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NAUTICAL HEIGHTS SUBDIVISION

AMENDED MAINTENANCE AGREEMENT

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AMENDED MAINTENANCE AGREEMENT

PREAMBLE

THIS DECLARATION IS MADE AS OF THE 1ST DAY OF MAY 2006, BY NAUTICAL HEIGHTS, LLC, ALONG WITH THE SIX (6) OTHER LOT OWNERS AS DECLARANTS OF THIS AMENDED MAINTENANCE AGREEMENT FOR THE NAUTICAL HEIGHTS SUBDIVISION, A PARCEL OF LAND LOCATED IN SMITH RIVER, CALIFORNIA. THIS DECLARATION SUPERSEDES THE DECLARATION PREVIOUSLY RECORDED ON OCTOBER 13, 2005. NAUTICAL HEIGHTS, LLC, GRANTOR, AND THE PRESENT SIX (6) OTHER LOT OWNERS HEREBY DECLARE THAT ALL OF THE AFFECTED REAL PROPERTY IS LOCATED IN THE COUNTY OF DEL NORTE, IN THE STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 4, AND 6 THROUGH 16 OF THE ORIGINAL NAUTICAL HEIGHTS SUBDIVISION, PHASE-1 ACCORDING TO THE MAP THEREOF RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF DEL NORTE COUNTY, STATE OF CALIFORNIA, ON OCTOBER 11, 2005, IN BOOK 14 OF MAPS, ON PAGES 27, 28, 29 AND 30; AND ANY ADDITIONAL PARCELS CREATED WITHIN THE ORIGINAL BOUNDARIES OR ANNEXED TO THEM.

SUCH PROPERTY IS HELD AND SHALL BE HELD, CONVEYED, HYPOTHECATED, ENCUMBERED, LEASED, RENTED, USED, OCCUPIED AND IMPROVED, SUBJECT TO NAUTICAL HEIGHTS' RECORDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, MEANING THE LIMITATIONS, ALL OF WHICH ARE DECLARED AND AGREED TO BE IN FURTHERANCE OF A PLAN FOR THE SUBDIVISION, IMPROVEMENT AND SALE OF SAID REAL PROPERTY, AND ARE ESTABLISHED AND AGREED UPON FOR THE PURPOSE OF ENHANCING AND PROTECTING THE VALUE, DESIRABILITY AND FOR THE ATTRACTIVENESS OF SAID REAL PROPERTY AND EVERY PART THEREOF. ALL OF NAUTICAL HEIGHTS' RESTRICTIONS SHALL RUN WITH SAID PROPERTY AND SHALL BE BINDING UPON AND INURE TO THE BENEFIT OF GRANTOR, EACH OWNER OF SAID REAL PROPERTY, OR ANY PART THEREOF,

AND EACH SUCCESSOR IN INTEREST OF SUCH OWNER. SAID REAL PROPERTY, TOGETHER WITH SUCH OTHER REAL PROPERTY WHICH MAY BE FURTHER SUBDIVIDED OR ANNEXED AND MADE SUBJECT TO NAUTICAL HEIGHTS' RESTRICTIONS, PURSUANT TO SECTION 2.02 OF THE COVENANTS, CONDITIONS AND RESTRICTIONS, CONSTITUTE THE AREA REFERRED TO HEREIN AS "NAUTICAL HEIGHTS."

SECTION 1:

DEFINITIONS

- 1.01 THE TERM "ASSOCIATION," AS USED HEREIN, SHALL MEAN AND REFER TO THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION, AN UNINCORPORATED, NON-PROFIT ASSOCIATION, AND ITS SUCCESSORS AND ASSIGNS.
- 1.02 THE TERM "OWNER," AS USED HEREIN, SHALL MEAN AND REFER TO THE RECORD OWNER, WHETHER ONE OR MORE PERSONS OR ENTITIES, OF A FEE SIMPLE TITLE TO ANY PART OF THE PROPERTIES, OR A BUYER UNDER A CONTRACT OF SALE, BUT EXCLUDING THOSE HAVING SUCH INTEREST MERELY AS SECURITY FOR THE PERFORMANCE OF AN OBLIGATION.
- 1.03 THE TERM THE "PROPERTIES," AS USED HEREIN, SHALL MEAN AND REFER TO THE REAL PROPERTY DESCRIBED ABOVE AND SUCH CONTIGUOUS ADDITIONS THERETO AS MAY HEREAFTER BE BROUGHT WITHIN THE JURISDICTION OF THE ASSOCIATION.
- 1.04 THE TERM "COVENANTS," AS USED HEREIN, SHALL REFER COLLECTIVELY TO THE COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS, LIENS, AND CHARGES IMPOSED BY OR EXPRESSED IN THIS DECLARATION OR THE C,C&R'S RECORDED CONCURRENTLY WITH THIS DECLARATION.
- 1.05 THE TERM "RIGHTS OF WAY," AS USED HEREIN, SHALL MEAN THE ROADWAY EASEMENTS PARTICULARLY DESCRIBED IN THE RECORDED FINAL MAP OF

