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We hereby certify that this is a true copy of the original
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on DEC 20 1985 at 3:25 o'clock P.M.

TITLE GUARANTY OF HAWAII, INCORPORATED

By Beverly Tomita

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

SECOND AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS FOR WAIKOLOA BEACH RESORT

I, the undersigned, hereby certify:

That I am the Secretary of Waikoloa Resort
Association and,

That TRANSCONTINENTAL DEVELOPMENT CO., a Texas
partnership (the "Declarant"), is the Declarant under that
certain Declaration of Protective Covenants, Conditions
and Restrictions for Waikoloa Beach Resort dated April 1,
1980, but effective as of April 23, 1980, recorded in the
Bureau of Conveyances of the State of Hawaii in Liber
14670 at page 531, as supplemented and amended (the
"Declaration"); and

That by written Consent dated 9 December 1985,
all of the members of the Association entitled to vote did
consent to the amendment in several particulars of the
Declaration, to be effective upon recordation of this
Second Amendment to Declaration of Protective Covenants,
Conditions and Restrictions for Waikoloa Beach Resort (the
"Amendment"); and

That said amendments have been approved pursuant
to Section 2 of Article XIV of the Declaration; and

That the following constitute the amendments so
made, which amendments shall become effective on the date
on which this Amendment is recorded in the Bureau of
Conveyances of the State of Hawaii (unless otherwise
specified in this Amendment, all terms used herein shall
have the same meanings as are ascribed to them in the
Declaration):

1. Paragraph 5 of Article I (on pages 3-4) of the Declaration is hereby amended in its entirety to read as follows:

5. "Association Expenses" shall include all costs and expenses (except Association Capital Costs) incurred by the Association in carrying out its duties and powers under this Declaration and under its Charter and By-Laws.

2. Paragraph 9 of Article I (on page 4) of the Declaration is hereby amended in its entirety to read as follows:

9. "Beach Assessments" shall mean the amount assessed to Beach Lot Owners and the Declarant, if applicable, as provided in Article XII.

3. Paragraph 28 of Article I (on page 8) of the Declaration is hereby amended in its entirety to read as follows:

28. "Living Unit" shall mean (a) an apartment, single family dwelling or residential Condominium within the Covered Property sufficiently developed to have received a Final Inspection or Temporary Certificate of Occupancy or (b) a Condominium in a Hotel Condominium Project within the Covered Property sufficiently developed to have received a Final Inspection or Temporary Certificate of Occupancy which has been designated by Declarant to be a Living Unit, in a duly recorded Supplemental Declaration pursuant to paragraph 37 of this Article I. Living Unit does not include a hotel room on a Hotel Lot.

4. Article I (on page 10) of the Declaration is hereby amended by adding thereto a new Paragraph 37 at the end of said Article I, as follows:

37. "Hotel Condominium Project" shall mean a Condominium Project located on a hotel-zoned Lot within the Covered Property, in which the individual Condominiums therein shall be sold and owned separately, but the Condominium Project as a whole will be operated as a hotel. Notwithstanding anything which may be contained herein to the contrary, the Condominiums in a

Hotel Condominium Project shall, for purposes of this Declaration, be deemed Hotel Lots, unless Declarant designates such Hotel Condominium Project and such Condominiums to be a residential Condominium Project and Living Units, respectively, in a duly recorded Supplemental Declaration; provided, that all references to Condominium Associations shall include the Condominium Association of a Hotel Condominium Project, whether or not such a Supplemental Declaration has been recorded.

5. Section 4 of Article III (on pages 14-16) of the Declaration is hereby amended in the following particulars only:

(a) The first sentence of Section 4 (on page 14) is hereby amended in its entirety to read as follows:

The Association shall have four (4) categories of Owners entitled to vote, and, notwithstanding anything which may be contained in this Declaration, the By-Laws, or the Charter to the contrary, voting rights shall not commence as to any Lot until assessments have been levied against such Lot.

(b) The second sentence of Section (4)(a) (on page 14) is hereby amended in its entirety to read as follows:

In amplification and not in limitation of the first sentence of this Section 4, no votes shall be attributable to Category A Lots.

