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NEW HANOVER CO. NC

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STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR LAND AND
PROPERTY OF
WRIGHTSVILLE YACHT CLUB, INC.
A NON-PROFIT CORPORATION

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THIS DECLARATION, made on the date hereinafter set forth by
WRIGHTSVILLE YACHT CLUB, INC., hereinafter referred to as
"Declarant".

W I T N E S S E T H:

WHEREAS, the corporation is the owner of certain real and
personal property in the Town of Wrightsville Beach, County of New
Hanover, State of North Carolina, which real property is more
particularly described on Exhibit "A" attached hereto; and

WHEREAS, the corporation may acquire additional real property
hereafter; and

WHEREAS, the corporation desires to impose certain restrictive
and protective covenants, conditions, restrictions, reservations,
liens and charges as hereinafter set forth.

NOW, THEREFORE, the corporation hereby declares that all of
the properties as described on Exhibit "A", together with any
parcel acquired hereafter, shall be held, sold and conveyed subject
to the following easements, restrictions, covenants and conditions,
all of which are for the purpose of enhancing and protecting the
value, desirability and attractiveness of such property. These
easements, covenants, restrictions and conditions shall run with
the real property and shall be binding on all parties having or
acquiring any right, title or interest in the described properties
or any part thereof, and shall inure to the benefit of each member
of the corporation.

ARTICLE I

DEFINITIONS

Section 1: "CORPORATION" shall mean and refer to WRIGHTSVILLE
YACHT CLUB, INC., a North Carolina corporation, its successors and
assigns.

Section 2: "BOARD" shall mean and refer to the Board of
Directors of WRIGHTSVILLE YACHT CLUB, INC. as lawfully constituted
from time to time under the provisions of the Articles of

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Incorporation, this Declaration and the By-Laws.

Section 3: "COMMON AREA" shall mean all real and personal property now owned or hereafter acquired by the corporation.

Section 4: "PLAT" shall mean the map of Wrightsville Yacht Club, Inc. recorded in Map Book 35, Page 336, in the New Hanover County Registry, a copy of which is also attached hereto as Exhibit "B".

Section 5: "BOAT SLIP" shall mean the space in and above the water adjacent to the Atlantic Intracoastal Waterway, Wrightsville Beach, North Carolina, for the docking of a boat as shown diagrammatically on the Plat, and all such slips exist by virtue of valid permits from the United States Army Corps of Engineers and the North Carolina Coastal Resource Commission for their creation and use.

Section 6: "MEMBERSHIP" shall mean and refer to the rights, benefits, duties and obligations, evidenced by an appropriate certificate, which inure to the benefit of and burden each member of the corporation.

Section 7: "CHARTER MEMBERSHIP" shall mean and refer to the first membership issued by the corporation entitling its holder to the exclusive use of each boat slip and each parking space shown on the Plat together with all other rights, benefits, duties and obligations, evidenced by an appropriate certificate, which inure to the benefit of and burden each member of the corporation.

Section 8: "MEMBER" shall mean and refer to the person(s) or entity who has a membership in the corporation.

Section 9 "CHARTER MEMBER" shall mean and refer to the person(s) or entity which is issued and holds a Charter Membership in the corporation.

Section 10 "LICENSEE" shall mean and refer to any person or entity who secures the right to the use of a membership from a member. All such licenses, except licenses already in existence on the date of recording of this Declaration and any and all transient docking permitted now or hereafter by the Class C member as referred to herein, must be approved by the Board of Directors

following such procedures as the Board may prescribe. Notwithstanding any other provision of this Declaration, during all periods of any license of such membership the approved licensee shall possess, hold and use the licensed membership rights; and during such periods the member-licensor shall have no right to the use and enjoyment of the membership, except that the member(s) only may vote such membership at any meeting of members for any purpose or any matter, in the event that such membership includes voting rights.

ARTICLE II

DISCLOSURES AND DISCLAIMERS BY DECLARANT

Section 1: STATUS OF FACILITY: The Declarant is informed and believes that all necessary governmental permits for the existence of the boat dock facility have been issued and are presently in full force and effect. The facility is located upon navigable waters and exists solely in accordance with the terms of such permits as have been issued, and remain in effect, by agencies of the United States of America and the State of North Carolina. Further, certain aspects of the facility may be subject to a special use permit issued by the Town of Wrightsville Beach. The Declarant holds, for the use and benefit of all members, such permits and rights thereunder as are presently existing and in effect. However, all rights of the Declarant in and to the boat dock facility and all improvements related thereto are subject to the terms and conditions of any such permits, compliance with such terms and conditions, and the continued existence, effectiveness, and renewal (if required) of such permits. Each member, by acceptance of membership, acknowledges these disclosures by Declarant and agrees to accept membership subject thereto.