NAUTICAL HEIGHTS ACCORDING TO THE MAP THEREOF RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF DEL NORTE COUNTY, STATE OF CALIFORNIA, ON OCTOBER 11, 2005, IN BOOK 14 OF MAPS, ON PAGES 27, 28, 29 AND 30, AND MADE A PART HEREOF BY THIS REFERENCE.

SECTION 2: MANAGEMENT OF THE ASSOCIATION

- 2.01** EVERY PERSON WHO ACQUIRES TITLE, LEGAL OR EQUITABLE, TO ANY OF THE PROPERTIES SHALL BECOME A MEMBER OF THE ASSOCIATION; PROVIDED HOWEVER, THAT SUCH MEMBERSHIP IS NOT INTENDED TO APPLY TO THOSE PERSONS WHO HOLD AN INTEREST IN ANY SUCH LOT MERELY AS SECURITY FOR THE PERFORMANCE OF AN OBLIGATION.
- 2.02** OWNERS SHALL BE ENTITLED TO ONE VOTE FOR EACH LOT AND/OR PARCEL OF THE PROPERTIES IN WHICH THEY HOLD AN INTEREST, SO LONG AS SUCH OWNER IS NOT THEN DELINQUENT IN THE PAYMENT OF ANY DUES OR OTHER ASSESSMENT OF THE ASSOCIATION. WHEN MORE THAN ONE PERSON HOLDS SUCH INTEREST IN ANY LOT, ALL SUCH PERSONS SHALL BE MEMBERS OF THE ASSOCIATION. THE VOTE FOR SUCH LOT SHALL BE EXERCISED AS THEY AMONG THEMSELVES DETERMINE, BUT IN NO EVENT SHALL MORE THAN ONE VOTE BE CAST WITH RESPECT TO ANY ONE LOT OF THE PROPERTIES.
- 2.03** THE ASSOCIATION MAY EMPLOY OR ENGAGE A MANAGER (TYPICALLY A CIVIL ENGINEER) AND OTHER EMPLOYEES OR AGENTS AND CONTRACT FOR SUCH SERVICES, LABOR, AND MATERIALS AS IT MAY DEEM REASONABLY NECESSARY TO OPERATE AND MAINTAIN THE RIGHTS OF WAY AND OTHER AREAS THAT THE ASSOCIATION MAY ACQUIRE AND TO DISCHARGE ITS OTHER DUTIES AS HEREIN PROVIDED.
- 2.04** THE ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE, AND UPKEEP OF THE RIGHTS OF WAY LOCATED WITHIN THE PROPERTIES. THE ASSOCIATION

SHALL ALSO BE THE MEANS FOR THE PROMULGATION AND ENFORCEMENT OF ALL REASONABLE REGULATIONS NECESSARY TO THE GOVERNING OF THE USE AND ENJOYMENT OF SUCH RIGHTS OF WAY AND SUCH OTHER PROPERTIES WITHIN THE PROPERTIES AS IT MAY FROM TIME TO TIME OWN. THE ASSOCIATION SHALL MAINTAIN ADEQUATE LIABILITY INSURANCE ON THE RIGHTS OF WAY AND FOR ITS DIRECTORS AND OFFICERS AS MAY BE REASONABLY NECESSARY TO PROTECT THE INTEREST OF THE OWNERS.