(c) The first sentence of Section 4(b) (on page 14) is hereby amended in its entirety to read as follows:

Category B Owners shall be (i) all Owners of hotel-zoned Lots sufficiently developed to have received a Final Inspection or Temporary Certificate of Occupancy as to one or more hotel rental units, and (ii) all Owners of Condominiums in a Hotel Condominium Project sufficiently developed to have received a Final Inspection or Temporary Certificate of Occupancy (unless such Condominiums have been

deemed to be Living Units pursuant to Paragraph 37 of Article I hereof); provided, however, that each Hotel Condominium Project shall be required to have a Condominium Association of which each Owner of a Condominium therein is a member, which Condominium Association shall exercise the votes of all Owners of Condominiums in such Hotel Condominium Project.

(d) The first sentence of Section 4(c) (on page 14) is hereby amended in its entirety to read as follows:

Category C Owners shall be all Owners (except Owners of commercial zoned and hotel zoned lots) of Living Units, and shall, notwithstanding the foregoing, include all Owners of Condominiums located in Hotel Condominium Projects which have been designated as Living Units pursuant to Paragraph 37 of Article I hereof.

(e) Section 4(d) (on page 15) is hereby amended by adding thereto a new sentence at the end of said Section 4(d), as follows:

Each commercial Condominium Project on a commercial zoned Lot shall be required to have a Condominium Association of which each Owner of a Condominium therein is a member, which Condominium Association shall exercise the votes of all Owners of Condominiums in such Condominium Project.

6. The last sentence of Section 1(b) of Article IV (on page 19) of the Declaration is hereby amended in its entirety to read as follows:

The Association shall also maintain the bathhouse and showers, located at the Beach and Ponds, all fixtures appurtenant thereto, and all equipment and personal property used in connection with said bathhouse and showers, and, to the extent permitted by governmental authorities, the "King's Trail" as shown on File Plan 1562.

7. Section 1(d) of Article IV (on page 19) of the Declaration is hereby amended by adding thereto two new sentences at the end of said Section 1(d) as follows:

In the event that pursuant to any agreement with the State of Hawaii, County of Hawaii, any political subdivision thereof, or any municipal, county, state, federal or other governmental authority or agency, Declarant (or any affiliated entity of Declarant) is required to contribute to the cost of construction, maintenance, operation, repair, replacement, or financing of any improvements, programs, services or functions made or instituted in connection with the municipal services referred to in Section 2(c) of this Article IV, or with respect to any such improvements, programs, services or functions required by such governmental authority to be made or instituted as a condition to any development within the Covered Property, then Declarant (or its affiliate) may assign such obligation to contribute to such costs to the Association, and the Association shall accept such assignment, and all such costs shall be Association Expenses, and/or the Association shall reimburse Declarant (or its affiliate) for all such costs incurred by Declarant (or its affiliate), in such manner and over such period of time as determined by Declarant (or its affiliate), and such reimbursements shall be Association Expenses which may be assessed to Owners as regular Assessments or Special Assessments pursuant to Article V hereof. The Association may also itself enter into such agreements with the State of Hawaii, County of Hawaii, any political subdivision thereof, or any municipal, county, state, federal or other governmental authority or agency to contribute to such costs and all such costs shall be Association Expenses which may be assessed to Owners as regular Assessments or Special Assessments pursuant to Article V hereof.

8. Section 1(e) of Article IV (on pages 19-20) of the Declaration is hereby amended in its entirety to read as follows:

(e) The Association shall pay all real property taxes, assessments and other charges

levied upon any portion of the Common Use Property, whether the Association holds fee title, leasehold, license or other interest with reference to such property, unless otherwise mutually agreed upon by the Association and the Declarant.

9. Section 1(f) of Article IV (on page 20) of the Declaration is hereby amended in its entirety to read as follows:

(f) The Association shall obtain and maintain in force insurance and bonds as described in Article VIII.

10. Section 1(i) of Article IV (on page 21) of the Declaration is hereby repealed.

11. The third sentence of Section 3(a) of Article IV (on page 24) of the Declaration is hereby amended in its entirety to read as follows:

Subject to the provisions of Section 17 of Article V hereof, the Association Rules may include the establishment of a system of fines or penalties enforceable by Special Assessments.

