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303396

STATE OF GEORGIA
COUNTY OF GWINNETT
Reference:
Deed Book 21755
Page 0001

**FIRST AMENDMENT TO THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHARLESTON BAY
(A FEE SIMPLE TOWNHOUSE DEVELOPMENT)**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions for Charleston Bay (A Fee Simple Townhouse Development) (the "Amendment") is made on this 15 day of April, 2008 by Charleston Bay Homeowners Association, Inc., a Georgia nonprofit corporation.

WITNESSETH:

WHEREAS, on or about February 7, 1984, Triple Creek Corporation, a Georgia corporation (hereinafter, together with its successors and assigns in interest, the "Triple Creek") caused that certain Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development) to be recorded at Deed Book 2715, Page 337, et seq., Gwinnett County, Georgia records (hereinafter the "Charleston Bay Declaration"); and

WHEREAS, said Charleston Bay Declaration was thereafter amended by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded April 9, 1984, in Deed Book 2755, Page 492 et seq., Gwinnett County, Georgia records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded June 28, 1984, in Deed Book 2817, Page 391 et seq., aforesaid records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded October 18, 1984, in Deed Book 2897, Page 355 et seq., aforesaid records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded March 26, 1985, in Deed Book 3005, Page 130 et seq., aforesaid records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A

Fee Simple Townhouse Development), recorded July 10, 1985, in Deed Book 3092, Page 190 et seq., aforesaid records; by that certain Amendment to Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded July 23, 1987, in Deed Book 4445, Page 78 et seq., aforesaid records; by that certain Amendment to Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded September 29, 1987, recorded in Deed Book 4561, Page 1 et seq., aforesaid records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded November 4, 1987, in Deed Book 4620, Page 82 et seq., aforesaid records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded August 12, 1988, in Deed Book 5051, Page 317 et seq., aforesaid records; by that certain Supplemental Declaration Subjecting Additional Lots in Charleston Bay Subdivision to the Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded February 2, 1989, in Deed Book 5317, Page 98 et seq., aforesaid records; and by that certain Amendments of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development), recorded April 9, 1997, in Deed Book 14026, Page 184 et seq., aforesaid records (said Charleston Bay Declaration, as amended, being hereinafter referred to as the "Original Charleston Bay Declaration"); and

WHEREAS, on or about June 26, 1986, Charleston Bay Development Company, a Georgia corporation (hereinafter, together with its successors and assigns in interest, "Charleston Bay Development") caused that certain Declaration of Covenants and Restrictions for Ashley Square (A Fee Simple Townhouse Development) to be recorded at Deed Book 3629, Page 125, et seq., Gwinnett County, Georgia records (hereinafter the "Ashley Square Declaration"); and

WHEREAS, the Original Charleston Bay Declaration and the Original Ashley Square Declaration were amended by striking such Declarations in their entirety, and substituting therefore the Declaration of Covenants, Conditions and Restrictions for Charleston Bay (A Fee Simple Townhouse Development) attached to the Amendment to Declaration of Covenants and Restrictions for Charleston Bay (A Fee Simple Townhouse Development) and Amendment to Declaration of Covenants and Restrictions for Ashley Square (A Fee Simple Townhouse Development) recorded November 28, 2000 at Deed Book 21755, Page 0001, et seq., Gwinnett County, Georgia records (hereinafter the "Declaration"); and

WHEREAS, Charleston Bay Homeowners Association, Inc. (hereinafter the "Association") is the "Association" as said term is used and defined in the Declaration; and

WHEREAS, pursuant to Section 15(b)(i) of the Declaration, said Declaration may be amended only by the agreement of Owners of Lots to which two-thirds (2/3) of the votes in the Association pertain; and

WHEREAS, pursuant to Section 15(b)(i) of the Declaration, no amendment to the provisions of the Declaration shall materially and adversely affect any right, title, interest or privilege granted or afforded to the holder of any First Mortgage encumbering any Lot unless such holder shall consent thereto; and