- 2.05 THE DECLARANTS AND EACH SUBSEQUENT OWNER OF ANY PARCEL OF THE PROPERTIES BY ACCEPTANCE OF A DEED OR CONTRACT THEREFORE, WHETHER OR NOT IT SHALL BE SO EXPRESSED IN SUCH DEED OR CONTRACT THEREFORE, COVENANT AND AGREE TO PAY TO THE ASSOCIATION SUCH ANNUAL ASSESSMENTS OR CHARGES (HEREINAFTER CALLED THE MAINTENANCE FUND PAYMENTS), SUCH ASSESSMENTS TO BE ESTABLISHED AND COLLECTED AS PROVIDED IN THE BY-LAWS OF THE ASSOCIATION, EXCEPT THAT ALL ASSESSMENTS SHALL BE PRORATED AMONG THE OWNERS IN THE SAME NAME, THAT VOTES ARE ALLOCATED.
- 2.06 THE ASSOCIATION SHALL BE GOVERNED BY A THREE (3) PERSON BOARD OF DIRECTORS TO BE SELECTED ANNUALLY ON OR BEFORE THE FIRST MONDAY IN JUNE FROM AMONG THE OWNERS IN GOOD STANDING WITH THE ASSOCIATION. ANY VACANCY AMONG THE BOARD OF DIRECTORS MAY BE FILLED BY APPOINTMENT BY THE BOARD OF DIRECTORS. THE DIRECTORS SHALL BE ELECTED AND MAY BE REMOVED BY A MAJORITY OF VOTES CAST BY THE OWNERS. EACH DIRECTOR SHALL BE ELECTED FOR A TERM OF ONE (1) YEAR, BUT SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR IS SELECTED. THE BOARD OF DIRECTORS SHALL HAVE THE POWER TO MANAGE THE AFFAIRS OF THE ASSOCIATION AND MAKE ANY ASSESSMENT, OR INCREASE OR DECREASE ANY DUES OR MAINTENANCE PAYMENT AFTER THE INITIAL YEAR, PROVIDED THAT THERE SHALL BE NO INCREASE OF MORE THAN FIVE PERCENT (5%) IN ANY ONE (1) YEAR WITHOUT THE WRITTEN APPROVAL OF A SUPER-MAJORITY OF TWO-THIRDS (2-3) OF THE OWNERS.

2.07 THE DIRECTORS SHALL MEET AT LEAST SEMI-ANNUALLY AT SUCH PLACES AND TIMES AS THE BOARD ELECTS. A QUORUM AT ANY SUCH MEETING SHALL REQUIRE A MAJORITY OF THE DIRECTORS. ON ALL MATTERS REQUIRING A VOTE BY THE DIRECTORS, A MAJORITY VOTE OF THE DIRECTORS PRESENT AT THE MEETING SHALL CONTROL. WRITTEN NOTICE OF ALL MEETINGS OF THE DIRECTORS SHALL BE GIVEN EACH DIRECTOR AT LEAST FIVE (5) DAYS IN ADVANCE, PROVIDED HOWEVER, ANY DIRECTOR MAY WAIVE THE NECESSITY OF NOTICE.

2.08 EXCEPT FOR THE MATTER OF INCREASING THE ANNUAL ASSESSMENT BASED ON AN ENGINEER'S ESTIMATE, ALL MATTERS REQUIRING AN ASSOCIATION VOTE SHALL BE DETERMINED BY A MAJORITY VOTE OF THOSE PRESENT OR REPRESENTED BY PROXY. SUCH VOTE MAY EITHER BE IN WRITING OR BY A MAJORITY OF THOSE PRESENT AT ANY MEETING OF THE ASSOCIATION, CALLED BY THE BOARD OF DIRECTORS OR ANY OWNER, PROVIDING AT LEAST FIFTEEN (15) DAYS PRIOR WRITTEN NOTICE HAS BEEN GIVEN TO ALL OWNERS WHO HAVE REGISTERED THEIR ADDRESSES WITH THE ASSOCIATION. A MAJORITY OF THE OWNERS MUST BE PRESENT OR REPRESENTED BY PROXY TO CONSTITUTE A QUORUM.