12. Section 3(a) of Article V (on page 26) of the Declaration is hereby amended in its entirety to read as follows:

(a) Each Category B, Category C, and Category D Owner shall pay one Assessment Share for each vote to which his Lots(s) or Interest(s) are entitled, and his Lot(s) or Interest(s) shall be subject to liens therefor. Category A Owners shall not be liable for payment of assessments, except for Special Assessments.

13. Section 4 of Article V (on page 27) of the Declaration is hereby amended by adding thereto a new sentence at the end of said Section 4, as follows:

No voting rights shall be attributable to property which is exempt from Assessments pursuant to this Section 4.

14. Section 7 of Article V (on page 28) of the Declaration is hereby amended in its entirety to read as follows:

Section 7. Special Assessments. (a) Subject to the provisions of Section 17 of this Article V, the Association shall also levy an assessment against any Owner and his Interest for all monies expended by the Association or the Declarant (including without limitation, reasonable engineers', architects', attorneys' and accountants' fees) in performing any functions or carrying out any action under the Declaration, which functions or actions were directly or indirectly necessitated by such Owner's failure to comply with this Declaration, the Charter or By-Laws of the Association or the Association Rules. (b) The Association may also levy Special Assessments against some or all of the Owners, payable in such amounts, or in accordance with such formulas and over such period of time as the Association may reasonably determine, for Association Expenses which benefit fewer than all of the Owners or which disproportionately benefit certain Owners; provided, however, that no Special Assessments pursuant to this Subsection (b) of this Section 7, which results in an assessment against an Owner which is greater than the amount of the assessment which would have been levied against such Owner for such expenses if such expenses had been divided into the number of Assessment Shares equal to the number of votes that all Owners of Lots or Interests which are so benefited or disproportionately benefited are entitled, and such Owner were required to pay one Assessment Share for each vote to which his Lot(s) or Interest(s) thus benefited are entitled, shall be levied against such Owner without the consent of such Owner.

15. Section 8 of Article V (on page 29) of the Declaration is hereby amended in its entirety to read as follows:

Section 8. Notices of Assessments. The Association shall, within thirty (30) days after establishment thereof, give notice to each Owner of the Assessment for Association Expenses and Association Capital Costs and any Special Assessment levied against such Owner and his Interest (the "Notice of Assessment")

and may record the Notice of Assessment pursuant to Article VI, Section 2 hereof.

16. Section 16 of Article V (on page 32) of the Declaration is hereby amended in its entirety to read as follows:

Section 16. Accounts. The Association will maintain or cause to be maintained separate books of account in accordance with recognized accounting practices, and will have such books of account available for examination by Owners and members of the Board at reasonable business hours. An annual report consisting of the following shall be distributed within one hundred and twenty (120) days after the close of the accounting year:

(a) a balance sheet as of the end of the accounting year;

(b) an operating (income) statement for the accounting year; and

(c) a statement of changes in financial position for the accounting year.

Upon written request therefor signed by ten percent (10%) in voting interest of the entire membership of the Association, such annual report shall be the result of a certified audit by a certified public accountant of the books of account of the Association.

17. Article V (on pages 25-32) of the Declaration is hereby amended by adding thereto a Section 17 at the end of said Article V, as follows:

Section 17. No Lien. Notwithstanding anything which may be contained in this Declaration or in the Charter or By-Laws of the Association to the contrary, any Special Assessment or monetary penalty imposed by the Association as a disciplinary measure for failure of the Owner of a Living Unit consisting of a single family dwelling or residential Condominium to comply with this Declaration, the Charter, the By-Laws of the Association or the Association Rules, or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Use Property for which the Owner of such Living Unit was allegedly responsible, or in

bringing the Owner of such Living Unit and his Living Unit into compliance with this Declaration, the Charter, the By-Laws, or the Association Rules, shall not constitute a lien against such Owner's Living Unit, and the Association shall not record any Notice of Assessment with respect to such Special Assessment or monetary penalty; provided, however, that charges imposed against an Owner of such a Living Unit consisting of reasonable late payment penalties for delinquent assessments, and/or interest, and/or charges to reimburse the Association for costs reasonably incurred (including attorneys' fees and costs) in its efforts to collect delinquent assessments, shall constitute a lien on such Living Unit which may be foreclosed in the manner set forth in Section 2(b)(ii) of Article VI, and which may be listed on a Notice of Assessment recorded pursuant to Article VI, Section 2 hereof.

