

DECLARATION OF CONDOMINIUM  
ESTABLISHING  
BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM

JMOR ENTERPRISES, INC., a Florida corporation, hereby declares:

1. Introduction and Submission.
  - 1.1 The Land. The Developer owns the fee title to certain land located in Flagler County, Florida, as more particularly described in Exhibit A annexed hereto (the "Land").
  - 1.2 Submission Statement. The Developer hereby submits the Land and all improvements erected or to be erected thereon and all other property, real, personal or mixed, now or hereafter situated on or within the Land - but excluding all public or private (e.g. cable television) utility installations therein or thereon not owned by Developer to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid shall for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto.
  - 1.3 Name. The name by which this condominium is to be identified is BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM (hereinafter called the "Condominium")
2. Definitions. The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
  - 2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof.
  - 2.2 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as amended from time to time.
  - 2.3 "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
  - 2.4 "Association" means BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the sole entity responsible for the operation of the Condominium.

- 2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in, or which is dedicated on, a recorded plat or leased to the Association for the use and benefit of its members.
- 2.6 "Board of Directors" or "Board" means the Board of Directors of the Association.
- 2.7 "Building" means the structure(s) in which the Units and the Common Elements are located, regardless of the number of such structures, which are located on the Condominium Property.
- 2.8 "By-Laws" mean the By-Laws of the Association, as amended from time to time.
- 2.9 "Common Areas" means the real property and any improvements thereon which comprise the Common Area within Bridgewater Condominium (as that term is defined in this Declaration).
- 2.10 "Common Elements" mean and include:
- (a) The portions of the Condominium Property not included within the Units.
  - (b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.
  - (c) An easement of support in every portion of a Unit which contributes to the support of the Building.
  - (d) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements.
  - (e) Any other parts of the Condominium Property designated as Common Elements in this Declaration.
- 2.11 "Common Expenses" mean all expenses incurred by the Association for the Condominium and charges assessed or imposed against Units in the Condominium by the Association, as authorized by the Act. If approved by the Board of Directors, "Common Expenses" shall include the cost of a master television antenna system or duly franchised cable television service obtained pursuant to a bulk contract. For all purposes of this Declaration, "Common Expenses" shall also include all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended.
- 2.12 "Common Surplus" means the amount of all receipts or revenues of the Condominium (including Assessments, rents, or profits collected by the Association, which exceeds Common Expenses).
- 2.13 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit such as garages.

- 2.14 "Condominium Property" means the Land, Improvements and other property described in Section 1.2 hereof, subject to the limitations thereof and exclusions therefrom.
- 2.15 "County" means the County of Flagler, State of Florida.
- 2.16 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.
- 2.17 "Developer" means JMOR ENTERPRISES, INC., its successors and such of its assigns as to which its rights hereunder are assigned by written instrument recorded in the public records of the County. Such assignment may be made on an exclusive or non-exclusive basis, may be conditional or unconditional, and may be an assignment of all or only portions of its rights as Developer hereunder; provided, however, that no such assignment shall make any assignee the "Developer" for purposes hereof unless such assignment is an assignment of all of Developer's rights hereunder, is exclusive, except as to any previously assigned rights, and the assignee expressly accepts said assignment by written instrument recorded in the public records of the County.
- 2.18 "Improvements" mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Building.
- 2.19 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other lender generally recognized as an institutional lender, or the Developer, holding a first mortgage on a Unit or Units. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units to which at least fifty-one percent (51%) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are appurtenant.
- 2.20 "Land" shall mean the Land described in Exhibit A annexed hereto.
- 2.21 "Limited Common Elements" mean those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of all other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.
- 2.22 "Member" shall mean and refer to all those Owners who are members of the "Association".
- 2.23 "Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit,

treat use or reuse water to prevent or reduce flooding, overdrainage environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

2.24 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.

2.25 "Unit Owner" or "Owner of a Unit" or "Owner" means the record owner of legal title to a Condominium Parcel.

### 3. Description of Condominium.

3.1 Survey and Plans. Attached hereto and made a part hereof as Exhibit B, are a boundary survey, graphic description and plot plans of the improvements constituting the Condominium identifying the Units and Common Elements and their ultimate locations and approximate dimensions. Each Unit is identified by specific numerical designation on Exhibit B.

3.2 Description of Buildings and Units. The Condominium shall include twelve (12) buildings containing a total of thirty-six (36) residential Units, including entry porches, lanais and the garages. The buildings are more particularly shown and described in Exhibit B. There shall be two (2) different Unit types in the Condominium as depicted in Exhibit B.

3.3 Unit Boundaries. Each Unit shall include that part of the Building containing the Unit that lies within the following boundaries:

(a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

(i) Upper Boundaries. The horizontal plane of the unfinished lower surface of the ceiling

(ii) Lower Boundaries. The horizontal plane of the unfinished upper surface of the floor of the Unit

(b) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries, including entry porches, and garages.