Section 2: CONDITION OF FACILITY: The Declarant hereby discloses that it did not construct or cause to be constructed the improvements comprising the boat dock facility. As such, the Declarant makes no warranties or representations as to the condition of the facilities. Each member, by acceptance of a membership, agrees to accept such boat slip as such member is

assigned as well as the usage of the common areas of the facilities on an "as is" basis, acknowledging that the Declarant has disclaimed liability for the condition of such improvements.

ARTICLE III

MEMBERS AND RIGHTS OF MEMBERSHIP

Section 1: CLASSES OF MEMBERSHIP. There shall be five (5) classes of members and memberships: Charter, Class A, Class B, Class C, and Class D. The various rights and characteristics of said classes of membership shall be as set forth below in this Article.

Section 2: CHARTER MEMBERSHIP. In consideration and payment for the conveyance of the property described in Exhibit "A" attached hereto, the corporation shall issue to CAUSEWAY PROPERTIES LIMITED PARTNERSHIP (hereafter "CPLP") Charter Membership certificates for each and every membership in the corporation, the total number thereof being ninety-five (95). Said Charter Memberships shall be freely transferrable by CPLP without any application or approval. Upon transfer of any such Charter Membership by CPLP to another person, partnership, corporation, or other entity, such membership shall immediately cease to be a Charter Membership and shall automatically convert to a Class A, Class B, Class C, or Class D Membership, depending upon the nature of the membership transferred as hereinafter described and as shown on the certificates. The corporation shall also issue to CPLP a certificate or certificates entitling CPLP to the exclusive use of all vehicle parking spaces located in the corporation's parking lot.

Section 3: CLASS A MEMBERSHIP. A Class A membership shall be a membership entitling such member to the exclusive use and enjoyment of one (1) particular boat slip as well as one (1) vehicle parking space assigned to such member as identified on the membership certificate by reference to the Plat. The total number of Class A memberships once all Charter Memberships have been converted, shall be eighty-seven (87). Each Class A member shall have the exclusive right, subject to the provisions hereof and the

Bylaws and Rules and Regulations, to occupy, possess and lawfully use that particular boat slip and that particular vehicle parking space identified on such membership certificate. Each Class A member shall also have those common area rights and voting rights set forth below in this Article.

Section 4: CLASS B MEMBERSHIP. Class B Membership shall be a special membership entitling the member to the exclusive use and enjoyment of that portion of "A" Dock identified as "Class B Dock Space" on the Plat. Said Class B Membership shall entitle such member, in connection with said portion of "A" Dock shown as "Class B Dock Space", to the right of access thereto over those certain pedestrian walks to "A" Dock and "B" Dock as shown on the Plat. Except for said "Class B Dock Space", the Class B Member shall have no rights whatsoever in any boat slip or parking space. The total number of Class B memberships shall be one (1). Except for the right of access referred to herein, said Class B member shall have no common area rights. The Class B member shall have voting rights as set forth below in this Article.

Section 5. CLASS C MEMBERSHIP. Class C Membership shall be a special membership encompassing the fuel and transient dock at the Yacht Club. Said Class C Membership shall entitle such member to conduct the fuel and transient docking operation of the Yacht Club and, in connection therewith, to use and enjoy the fuel and transient dock area, consisting of 322 feet of dock space along the waterway, together with an additional 44 feet of dock space on a leg running perpendicular to the waterway all as shown on the Plat. Such Class C member shall also have easement rights across the common areas of the facility for the location of the existing fuel pipes, lines, pumps, and other related fixtures. Any change in the location of such fuel pipes, lines, pumps, and related fixtures must be approved in advance and in writing by the Board of Directors. The Class C member shall have no rights whatsoever in any boat slip or parking space. The total number of Class C memberships shall be one (1). The Class C member shall have those common area rights and voting rights set forth below in this Article.