SECTION 3:

MAINTENANCE COVENANTS RELATING TO THE ROADWAYS

BY ACCEPTANCE OF A DEED EACH OWNER HEREBY GRANTS EACH OTHER OWNER THE FOLLOWING DESCRIBED NEGATIVE EASEMENT: SAID EASEMENT GRANTED HEREIN IS APPURTENANT TO THE DOMINANT TENEMENT. THE EASEMENTS GRANTED HEREIN ARE NONEXCLUSIVE, NEGATIVE, AND ASSIGN ALL NAUTICAL HEIGHTS PROPERTY OWNERS THE FOLLOWING RIGHTS AND OBLIGATIONS:

3.01 CONSISTENT WITH THE TERMS OF CALIFORNIA *CIVIL CODE SECTION 875*, OR A SUCCESSOR STATUTE, TO CONTRIBUTE WITH ALL OTHER OWNERS, THROUGH THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION FOR THE

MAINTENANCE OF THE SHARED IMPROVEMENTS OF THE NAUTICAL HEIGHTS SUBDIVISIONS.

- 3.02 TO HAVE ONLY LICENSED CONTRACTORS EVIDENCING ADEQUATE INSURANCE PERFORM WORK WITHIN THE DESIGNATED RIGHTS OF WAY, WHETHER SUCH WORK IS PERFORMED AT THE DIRECTION OF AN INDIVIDUAL PARCEL OWNER OR THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION.
- 3.03 TO CONTRIBUTE WITH ALL OTHER OWNERS, THROUGH THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION, FOR PAYMENT OF THE COSTS OF MAINTAINING AND OR CLEARING THE SERVIENT TENEMENTS OF EXCESS VEGETATION ALONG THE DESIGNATED RIGHT OF WAY, ALL AS SPECIFIED BELOW.
- 3.04 TO CONTRIBUTE WITH ALL OTHER OWNERS, THROUGH THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION, FOR PAYMENT OF THE COSTS OF MAINTAINING, REPAIRING AND/OR REPLACING THE DESIGNATED RIGHT OF WAY AS GRANTED AND RESERVED HEREIN. THIS DUTY SHALL INCLUDE PAYMENT OF ANY OTHER AND ALL COSTS OR EXPENSES REASONABLY RELATED TO THE CONTINUAL FUNCTIONING AND USE OF IMPROVEMENTS WITHIN THE DESIGNATED RIGHT OF WAY.
- 3.05 TO CONTRIBUTE WITH ALL OTHER OWNERS, THROUGH THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION, FOR PAYMENT OF THE COSTS OF MAINTAINING, REPAIRING AND/OR REPLACING THE SHARED DRAINAGE SYSTEM IMPROVEMENTS FOR THE BENEFIT OF ALL PARCELS IN THE NAUTICAL HEIGHTS SUBDIVISION, INCLUDING ALL MAPPED AND DESIGNATED DRAINAGE EASEMENTS.
- 3.06 TO CONTRIBUTE WITH ALL OTHER OWNERS, THROUGH THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION, FOR PAYMENT OF THE COSTS OF MAINTAINING, REPAIRING AND/OR REPLACING FOR THE BENEFIT OF ALL PARCELS IN THE NAUTICAL HEIGHTS SUBDIVISION THE SUBDIVISION ACCESS GATE.
- 3.07 NOT TO SHARE ANY LIABILITY FOR PROPERTY DAMAGE OR PERSONAL INJURY TO ANY WORKER OR CONTRACTOR EMPLOYED OR CONTRACTED BY THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION, WHICH MAY ARISE OUT OF ANY MAINTENANCE OR REPAIRS UNDERTAKEN BY THE

NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION PURSUANT TO THIS AGREEMENT.

3.08 NOT TO SHARE ANY LIABILITY ARISING FROM ANY PERSONAL INJURY OR PROPERTY DAMAGE FOR WORK UNDERTAKEN BY INDIVIDUAL OWNERS OR THEIR WORKERS AND CONTRACTORS PERFORMED WITHIN THE RIGHT OF WAY OR UPON THEIR INDIVIDUAL PROPERTY.

3.09 TO INDEMNIFY AND HOLD EACH OTHER HARMLESS FOR THAT OWNER'S RESPONSIBILITY OR LIABILITY FOR PERSONAL INJURY OR PROPERTY DAMAGE, WHEN THE INJURY OR DAMAGES RESULT FROM OR ARISE OUT OF ANY MAINTENANCE OR REPAIRS OR OTHER WORK UNDERTAKEN BY INDIVIDUAL PROPERTY OWNERS WITHIN THE RIGHT OF WAY OR UPON THEIR INDIVIDUAL PROPERTY.