(c) Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, the boundaries of the Unit extend to the interior surface of all windows (which term does not include sliding glass doors but does include glass curtain walls) and extend to the exterior surface of sliding glass doors and unfinished exterior surfaces of exterior doors. The framework for windows (again not including

framework for sliding glass doors) shall not be included in the boundaries of the Unit and shall be Common Elements.

- (d) Utility Equipment and Conduits: The Units shall include all plumbing and electrical lines, equipment and fixtures located within the boundaries of the Unit, together with plumbing and electrical and other utility lines within the Common Elements which serve the Unit only. The Unit shall not include electrical and plumbing lines, conduits, equipment, fixtures, pipes, wires, air passageways, ducts, or other utility lines running through or adjacent to the Unit which are utilized for or serve another Unit or the Common Elements, which items shall be made a part of the Common Elements.
  - (e) Air Conditioning/Heating: Any air conditioning/heating equipment which services only a single Unit shall be considered part of said Unit and not a Common Element.
  - (f) Appliances: The Unit Owner shall own any electric doorbells/knockers, hot water heaters, refrigerators, dishwashers, electric garage door openers and other appliances which are located within the boundaries of the Unit or the Limited Common Elements.
  - (g) Fixtures: The Unit Owner shall own all interior fixtures which shall serve the Unit exclusively, including without limitation, all plumbing fixtures, utility and electrical fixtures and cabinets.
  - (h) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as Exhibit B hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 3.3(c) above shall control unless specifically depicted otherwise on such survey.
- 3.4 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto, vesting in the Owner of each such Unit the exclusive right to use such Limited Common Elements:
- (a) Lanai/Covered Porch. Any lanai or covered porch (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s).
  - (b) Driveways. Any driveway used exclusively by the unit owners, their guests and invitees.
  - (c) Attic Storage Space. Each unit shall include as a Limited Common Element that attic space above and adjacent to said Unit for storage purposes.

3.5 Common Elements. The following facilities will be constructed within the Condominium Property for the exclusive use of Unit Owners and their family members, guests, tenants and invitees.

- (a) Although the Developer has no present intention of doing so, it reserves the right at any time to expand or add to any of the above described Common Elements and recreational facilities and to include such other facilities as the Developer deems appropriate. The consent of the Unit Owners or the Association shall not be required for any such construction or exclusion. No party is obligated, however, to so expand the facilities or provide additional facilities.

3.6 Easements. The following easements are hereby created (in addition to any easements created under the Act).

- (a) Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- (b) Utility and Other Services; Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. A Unit Owner shall do nothing within or outside his or her Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, or other service or drainage facilities or the use of these easements. The Board of Directors of the Association or its designee shall have a right of access to each Unit to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, cable television, communications and similar systems, service and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Improvements interfering with or impairing such facilities or easements herein reserved; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency, entry shall be made on not less than one (1) day's notice (which notice shall not, however, be required if the Unit Owner is absent when the giving of notice is attempted).
- (c) Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or

other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand.

- (d) Ingress and Egress. A non-exclusive easement in favor of each Unit Owner and resident, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for such purposes. None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.
- (e) Construction; Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance purposes or where the Developer, in its sole discretion, determines that it is required or desires to do so.
- (f) Sales Activity. For as long as there are any unsold Units, the Developer, its designees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements for guest accommodations, model apartments and sales, management and construction offices, to show model Units and the Common Elements to prospective purchasers and tenants of Units within the Condominium and to erect on the Condominium Property signs and other promotional material to advertise Units for sale or lease.
- (g) Association. The Association shall have an easement of access over, under and through the Condominium Property for the purpose of performing its lawful functions pursuant to this Declaration, including, without limitation, the maintenance of improvements, parking areas, utility lines and equipment, driveways, landscaped areas and any privacy wall/fence located along the boundary of the Condominium Property.
- (h) Additional Easements. The Developer or Association, by and through the Board of Directors on behalf of all Unit Owners, shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications, service or other easements (and appropriate bills of sale for equipment,

conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities, in any portion of the Condominium Property and to grant access easements or relocate any existing access easements in any portion of the Condominium Property as the Developer or Board shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

### 3.7 Stormwater.

- (a) It shall be the responsibility of the Declarant to comply with the construction plans for the surface water management system pursuant to Chapter 40C-42, Florida Administrative Code, approved and on file with the St. Johns River Water Management District (SJRWMD).
- (b) SJRWMD Enforcement. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.
- (c) Amendments Affecting SJRWMD Provisions. Any amendment to this Declaration which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Area, must have the prior approval of the St. Johns River Water Management District.

4. Restraint Upon Separation and Partition of Common Elements. The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

5. Ownership of Common Elements and Common Surplus and Share of Common Expenses; Voting Rights.

5.1 Percentage Ownership and Shares. The ownership of the Common Elements and Common Surplus (as such terms are defined herein), and the responsibility for the Common Expenses for the Condominium, have been



divided among the Units of the Condominium equally for each Unit as set forth in the Schedule attached hereto as Exhibit C.