18. The first, second and third sentences of Section 3(a) of Article VII (on page 35) of the Declaration are hereby amended in their entireties to read as follows:

There is hereby established the Architectural Committee of the Association, which shall have a minimum of three (3) and a maximum of five (5) members, but always an odd number of members none of whom shall be required to be an architect, an Owner, an Association Member, an officer or director of the Association or to meet any other particular qualifications. Declarant shall have the sole right to appoint and remove the members of the Architectural Committee until January 1, 2005, unless, prior to said date, Declarant, by duly recorded Supplemental Declaration, delegates such right to the Board. The members of the Architectural Committee from time to time shall be those persons designated by Declarant by written notice to the Board, if Declarant then has the right to appoint such members, or, if not, by the Board in a resolution duly passed and reflected in the Minutes of the Board.

19. Section 3(b) of Article VII (on pages 36-41) of the Declaration is hereby amended in the following particulars only:

(a) The third sentence of the second paragraph of paragraph 1 of Section 3(b) (on page 37) is hereby amended in its entirety to read as follows:

The Owner's obligation to reimburse the Association shall be a Special Assessment against the Owner's Interest enforceable in the same manner as other liens established under this Declaration; provided, however, that any such Special Assessment imposed against an Owner's Interest in a Living Unit consisting of a single family dwelling or residential Condominium shall not constitute a lien against such Owner's Interest, but shall be enforceable by all such other means set forth in Section 2 of Article VI of this Declaration.

(b) Section 3(b) (on page 41) is hereby amended by adding thereto a new Paragraph 8 at the end of said Section 3(b), as follows:

8. With respect to each Condominium Project consisting of Living Units within the Covered Property, from and after the first to occur of (i) the fifth anniversary of the filing for record in the Bureau of Conveyances of the State of Hawaii of the declaration of horizontal property regime for such Condominium Project, or (ii) sale by the developer of such Condominium Project of ninety percent (90%) of the Condominiums in such Condominium Project, notwithstanding anything which may be contained in this Declaration or in the By-Laws or in the declaration or bylaws of such Condominium Project to the contrary, the control and prior approval rights of the Architectural Committee as set forth in this Section 3(b) shall not apply to any alterations undertaken by an individual Owner of the exterior of any improvements in such Condominium Project which when completed will not affect the exterior of other than such Owner's apartment, and which are not part of a group of apartments making such alterations through the efforts of or funding by the Association, so long as such alterations have been approved by the Board of

Directors or Committee responsible therefor of such Condominium Project pursuant to the declaration and by-laws for such Condominium Project. The Committee Rules shall not apply to any alterations or improvements as to which, pursuant to this Paragraph 8, the Architectural Committee does not have the right of approval. Each Condominium Project consisting of Living Units shall provide for an Architectural Control Committee to review and approve all alterations or improvements in such Condominium Project which would require the approval of the Architectural Committee but for this Paragraph 8, or may delegate such duties to the Board of Directors of its Condominium Association, and such Committee or such Board, as applicable, shall review and approve or disapprove all such proposed alterations and improvements.

Except to the extent that they are inconsistent with this Paragraph 8, the provisions of this Section 3(b) shall remain fully applicable to each Condominium Project consisting of Living Units in the Covered Property. Without limiting the generality of the foregoing, the control and approval rights of the Architectural Committee as set forth in this Section 3(b) shall apply to any and all improvements described in Paragraph 1 of this Section 3(b) in a Condominium Project consisting of Living Units, which the Condominium Association for such Condominium Project performs or is obligated to perform, including, but not limited to, exterior painting and major reconstruction.

20. The second sentence of Section 3(c)(5) of Article VII (on page 42) of the Declaration is hereby amended in its entirety to read as follows:

Unless the Architectural Committee in writing permits a greater time for work to commence, repair or restoration work as to the improvements on any Lot not constituting a Living Unit or Units must commence within sixty (60) days following such damage, and repair or restoration work as to any Living Unit or Units must commence within one hundred and twenty (120) days following such damage, and work in all cases must proceed diligently until completion.