Provided, however, that such Class C Membership shall be subject to the following further terms and conditions:

A. The Class C member shall operate the facilities of the Yacht Club in accordance with all laws and regulations, federal, state, and local;

B. The Class C member shall perform daily maintenance, cleaning, trash removal and policing of the pool, clubhouse, bathrooms, dock, parking lot, the pumpout station and the surrounding area, without charge, cost or expense to Wrightsville Yacht Club, Inc. for labor or management;

C. All services provided by the Town of Wrightsville Beach (water, sewer, trash removal) will be shared equally between the Class C member and the Wrightsville Yacht Club, Inc.;

D. The Class C member assumes all liabilities attaching to the Fuel Farm property by reason of any hazardous substance. Further, the Class C member shall indemnify and hold harmless the Wrightsville Yacht Club, Inc. from any liability past, present, or future, arising out of the fuel farm or the fuel business; provided, however, the Class C member assumes no liability for any other person, firm or corporation for negligence;

E. For a period of three (3) years from the date of recording of this instrument, the Class C member may not sell, convey, or transfer said membership unless the same is approved by an affirmative vote of at least sixty percent (60%) of the membership. After said three year period, any such sale or transfer must be made in accordance with this Declaration and the Bylaws adopted pursuant hereto. It is the intent of the parties that said Class C membership shall be held by the owner of the Fuel Farm Tract for the purpose of providing fueling facilities; and

F. In the event the Wrightsville Yacht Club, Inc. becomes dissatisfied with the Class C member's operation of the Marina, it shall have the option, at any time during the continued existence of the Club, upon the affirmative vote of the Owners of sixty (60%) percent of the memberships, to purchase the Class C membership, together with the fuel farm, easement, fuel service operation, dock

rights, and any and all rights of the Class C member by payment of \$1,300.00 per lineal foot of the fuel dock, increasing five (5%) percent each year after 1996. Said closing and payment shall occur within thirty (30) days of written notice exercising the option.

Section 6: CLASS D MEMBERSHIP. A Class D Membership shall be a membership entitling such member to the use and enjoyment of the common areas only. A Class D member shall have no rights whatsoever in any boat slip or parking spaces. The total number of Class D memberships, once all Charter Memberships have been converted, shall be six (6). Said Class D memberships shall be held by the owners of those six certain condominium units to be constructed on a tract of land adjacent to the pool and clubhouse facilities as indicated on the Plat and shall pass as appurtenances to said condominium units, subject to the approval of transfer as required below. Each Class D member shall have those common area rights and those voting rights set forth below in this Article.

Section 7: COMMON AREA RIGHTS. Subject to those particular limitations imposed on certain classes of membership as set forth above, each member shall have a nonexclusive right and easement of enjoyment in and to the common areas subject to the right of the corporation:

1. To limit the number of guests of members;
2. In accordance with its Articles and By-Laws, to borrow money for the purpose of improving the properties, common area and facilities;
3. To suspend all rights of any member for any period during which an assessment against such member remains unpaid or, for a period not to exceed thirty (30) days, for an infraction of its published Rules and Regulations; and to license or otherwise lawfully use all rights of any such member during any such period of suspension; and
4. To dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose, subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless approved by

members owning two-thirds (2/3) of the Memberships and further subject to the By-Laws and Rules and Regulations of the Board of Directors.

Section 8: VOTING RIGHTS. The Owner of each membership shall have one (1) vote at any meeting of members, subject to the Bylaws of the corporation.

Section 9: TRANSFER OF MEMBERSHIP. Any and all Charter Memberships may be transferred, assigned, pledged, or leased by CPLP without limitation and without the requirement of any approval. As to all other classes of membership, there shall be no transfer, assignment, pledge, or lease of any membership or any interest therein without the prior approval of the Board of Directors following such procedure as may be prescribed in the Bylaws.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 1: CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: Each owner of each membership excepting all Charter Memberships agrees to pay the corporation: (1) regular assessments, (2) special assessments, (3) assessments for violations of this DECLARATION, the BY-LAWS, or RULES AND REGULATIONS, and (4) assessments for repairs of damage caused by fault, such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the membership and shall be a continuing lien upon the membership against which each such assessment is made as provided in Sections 9, 10 and 11 hereof. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such membership at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by such successor.