3.10 EACH OWNER SHALL BEAR THE RESPONSIBILITY TO MAINTAIN SUCH HOMEOWNER'S FIRE AND LIABILITY INSURANCE, AS THEY DEEM SUFFICIENT AND APPROPRIATE.

3.11 EACH OWNER SHALL PAY FULL CONTRIBUTION OR REIMBURSEMENT TO THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION IN FULL NO LATER THAN THE END OF THE FISCAL YEAR, JUNE 30TH, FOLLOWING RECEIPT OF NOTICE OF ASSESSMENT BY INVOICE OR MAY BE LIABLE FOR ACCRUED PENALTIES AND SUBJECT TO ALL LEGAL REMEDIES AND ASSOCIATED COSTS NECESSARY FOR COLLECTION OF SAID CONTRIBUTION OR REIMBURSEMENT, INCLUDING THE COSTS ASSOCIATED WITH LEGAL ACTIONS (ATTORNEY FEES AND COURT COSTS). IN THE EVENT THAT AN OWNER SHOULD DEFAULT IN THE TIMELY PAYMENT OF THE OWNER'S FULL CONTRIBUTION OR REIMBURSEMENT, THE OBLIGATION MAY BE SUBJECTED TO A COURT JUDGMENT IN A COURT OF COMPETENT JURISDICTION AND AN ABSTRACT THEREOF RECORDED IN THE OFFICE OF THE RECORDER OF DEL NORTE COUNTY. THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION MAY THEREAFTER EXECUTE UPON THE JUDGMENT AS ALLOWED BY LAW.

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SECTION 4: ALLOCATION OF COSTS

THE ANNUAL COST PER OWNER FOR ANY MAINTENANCE OR REPAIR WORK PERFORMED UPON ANY OR ALL NAUTICAL HEIGHTS ROADWAYS, ACCESS GATE, OR DRAINAGE SYSTEM IMPROVEMENTS, INCLUDING THE ROUTINE CLEARING OF THE SERVIENT TENEMENTS OF EXCESS VEGETATION ALONG DESIGNATED RIGHTS OF WAY AND ANY OTHER ITEMS AS LISTED IN SECTION 1 ABOVE SHALL BE IN ACCORDANCE WITH ANY ENGINEER'S MAINTENANCE COST ESTIMATES OBTAINED TO DETERMINE THE BASIS OF THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION'S ANNUAL ASSESSMENT. THE INITIAL ENGINEER'S ESTIMATE OBTAINED BY AND FOR THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION SHALL BECOME A PART OF THIS MAINTENANCE AGREEMENT AND SHALL BE HEREINAFTER REFERED TO AS *EXHIBIT B*. (SEE ATTACHED *EXHIBIT B*). THE INITIAL ANNUAL COST, INCREASES IN COSTS, SPECIAL ASSESSMENTS AND TIMING SHALL BE AS FOLLOWS:

- 4.01 THE SUM OF FOUR HUNDRED THIRTY-EIGHT DOLLARS AND EIGHTY-TWO CENTS (\$438.82) FOR THE FIRST YEAR FOR EACH PARCEL OWNER WHO RECEIVES TITLE TO THEIR LOT IN CALENDER YEAR 2006. THEREAFTER, THE INITIAL ANNUAL COST SHALL BE THE COST FOR THAT YEAR AS DETERMINED BY THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION DURING THE YEAR IN WHICH TITLE IS RECEIVED.
- 4.02 THE INITIAL ENGINEER'S MAINTENANCE COST ESTIMATES (SEE ATTACHED *EXHIBIT B*) SHALL BE SUBJECT TO AN ANNUAL ADJUSTMENT TO BE CALCULATED BY THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION. THE BASE FOR COMPUTING THE ADJUSTMENT WILL BE THE "WEST REGION - CITIES SIZE CLASS B/C, ALL ITEMS INDEX" AS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS. ("INDEX"). SHOULD THE INDEX BE DISCONTINUED OR REVISED, SUCH OTHER GOVERNMENT INDEX OR COMPUTATION WITH WHICH IT IS REPLACED SHALL BE USED TO