21. Section 3(e) of Article VII (on page 46) of the Declaration is hereby amended by adding thereto a new Paragraph 3 at the end of said Section 3(e), as follows:

3. The provisions contained in this Section 3(e) shall apply to any Hotel Condominium Project unless Declarant has recorded a Supplemental Declaration designating such Hotel Condominium Project to be a residential Condominium Project.

22. Paragraph 1 of Section 3(f) of Article VII (on page 47) of the Declaration is hereby amended by adding thereto a new sentence at the end of said Paragraph 1, as follows:

Such restrictions shall not be imposed on any single family residential Lots or on any Condominiums constituting Living Units in a Condominium Project, which have been registered with "OILSR" or any "Departments" as defined in Section 1 of Article XIII of this Declaration, which are still owned by the applicant for such registrations (whether or not such applicant is Declarant), without the prior written consent of each Department with which the sale of such Condominiums or single family residential Lots has been registered.

23. Section 3 of Article VII (on page 47) of the Declaration is hereby amended by adding thereto a new Section 3(g) at the end of said Section 3, as follows:

(g) General Restriction Applicable to Residential Condominium Projects.

1. The name "Waikoloa" shall appear in the name of each residential Condominium Project located within the Covered Property unless the Declarant consents in writing to its omission. The Declarant has registered the name "Waikoloa" with the Department of Regulatory Agencies of the State of Hawaii, and the Declarant will license without charge all developers of residential Condominium Projects in the Covered Property to use the word "Waikoloa" in the names of such Condominium Projects and will also license the Condominium Association of each such Condominium Project to use the word "Waikoloa" in its name. With

reference to any specific Condominium Project, the requirements of this subparagraph may be waived in writing by the Declarant.

24. The second sentence of Section 1 of Article XII (on page 57) of the Declaration is hereby amended in its entirety to read as follows:

It may also maintain to the extent it deems advisable and the State of Hawaii permits, the State beach property along the waterfront of Anaeho'omalu Bay makai of Lots 4 and 8, File Plan 1562, and Lots 1 and 7, File Plan 1853 (the "State Beach Property").

25. Section 2 of Article XII (on pages 57-58) of the Declaration is hereby amended in the following particulars only:

(a) The first sentence of Section 2 (on page 57) is hereby amended in its entirety to read as follows:

The initial members of the Beach Association shall be:

(a) The Owner of Lot 8 and any of Lot 4 of File Plan 1562, Lot 1 of File Plan 1853 and Lot 7 of File Plan 1853 which is annexed hereto and becomes part of the Covered Property pursuant to Section 3 of Article II hereof (the "Beach Lots"); and

(b) Declarant (if Declarant ceases to qualify under (a), above).

(b) The fourth and fifth sentences of the second paragraph of Section 2 (on pages 57-58) are hereby repealed.

(c) The eighth sentence of the second paragraph of Section 2 (on page 58) is hereby amended in its entirety to read as follows:

For so long as the Declarant is a member of the Beach Association, in the event of a tie vote on any matter within the Beach Association, the Declarant shall be entitled to cast one additional vote.

26. Section 3 of Article XII (on pages 58-59) of the Declaration is hereby amended in its entirety to read as follows:

Section 3. Additions to the Covered Property as Beach Lots. In the event that any or all of Lot 4, File Plan 1562, and/or Lot 1 File Plan 1853, and/or Lot 7, File Plan 1853, is or are annexed hereto and designated as Covered Property pursuant to Section 3 of Article II hereof, such Lots, upon such annexation shall be Beach Lots and the respective Owners thereof shall be members of the Beach Association.

27. Section 4 of Article XII (on pages 59-60) of the Declaration is hereby amended in the following particulars only:

(a) Section 4(f) (on page 60) is hereby repealed and the following is substituted therefore:

(f) Pay all real property taxes, assessments and other charges levied upon any portion of the Beach and Ponds, unless otherwise mutually agreed upon by the Beach Association and the Declarant.

(b) A new Section 4(g) (on page 60) is hereby added at the end of Section 4, as follows:

(g) Obtain and maintain in force insurance and bonds pursuant to the same procedures and with the same powers provided to the Association in Article VIII for the obtaining and maintenance in force of insurance and bonds, including but not limited to the procedures and powers set forth therein for the use of insurance proceeds and the negotiation of loss settlements. As to each of such insurance policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Beach Association, the Board of the Beach Association, the Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by said persons, but only to the extent of the excess of such claims over the insurance proceeds received in compensation for such loss.