Section 2: PURPOSE OF ASSESSMENTS: The assessments levied by

the corporation shall be used exclusively for the purpose of (1) promoting the recreation, health, safety and welfare of the members and their property; (2) the enforcement of these Covenants and the Rules of the corporation promulgated by the Board of Directors; and (3) in particular for the acquisition, purchase, lease, improvement, repair and maintenance of the lands, piers, docks, pilings, properties, services and dock facilities of the corporation and related to the use and enjoyment of such properties.

Section 3: DETERMINATION OF REGULAR ASSESSMENTS

A. The Board shall determine the amount of regular assessments against members as specified in the By-Laws. Regular assessments against members shall be determined, imposed, levied and collected by the Board.

B. The Board is specifically empowered on behalf of the corporation to make and collect regular assessments and to replace, maintain and repair all property of the corporation including the bulkheads, docks, piers, pilings, dock boxes and other dock facilities. Assessments shall be payable periodically as determined by the Board, but no more frequently than monthly.

Section 4: SPECIAL ASSESSMENTS. In addition to the regular assessments authorized above, the Board may levy in any fiscal year, a special assessment or assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of capital improvements upon any of the common area and the necessary fixtures and personal property related thereto, or defraying in whole or in part the cost of any dredging, or defraying the expenses of operation, maintenance or renovation not adequately funded by regular assessments. Except as specified herein all special assessments shall be determined, imposed, levied and collected in the manner prescribed in the By-Laws, provided that, if such special assessment exceeds ONE THOUSAND DOLLARS (\$1,000.00) in any fiscal year for any membership, such assessment shall have the approval of the owners of a majority of the total

Memberships then outstanding at a meeting duly constituted for this purpose, written notice of which shall have been sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the time, date, place and purpose of the meeting.

Section 5: ASSESSMENT FOR VIOLATIONS. For the violation by a member or his guest of any rule or regulation adopted by the Board or the breach of any By-Law, or the breach of any provision of the DECLARATION, the Board shall have the power and authority to impose a special assessment against any member not to exceed FIVE HUNDRED DOLLARS (\$500.00) for each occurrence.

Section 6: QUORUM FOR ANY ACTION AUTHORIZED UNDER. At the first meeting called, the presence at the meeting of memberships or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum.

Section 7: DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. DUE DATES. The regular assessments provided for herein shall commence as to each membership on the first day of the month following its acquisition from CPLP by some other person, partnership, corporation or other entity. No assessment shall be levied or charged against any Charter Membership. The Board of Directors shall fix the amount of the regular assessment against each membership at least thirty (30) days in advance of each fiscal year. Written notice of the regular assessment shall be sent to the member(s) owning each membership. The due dates shall be established by the Board of Directors. The corporation shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the corporation setting forth whether the assessments against a specified membership have been paid. A reasonable charge may be made by the Board for issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8: ASSESSMENTS FOR REPAIRS OF DAMAGE CAUSED BY FAULT. If a member, his assignee or licensee, or one of his guests damages or destroys by his or her fault, as determined by the Board, any of

the property of the corporation including the bulkheads, piers, docks, boat slips, dock boxes and other facilities, the corporation shall repair the damage or replace the destroyed property as soon as practicable and shall levy an individual assessment upon the owner(s) of that membership for the full cost of repair or replacement.

Section 9: EFFECT OF NONPAYMENT OF ASSESSMENTS. REMEDIES OF THE CORPORATION. Any assessments or any portions thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall become a lien on such membership and bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. No member may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his membership.

Section 10: CREATION OF LIEN. Recognizing that proper operation and management of the COMMON AREAS require the continuing payment of costs and expenses therefor, and that such proper operation and maintenance result in benefit to all of the owners of memberships, and that the payment of such common expenses represented by the assessments levied and collected by the Board is necessary in order to preserve and protect the property of the owners of memberships, the Corporation is hereby granted a lien upon each membership excepting all Charter Memberships, and its appurtenant undivided interest in common areas and facilities, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the owner of each membership which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Corporation, and which lien shall also secure all costs and expenses, including reasonable attorney's fees, which may be incurred by the Corporation in securing the payment of such assessment or enforcing this lien upon the membership and its appurtenant undivided interest in common areas and facilities. The lien granted to the Corporation may be foreclosed in the manner

provided by North Carolina General Statutes Section 47A-22, and in any suit for the foreclosure of that lien, the Corporation shall be entitled to the appointment of a receiver for that membership. The lien granted to the Corporation shall further secure such advances for taxes, and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Corporation in order to preserve and protect its lien, and the Corporation shall further be entitled to interest at the rate prescribed above on any such advances made for such purpose. All persons, firms, or corporations who shall acquire, by whatever means, any interest in the ownership of any membership, or who may be given or acquire a mortgage, lien, or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Corporation, and shall acquire such interest in any membership expressly subject to such lien rights.