WHEREAS there are no eligible Mortgage Holders whose approval is required for this Amendment; and

WHEREAS, this Amendment has been approved by the required two-thirds (2/3) of Lot Owners, as evidenced by the Certification of Approval attached hereto as Exhibit "A" and by this reference made a part hereof;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Section 5 of the Declaration entitled "Assessments" is hereby amended by adding to the end of said Section 5 a new paragraph (g) which shall read as follows:

(g) Capital Contribution Fee. Upon each and every conveyance of a Lot the transferee or grantee becoming the Owner of the Lot shall be obligated to pay to the Association, in addition to all other assessments levied under this Declaration, simultaneously upon such transfer or conveyance, a non-refundable capital contribution in an amount equal to ninety percent (90%) of the then current year's annualized assessment (hereinafter, the "Capital Contribution Fee"). The Capital Contribution Fee shall be collected and paid to the Association at the closing of each sale, transfer or conveyance. All Capital Contribution Fees shall be deposited in the Association's capital reserve account. The Capital Contribution Fees shall constitute an assessment under the Declaration and shall be collected in the same manner provided in the Declaration for the collection of other assessments. Notwithstanding the foregoing, the Capital Contribution Fee shall not be due from (i) any grantee who is the spouse or former spouse of the grantor; (ii) any grantee to whom a Lot is transferred by will or under the laws of intestacy; (iii) any grantee to whom a Lot is transferred as a gift, that is, gratuitously and without value or legal consideration; and (iv) any person who takes title to a Lot through foreclosure or deed in lieu of foreclosure upon any first priority Mortgage or any second in priority purchase money Mortgage, provided that neither the original holder nor any subsequent holder of such second in priority Mortgage is or was the seller of the Lot. Furthermore, the Capital Contribution Fee shall not be payable upon the refinancing of a Lot, provided there is no change in the fee simple ownership of the Lot.

2. In the event of any conflict or inconsistency between the provisions of this Amendment and the terms of the Declaration or Bylaws of the Association, the terms of this Amendment shall control.

3. Except as otherwise defined herein, capitalized terms, as used in this Amendment, shall have the meanings set forth in the Declaration.

4. Except as herein modified and amended, the Declaration shall remain in full force and effect.

5. This Amendment shall be effective upon recordation in the Gwinnett County, Georgia records.

IN WITNESS WHEREOF, the Association hereby executes this Amendment under seal on the date and year first above written.

ASSOCIATION:

CHARLESTON BAY HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation

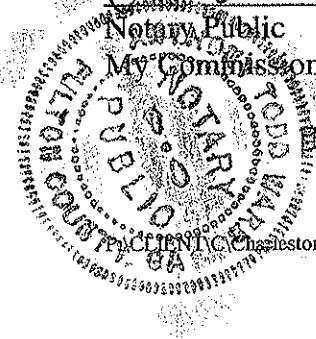
Signed, sealed and delivered in the presence of:

[Signature] Unofficial Witness

[Signature] Notary Public My Commission Expires: _____

By: [Signature] President

Attest: [Signature] Secretary



Notary Seal ANTHONY TODD WARD Notary Public, Fulton County, Georgia My Commission Expires February 8, 2010

EXHIBIT "A"

CERTIFICATION OF APPROVAL

The undersigned officers of Charleston Bay Homeowners Association, Inc. hereby swear under oath (i) that the above Amendment was approved by the assent of Owners of Lots to which two-thirds (2/3) of the votes in the Association pertain; (ii) that there are no eligible Mortgage Holders whose approval is required for the above Amendment and (iii) that any notices required under the Georgia Property Owners Association Act were properly given.

By: Eleanor M. Byars
Print Name: Eleanor M. Byars
Print Title: President

By: John W. Atkinson
Print Name: JOHN W. ATKINSON
Print Title: SECRETARY

Sworn to and subscribed before me this
15 day of April, 2008.



Notary Public

My Commission Expires:

ANTHONY TODD WARD
Notary Public, Fulton County, Georgia
My Commission Expires February 8, 2010

[Notary Seal]