OBTAIN SUBSTANTIALLY THE SAME RESULT IF THE INDEX HAD NOT BEEN DISCONTINUED OR REVISED. INFLATIONARY COST ADJUSTMENTS SHALL BE MADE ANNUALLY ON THE FIRST DAY OF JULY OF EACH CALANDER YEAR. THE ANNUAL COST SO DETERMINED MAY BE FURTHER AMENDED UPON RECOMMENDATION OF AN ENGINEER'S ESTIMATE OBTAINED BY AND FOR THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION FROM TIME TO TIME.

- 4.03 MAINTENANCE FEES SHALL BE COLLECTED ANNUALLY FROM EACH PARCEL OWNER; SUCH FEES ARE FOR PREPAYMENT OF THE FOLLOWING YEAR'S NEEDS FOR ROUTINE AND FUTURE MAINTENANCE COSTS. PAYMENTS SHALL BE PRORATED FOR ANY YEAR IN WHICH TITLE IS NOT HELD FOR THE ENTIRE (12) TWELVE-MONTH PERIOD. PAYMENT IN FULL SHALL BE DUE NO LATER THAN THE END OF EACH FISCAL YEAR, JUNE 30th.
- 4.04 PAYMENTS ARE TO BE MADE TO THE "NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION," OR, AT ITS DIRECTION, TO ANY ENTITY THE ASSOCIATION THEN DESIGNATES AS MANAGING THE MAINTENANCE OF THE PROPERTY.
- 4.05 FUNDS SHALL BE MAINTAINED IN AN INTEREST BEARING ACCOUNT (HEREINAFTER REFERED TO AS THE "NAUTICAL HEIGHTS MAINTENANCE ACCOUNT") ESTABLISHED AND MANAGED BY THE PROPERTY MANAGEMENT ENTITY. FUNDS NOT USED FOR MAINTENANCE DURING EACH FISCAL YEAR, WHICH SHALL BE FROM JULY 1ST OF ONE YEAR TO JULY 1ST OF THE FOLLOWING YEAR, SHALL BE LEFT IN THE MAINTENANCE ACCOUNT TO ACCUMULATE FOR FUTURE USE TO ADDRESS LONG-TERM MAINTENANCE NEEDS OR EMERGENCIES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO PAYMENT OF THE FOLLOWING:
- A. ITEMS AS OUTLINED IN SECTION 1 OF THIS MAINTENANCE AGREEMENT.
 - B. PERIODIC SEAL COATING OF THE DESIGNATED RIGHT OF WAY TO PRESERVE THE LIFE AND INTEGRETU OF THE ASPHALT (TO BE PERFORMED APPROXIMATELY EVERY 3 TO 5 YEARS).
 - C. STRUCTURAL REPAIRS TO THE DESIGNATED RIGHTS OF WAY.

- D. RESURFACING OF ALL OR A PORTION OF THE DESIGNATED RIGHTS OF WAY.
- E. REPAIRING AND/OR REPLACING THE SHARED DRAINAGE SYSTEM FOR NAUTICAL HEIGHTS.
- F. STRUCTURAL REPAIRS TO CUT BANKS OR FILL SLOPES ALONG DESIGNATED RIGHTS OF WAY.
- G. REPLACEMENT OF ALL OR A PORTION OF THE ENTRY GATE.
- H. REPAIR OR REPLACE ANY PART OF THE EASEMENTS GRANTED HEREIN DAMAGED DUE TO ACTS OF GOD.

4.06 THE DIRECTORS OF THE NAUTICAL HEIGHTS MAINTENANCE ASSOCIATION SHALL BE INITIALLY SELECTED BY THE DECLARANTS. THE ORIGINAL DIRECTORS SHALL ON BEHALF OF ALL OWNERS PERFORM THE FOLLOWING DUTIES:

- A. DRAFT BY-LAWS FOR THE OPERATION AND FUNCTIONING OF THE ASSOCIATION.
- B. CONTRACT WITH A CIVIL ENGINEER AND/OR OTHERS TO PREPARE ESTIMATES FROM TIME TO TIME FOR BUDGETING FUTURE ANNUAL MAINTENANCE AND TO ESTIMATE SPECIAL ASSESSMENTS.
- C. COMMUNICATE IN WRITING TO OWNERS REGARDING ANY SPECIAL ASSESSMENTS NEEDS AS OUTLINED IN SECTION 5 BELOW.
- D. DIRECT CONTRACTORS TO PERFORM NECESSARY EMERGENCY REPAIR WORK AS OUTLINED IN SECTION 5.02 BELOW.