Section 11: CLAIM OF LIEN AND FORECLOSURE. The lien herein granted unto the Corporation shall be enforceable from and after the time of recording a claim of lien in the public records of New Hanover County, North Carolina, which claim shall state the description of the membership encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by that lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Corporation. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The Corporation shall be authorized to foreclose on such lien or claim of lien in any manner allowed by law. The lien provided for herein shall be subordinate to the lien of any first mortgage or pledge, and any person, firm or corporation acquiring title to any membership and its appurtenant

undivided interest in common areas and facilities by virtue of any foreclosure, transfer in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable thereafter. After satisfaction of the lawful claims of such first mortgagee/pledge, the net proceeds from any foreclosure sale or private sale shall first be applied to the payment of all lien claims of the Corporation, and the balance of such sale proceeds shall then be delivered to the owner(s) of the Membership which was subjected to the foreclosure or private sale in lieu of foreclosure. In the event of the acquisition of a membership by foreclosure, transfer in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring the membership shall not be liable shall be absorbed and paid by all owners of all memberships as a part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from payment thereof or the enforcement of collection of such payment by means other than foreclosure.

Section 12: LIEN NOT EXCLUSIVE REMEDY. Whenever any membership may be licensed, sold or mortgaged by the owner thereof, the Corporation, upon written request of the Member(s) shall furnish to the proposed licensee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Corporation by such membership. Such statement shall be signed by any officer of the Corporation and any licensee, purchaser, or mortgagee may rely upon such statement in concluding the proposed license, purchase, or mortgage transaction; and the Corporation shall be bound by such statement.

In any voluntary conveyance of a membership, the purchaser thereof shall be jointly and severally liable with the seller for all unpaid obligations against seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the purchaser to recover from seller the amounts paid by purchaser therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment, attorney's fees, interest and costs shall not be deemed to be an election by the Corporation which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sums then remaining owing to the corporation.

ARTICLE V

MAINTENANCE

The Corporation shall provide maintenance of all of its properties including bulkheads, docks, piers, pilings, dock boxes and other dock facilities, parking lot and areas, as well as maintenance dredging of the submerged lands of the marina facility. The cost of such maintenance shall be added to and become a part of the total, annual assessment for which all memberships, excepting all Charter Memberships, are liable as specified herein and in the By-Laws.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, sign, box or other attachment or structure shall be commenced, stored, erected or maintained by any member upon the common area or other property of the corporation, nor shall any addition to or change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, height, materials and location of such change shall have been submitted to and approved in writing by the Board of Directors.

For each boat slip there shall be only one (1) dock box. Each Class A Member shall have the exclusive right to the use and enjoyment of the dock box immediately adjoining the boat slip assigned to such member. No removal of any dock box or change in its location, size, design or construction shall be made without the prior written consent of the Board of Directors.

USE RESTRICTIONS

Section 1: RULES AND REGULATIONS. Subject to the provisions of the Articles of Incorporation and this Declaration, the Board of Directors of the corporation shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of all the property of the corporation, including boat slips, docks, dock boxes, dock facilities, piers and pilings, and parking lot and areas. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Minute Book or Book of Resolutions, which shall be maintained at a place convenient to the members and available to them for inspection during normal business hours.

Section 2: QUIET ENJOYMENT. No obnoxious or offensive activity shall be carried on in or upon the property of the corporation, including boat slips, docks, dock boxes, dock facilities, piers and pilings, and parking lot and areas, nor shall anything be done which may be or may become a public or private nuisance as determined by the law of North Carolina.

ARTICLE VIII

EASEMENTS

All of the property of the corporation including boat slips, docks, dock boxes, dock facilities, piers and pilings, and parking lot and areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, footings, air conditioning compressors, gas lines, telephone, cablevision and electric power lines and other public utilities as are of record in the New Hanover County Registry, prior to the recording of this Declaration; and the corporation shall have the power and authority to grant and establish upon, over and under and across all of its properties as described such further easements as are appropriate for the convenient maintenance, repair, use and enjoyment of such properties.