28. Section 5 of Article XII (on page 60) of the Declaration is hereby amended in its entirety to read as follows:

Section 5. Maintenance and Expenses. The Beach Association's maintenance responsibilities for the Beach and Ponds, and in its discretion for the State Beach Property, shall include maintaining the sand, ponds, plant life and other landscaping on the property in a neat and attractive condition and maintaining, repairing and replacing improvements, equipment, fixtures and personal property used on the property. The Beach Association shall pay all costs ("Beach Expenses") in meeting these responsibilities, including labor, equipment, materials, utility charges and management and administrative expenses, as well as the costs for insurance, taxes, improvement district assessments, condemnation proceedings and the like. The responsibility for maintaining the bathhouse and showers located on the Beach and Ponds, together with all fixtures appurtenant thereto and equipment and personal property used in connection therewith, shall be the Association's, and is specifically excluded from the maintenance responsibilities of the Beach Association. Charges for water for said bathhouse and showers and for said maintenance are specifically excluded from Beach Expenses and shall be Association Expenses.

29. Section 7 of Article XII (on page 61) of the Declaration is hereby amended in its entirety to read as follows:

Section 7. Creation of the Lien and Personal Obligation of the Beach Assessments. Each Owner of a Beach Lot covenants and agrees to pay, and each Owner of a Beach Lot by acceptance of a conveyance providing an interest therein (whether or not the conveyance refers to this Declaration or to these Beach Assessments, liens and obligations) is deemed to covenant and agree to pay to the Beach Association his assessed share of Beach Expenses, and thereby grants to the Beach Association a lien, with power of sale, on such Owner's interest to secure the obligation to pay said Beach Assessments. The Beach Assessments will be fixed,

established and collected from time to time as hereinafter provided. All Beach Assessments together with Charges on Collection, shall be a continuing lien upon the Interest against which each such Beach Assessment is made. Each Beach Assessment, together with Charges on Collection shall also be the personal obligation of the Beach Lot Owner (and if the Owner consists of two or more or persons or entities, each jointly and severally) commencing when the Beach Assessment falls due. The Beach Lot Owner's personal obligation shall not pass to his successors in title unless expressly assumed by such successors.

30. The third, fourth and fifth sentences of Section 8 of Article XII (on pages 61-62) of the Declaration are hereby amended in their entirety to read as follows:

This budget shall be divided into equal fourths. Initially, the Owner of Beach Lot 8 shall pay one-fourth as its Beach Assessment, and the Declarant shall pay three-fourths as its Beach Assessment. As each additional Beach Lot is annexed hereto, its Owner shall be obligated to pay one-fourth and Declarant's obligation shall be reduced by that amount.

31. Section 9 of Article XII (on page 62) of the Declaration is hereby amended in its entirety to read as follows:

Section 9. Reconstruction and Insurance Proceeds; Condemnation. In the event of any damage to or partial or total destruction of property maintained by the Beach Association, the Beach Association shall restore and repair the same to the former condition as promptly as practical. The proceeds of any insurance maintained covering such damage shall be used for such purpose, subject to the prior rights of Mortgagees whose interests may be protected by said policies. The Beach Association shall levy a Beach Assessment for reconstruction purposes among its Beach Lot Owners to make up any deficit in the cost of restoration and shall restore the property.

The term "taking" as used in this Section shall mean condemnation under power of eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Beach and Ponds, the members of the Beach Association hereby appoint the Board of the Beach Association and such persons as the Board may delegate to represent all of the members of the Beach Association in connection with the taking of the Beach Association's interest in the Beach and Ponds. The Board of the Beach Association shall act in its sole discretion with respect to any awards being made in connection with the taking of such interest and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking of such interest shall be paid to the Beach Association. In the event of a taking, the rules as to restoration and replacement set forth in the first paragraph of this Section 9 shall apply as in the case of destruction of property maintained by the Beach Association.