SECTION 5: SPECIAL ASSESSMENTS

5.01 SPECIAL ASSESSMENTS MAY BE IMPOSED UPON OWNERS OF PARCELS WITHIN NAUTICAL HEIGHTS FOR WORK AS OUTLINED IN SUB-SECTION 4.05, A THROUGH H ABOVE, SHOULD FUNDS IN THE MAINTENANCE ACCOUNT BE INSUFFICIENT TO PERFORM THE NECESSARY WORK. SHOULD THE NEED FOR SPECIAL ASSESSMENT ARISE THE COMMITTEE SHALL GIVE

WRITTEN NOTICE TO THE OWNERS CONTAINING THE FOLLOWING INFORMATION (AT MINIMUM):

- A. AN OUTLINE OF THE SCOPE OF WORK THAT NEEDS TO BE PERFORMED.
- B. ALL WRITTEN ESTIMATES OF THE COST TO PERFORM THE WORK.
- C. AN ACCOUNTING STATEMENT SHOWING THE AMOUNT OF FUNDS AVAILABLE IN THE MAINTENANCE ACCOUNT TO PERFORM THE WORK.
- D. THE ADDITIONAL AMOUNT NEEDED FROM EACH OWNER TO COMPLETE THE WORK.
- E. A PROPOSED CONSTRUCTION SCHEDULE.
- F. THE DATE WHEN SPECIAL ASSEMENT FUNDS ARE DUE.

5.02 THE TIMING FOR PAYMENT OF SPECIAL ASSESSMENTS SHALL BE AS FOLLOWS:

- A. FOR COMPLETING NECESSARY WORK OF A NON-EMERGENCY NATURE EACH OWNER SHALL PAY THE FULL CONTRIBUTION OR REIMBURSEMENT SPECIFIED BY THE COMMITTEE WITHIN 120 DAYS OF THE MAILING OF A "NOTICE OF ASSESSMENT OF INVOICE" OR A PARCEL OWNER MAY BECOME LIABLE FOR ACCRUED PENALTIES AND SUBJECT TO ALL LEGAL REMEDIES AND ASSOCIATED COSTS NECESSARY FOR COLLECTION OF SAID CONTRIBUTION OR REIMBURSEMENT (INCLUDING COURT COSTS AND ATTORNEY FEES).
- B. SHOULD THE WORK BE OF AN EMERGENCY NATURE WHICH NEEDS TO BE PERFORMED IMMEDIATELY, SUCH AS ROAD FAILURE PROHIBITING INGRESS/EGRESS AND THE LIKE, THE PROPERTY MANAGEMENT ENTITY SHALL BE DIRECTED BY THE COMMITTEE TO EFFECT TEMPORARY REPAIRS, OR PERFORM OTHER WORK IMMEDIATELY TO THAT MINIMUM DEGREE WHICH ALLOWS FULL USE OF THE DESIGNATED RIGHTS OF WAY GRANTED AND RESERVED HEREIN. FOLLOWING TEMPORARY REPAIRS PERMENANT REPAIRS WILL PROCEED AS OUTLINED IN 3.01 ABOVE.

