors. The named insured shall be the Board of Directors as agent for the Unit Owners, as their interests may appear, (without naming them) and as agent for their mortgagees, as their interests may appear. Policies and their endorsements shall be deposited with the Board of Directors. ~~Unit Owners may obtain coverage at their own expense upon their personal property and for their personal property liability and living expenses.~~

12.2.1 UNIS. It shall be the responsibility of each Unit Owner to purchase, at their individual expense insurance upon his or her Unit(s). The named insured shall be the Unit Owner(s). Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit Owners. Such policies shall provide that payment by the insurer for losses shall be made to the Unit Owner(s) and to their mortgagees (if any), as their interests may appear. Copies of all policies and their endorsements shall be supplied to the Board of Directors.

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12.3 COVERAGE.

12.3.1 Liability. The Board of Directors shall obtain public liability and property damage insurance (including but not limited to, hired automobile and non-owned automobile coverages) covering all of the FOUNTAINS SOUTH ATRIUM HOMES AREA PROPERTY and all property of the Homeowners Association, excluding the Units and insuring the Homeowners Association and the Unit Owners and their mortgagees of record as its and their interests may appear, in such amounts and providing such coverage as the Board of Directors may determine from time to time, provided that the minimum amount of coverage shall be not less than One Million Dollars (\$1,000,000.00) for each accident or occurrence, Three Hundred Thousand Dollars (\$300,000.00) per person and Fifty Thousand Dollars (\$50,000.00) property damage. Where possible, cross liability endorsements will be obtained to cover liabilities of the Unit Owners as a group to a Unit Owner. The bailee liability, if any, of the Homeowners Association to the Unit Owners shall be insured. Each Unit Owner shall obtain public liability and property damage insurance, at their individual expense, upon his or her Unit(s). The Board of Directors shall determine the minimum amount of such coverage to be obtained. All Unit Owners shall supply the Board of Directors with copies of all such policies.

12.3.2 Casualty Insurance. A. The Board of Directors shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the Atrium Homes Property, together with excluding the Units, including property owned by the Homeowners Association, in and for interests of the Homeowners Association, all Unit Owners and their mortgagees, as their interests may appear, with a company acceptable to the standards set by the Board of Directors and in an amount equal to the insurance replacement value of the property as determined no less frequently than annually by the Board of Directors. All such insurance shall be in such amounts that the insured will not be a coinsurer except under deductible clauses required to obtain coverage at a reasonable cost. The coverage shall exclude land value, foundation and excavation costs, that part of the value of each Unit occasioned by special improvement not common to Units otherwise comparable in construction and finish, and all increases in values of Units occasioned by alterations, betterments and further improvements made by Unit Owners. All hazard policies issued to protect the Units shall provide that the word "building" wherever used in the policy shall not include fixtures, installations or additions comprising that part of the Units within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Units initially installed or replacements thereof, in accordance with the original plans and specifications. With respect to the coverage provided for by this paragraph, the Unit Owners shall be considered additional insureds.

12.3.2 B. Each Unit Owner shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring his or her Unit(s), with a company acceptable to the standards set by the Board of Directors and in an amount equal to the

insurance replacement value of the Unit(s) as determined no less frequently than annually. All such insurance shall be in such amount that the Unit Owner(s) will not be a coinsurer except under deductible clauses required to obtain coverage at a reasonable cost. The coverage may, at the Unit Owner's option, exclude land value, foundation and excavation costs. The Board of Directors shall be provided with copies of all such policies by the Unit Owner(s).

- 12.3.3 Workmen's Compensation. The Board of Directors shall obtain workmen's compensation insurance in order to meet the requirements of law.
- 12.3.4 Flood Insurance. The Board of Directors shall obtain flood insurance to meet the requirements of federal, state or local law, or any regulation enacted pursuant to federal, state or local law or as may be required by the First Mortgagee of Record holding the largest dollar volume of mortgages on Units.
- 12.3.5 Other Insurance. The Board of Directors shall obtain such other insurance as it shall determine from time to time to be desirable, which may include officers and directors liability insurance.
- 12.4 INSURER'S WAIVERS. When appropriate and possible, the policies carried by the Homeowners Association shall waive the insurer's right to:
- 12.4.1 Subrogation against the Homeowners Association and against the Unit Owners individually and as a group;
- 12.4.2 The pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and
- 12.5 PREMIUMS. Premiums upon insurance policies purchased by the Homeowners Association shall be paid by the Homeowners Association as a regular expense. Premiums upon insurance on the Units shall be paid by the Unit Owner(s).
- 12.6 BOARD OF DIRECTORS AS NAMED INSURED; SHARES OF PROCEEDS. All insurance policies purchased by the Homeowners Association shall be for the benefit of the Homeowners Association and the Unit Owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to the Board of Directors. The Board of Directors shall not be liable for payment of premiums nor for the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Board of Directors shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this Declaration and, in the case of proceeds from insurance for casualty, property damage, theft or other peril, for the benefit of the Homeowners Association, the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Board of Directors.
- 12.6.1 Personal Property Owned by Homeowners Association. Proceeds on account of damage to personal property owned by the Homeowners Association shall be held for the Homeowners Association.
- 12.6.2 Fountains South Atrium Homes Property. Proceeds on account of damage to Atrium Homes Property shall be held by the Homeowners Association for the benefit for all of the members hereof.

~~12.6.3 --- Unit Owner --- Proceeds on account of damage to Units shall be held for the benefit of the owners of the damaged Units in proportion to the cost of repairing the damage suffered by each such Unit Owner as compared to the total proceeds, which cost shall be determined by the Board of Directors of the Homeowners Association~~

~~12.6.4 --- Mortgagee --- In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have a right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such proceeds made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration~~

12.7 DISTRIBUTION OF PROCEEDS. Proceeds of insurance policies received by the Board of Directors, if any, shall be distributed to or for the benefit of the beneficial owners in the following manner:

12.7.1 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost of such repair or reconstruction. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittance to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee.

12.7.2 Failure to Reconstruct or Repair. If it is determined by the affirmative vote of eighty (80%) percent of all Unit Owners that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and the mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee.

12.7.3 Repairs to Party Walls. The provisions concerning the terms and conditions controlling repairs to Party Walls are specified in supplemented by those provisions contained within the DECLARATION OF PARTY FACILITIES FOR FOUNTAINS SOUTH ARIUM HOMES AREA.

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