32. The last paragraph of Section 2 of Article XIII (on page 65) of the Declaration is hereby amended by adding thereto a new sentence at the end of said paragraph, as follows:

Notwithstanding anything which may be contained herein or in the By-Laws to the contrary, prior to the exercise by the Declarant of the power of attorney set forth in the preceding sentence on behalf of the Owners in any Condominium Project consisting of Living Units or of any single family residential Lots, which have been registered with such a Department or Departments, such exercise shall first be approved in writing by each such Department with which the sale of Condominiums in such Condominium Project or such Lots has been registered.

33. Section 5 of Article XIV (on page 68) of the Declaration is hereby amended in its entirety to read as follows:

Section 5. Audit. Any Owner may, at any reasonable time, and at his own expense, cause a certified audit or inspection to be made of the books and records of the Association.

34. Section 8 of Article XIV (on pages 68-69) of the Declaration is hereby repealed.

35. The second paragraph of Section 9 of Article XIV (on page 70) of the Declaration is hereby amended in its entirety to read as follows:

All actions by the Declarant pursuant to this Declaration are discretionary. The taking by the Declarant of any discretionary action pursuant to this Declaration or the refraining from such action shall not create or result in any liability to an Owner unless the taking of or omission to take such action directly results from the gross negligence or willful misconduct of the Declarant as to such Owner.

36. Paragraph B of Exhibit C attached to the Declaration is hereby amended in its entirety to read as follows:

B. Lots 1, 2, 4, 5, 8, 11 and 20 of the "Waikoloa Beach Resort Phase I (Amended)" Subdivision, as shown on File Plan 1562 filed in the Bureau of Conveyances of the State of Hawaii; and Lots 1 to 8, inclusive, and Lots R-1 and R-2 of the "Waikoloa Beach Resort Phase II" Subdivision, as shown on File Plan 1853 filed in the Bureau of Conveyances of the State of Hawaii,

and

37. Except as amended hereby, the Declaration, as supplemented and amended, shall remain in full force and effect.

Dated: 9 December 1985

Laurenca F. Dumm
Secretary

Declarant hereby consents to the above-stated amendments:

TRANSCONTINENTAL DEVELOPMENT CO.,
a Texas partnership

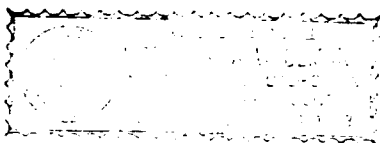
By: TRANSCONTINENTAL CORPORATION,
a California corporation
Its General Partner

By: Larry J. Jensen
Its SENIOR VICE PRESIDENT

STATE OF ~~HAWAII~~ CALIFORNIA)
)
COUNTY OF SANTA BARBARA) SS.

On this 9th day of DECEMBER, 1985, before
me appeared LARRY J. HANSEN, to me
personally known, who, being by me duly sworn, did say

that he is the SENIOR VICE PRESIDENT of TRANSCONTINENTAL CORPORATION, a California corporation, the Managing General Partner of TRANSCONTINENTAL DEVELOPMENT CO., a Texas partnership; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors as Managing General Partner of and in behalf of said partnership by authority of the Partnership Agreement of said partnership; and said officer acknowledged the instrument to be the free act and deed of said corporation as said Managing General Partner.

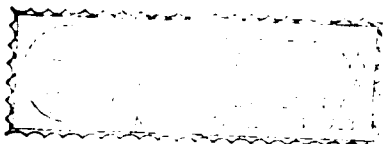


Kimberly A. Wageman
Notary Public
State of ~~Hawaii~~ CALIFORNIA

My Commission expires: 06-01-88

STATE OF ~~HAWAII~~ CALIFORNIA)
)
COUNTY OF SANTA BARBARA) SS.

On this 9th day of DECEMBER, 1985, before
me appeared LAURENCE F. DUNN JR., to me
personally known, who, being by me duly sworn, did say that he
is the SECRETARY of WAIKOLOA RESORT ASSOCIATION, a
Hawaii corporation; that said corporation has no corporate
seal; that said instrument was signed in behalf of said
corporation by authority of its Board of Directors; and said
officer acknowledged the instrument to be the free act and
deed of said corporation.



Kimberly A. Wageman
Notary Public
State of ~~Hawaii~~ CALIFORNIA

My Commission expires: 06-01-88