**SECTION 6:
MISCELLANEOUS PROVISIONS**

- 6.01 NO PERSON CAN TRANSFER, ASSIGN OR LICENSE THEIR RIGHTS TO USE ANY DESIGNATED RIGHT OF WAY, OR ROADWAY, WITHIN NAUTICAL HEIGHTS TO ANY OTHER PARTY OR ENTITY FOR THE PURPOSE OF ACCESSING ADJACENT PARCELS WITHOUT THE ADVANCE WRITTEN CONSENT OF ALL PARTIES DEEMED TO BE RESPONSIBLE FOR ROAD MAINTENANCE UNDER THIS MAINTENANCE AGREEMENT.
- 6.02 NO DESIGNATED RIGHT OF WAY, ROADWAY, OR ANY PORTION OF ANY ROADWAY WITHIN THE NAUTICAL HEIGHTS SUBDIVISION MAY BE OFFERED FOR OR DEDICATED TO PUBLIC USE UNLESS ALL PROPERTY OWNERS WITHIN THE NAUTICAL HEIGHTS SUBDIVISION AGREE IN ADVANCE AND IN WRITING TO MAKE SUCH OFFER OF DEDICATION.
- 6.03 ANY CHANGES OR AMENDMENTS TO ANY OF THE TERMS OF THIS MAINTENANCE AGREEMENT, EXCEPT AS OUTLINED IN SECTION 6.02 ABOVE, MUST BE COMPLETED IN THE SAME MANNER AS SET FORTH IN SECTION 4.07 OF THE NAUTICAL HEIGHTS SUBDIVISION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.
- 6.04 ANY OWNER OR OWNERS PARTY TO THIS AGREEMENT SHALL HAVE THE RIGHT TO ENFORCE THIS AGREEMENT BY ANY PROCEEDING AT LAW OR IN EQUITY. THE PREVAILING PARTY SHALL BE ENTITLED TO REASONABLE ATTORNEY'S FEES. NO FAILURE TO ENFORCE ANY CONDITION, COVENANT, OR RESTRICTION CONTAINED IN THIS AGREEMENT SHALL BE DEEMED A WAIVER OF THE RIGHT TO DO SO THEREAFTER.

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**SECTION 7:
ANNEXATION**

THE PROPERTY DESCRIBED IN *EXHIBIT "A"* ATTACHED TO THIS DECLARATION, MAY BE MADE SUBJECT TO THIS DECLARATION UNILATERALLY BY THE DECLARANTS THROUGH THE RECORDATION OF ANNEXATION COVERING THE APPLICABLE PORTION OF THE PROPERTY TO BE ANNEXED. SAID DECLARATION OF ANNEXATION MAY CONTAIN SUCH COMPLEMENTARY ADDITIONS AND MODIFICATIONS OF THE COVENANTS AND RESTRICTIONS CONTAINED IN THE ORIGINAL DECLARATION AS MAY BE REASONABLY NECESSARY TO REFLECT THE DIFFERENT CHARACTER, IF ANY, OF THE ADDED PROPERTY, AND STILL REMAIN CONSISTENT WITH THE GENERAL SCHEME OF THIS DECLARATION. SAID DECLARATION OF ANNEXATION SHALL INCLUDE A DESIGNATION OF THE LOTS AND ROADS MADE SUBJECT TO THIS DECLARATION. EACH OWNER BY ACCEPTANCE OF A DEED, ACKNOWLEDGES AND AGREES THAT THEY SHALL NOT OPPOSE OR OBJECT TO THE RESIDENTIAL SUBDIVISION DEVELOPMENT OF THE REAL PROPERTY DESCRIBED IN SAID *EXHIBIT "A"* AND THEY SHALL NOT REQUEST OR DEMAND THAT ADDITIONAL CONDITIONS, REQUIREMENTS, AND/OR RESTRICTIONS BE IMPOSED ON SAID RESIDENTIAL SUBDIVISION DEVELOPMENT.

IN WITNESS WHEREOF, THE DECLARANTS HAVE EXECUTED THIS DECLARATION IN COUNTERPARTS AS OF THE DATE FIRST ABOVE WRITTEN.

NAUTICAL HEIGHTS LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY

BY: MICHAEL GEORGE,
A CALIFORNIA COMPANY, MANAGING MEMBER

BY: _____
MICHAEL GEORGE, MANAGING MEMBER

MARGRET LEWIS

THOMAS RIEL

JUDY RIEL

JOHN LEONG

CYNTHIA LEONG

WILL ROGERS

THELMA ROGERS

MARK RICHIE

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared MARGRET LEWIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared THOMAS RIEL, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared JUDY RIEL, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared JOHN LEONG, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared CYNTHIA LEONG, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared WILL ROGERS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared THELMA ROGERS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared MARK RITCHIE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared RONDA RITCHIE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2006, before me, _____, Notary Public, personally appeared GLENN GOLDAN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.