- 5.2 Bridgewater at Flagler Beach Condominium Association, Inc. – Membership and Voting Rights. Each Unit Owner shall be a member of the Association. Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the By-Laws and Articles of Incorporation of the Association.
6. Amendments. Except as elsewhere provided herein, amendments to this Declaration may be effected as follows:
- 6.1 By The Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-third (1/3) of the members of the Association. Except as elsewhere provided, approvals of proposed amendments must be by affirmative vote of Unit Owners owning in excess of 75% of the Units. Directors not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the secretary at or prior to the meeting, however, such approval or disapproval may not be used as a vote for or against the action taken and may not be used for purposes of creating a quorum. Notwithstanding anything to the contrary contained herein, the Association reserves the right to amend this Declaration and the Exhibits annexed hereto so as to correct any errors or omissions not materially and adversely affecting the rights of Unit Owners. Amendments enacted to correct errors or omissions may be approved by a majority of the Board of Directors of the Association.
- 6.2 By The Developer. The Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or effect any other amendment, except that this procedure for amendment cannot be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent thereto. Further, the Developer shall not be permitted to make any amendment which requires the approval of Unit Owners under Section 718.110(4) or (8) of the Act without first obtaining such approval.
- 6.3 Proviso. No amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus, unless the record Owner(s) of the affected Unit(s), and all record owners of liens on the affected Unit(s), shall join in the execution of the amendment and same is also approved by a majority of the votes of the Association. Neither shall an amendment of this Declaration make any change to Section 14 of this Declaration entitled "Insurance" or to Section 15 of this Declaration entitled

"Reconstruction or Repair After Fire or Other Casualty" which materially affect mortgagees unless said mortgagees join in the execution of the amendment. In no event shall the consent or joinder of mortgagees be required unless the amendment materially affects the rights or interest of the mortgagees or is otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and such consent or joinder may not be unreasonably withheld.

- 6.4 Execution and Recording. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association, which shall include recording data identifying the Declaration, and shall be executed with the same formalities required for the execution of a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the Amendment is properly recorded in the public records of the County.

No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision . . . for present text." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

7. Maintenance and Repairs.

- 7.1 Units and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, overhead doors, window screens, the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or other property belonging to the Unit Owner shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

Specifically, Unit Owners shall be responsible to clean the interior and exterior of all windows and the exterior of all windows that can be accessed from the interior of the Unit. The Association shall clean the exterior surfaces when deemed necessary by the Board of Directors of the Association. Unit Owners shall maintain the patio or screened/covered porch appurtenant to their Unit(s)

and shall keep the same neat and tidy, except that in order to maintain a uniform appearance, the Association will paint the exterior walls of the screened/covered porch when deemed necessary by the Board of Directors of the Association.

- 7.2 Common Elements. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other than certain Limited Common Elements as provided in Section 7.1) shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense. The Association shall be responsible for the operation and maintenance of the improvements, facilities and systems utilized in connection with the storm and surface water collection, retention, detention, drainage and disposal services for the Condominium Property.
- 7.3 Specific Unit Owner Responsibility. The obligation to maintain and repair any air conditioning equipment, plumbing or electrical fixtures or other items of property which service a particular Unit or Units shall be the responsibility of the applicable Unit Owner(s), individually, and not the Association.
8. Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of five percent (5%) of the annual budget in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate less than five percent (5%) in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall be as a "Capital Improvement Assessment" of the Unit Owners as provided in Section 13.2 hereof. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.
9. Additions, Alterations or Improvements by Unit Owner.
- 9.1 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, his or her Unit or any Limited Common Element without the prior written consent of the Board of Directors, provided that the Board of Directors shall not withhold its consent to the installation of hurricane shutters as long as same have a character, location and other attributes set forth in specifications adopted as a resolution of the Board. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or

improvement in such Unit Owner's Unit or Limited Common Elements within forty-five (45) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his or her heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association. Notwithstanding the foregoing, in order to allow the Association to obtain the operating history and experience necessary to provide for uniformity in the nature of Unit Owner improvements and to protect the aesthetic appeal of the Condominium, no such requests for additions, alterations or improvements may be presented to the Board for its consideration until such time as the Unit Owners, other than the Developer, have elected a majority of the Board of Directors.

- 9.2 Additions, Alterations or Improvements by Developer. Except as provided for in Section 718.110(4), F.S., the Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements).
10. Proviso. Without limiting the generality of the provisions of paragraph 9.2 above, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary, and (ii) change the layout or number of rooms in any Developer owned Units, subject to the requirements of Section 9.2, above, if applicable.
11. Operation of the Condominium by the Association; Powers and Duties.
- 11.1 Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the By-Laws and Articles of Incorporation of the Association (respectively, Exhibits E and D annexed hereto), as amended from time to time. In addition, the Association shall have all the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, without limitation:

- (a) The irrevocable right to have access to each Unit and its Limited Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements therein or performing extermination services, or at any time and by force, if necessary, for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit or Units.
- (b) The power to make and collect Assessments and other charges against Unit Owners and to lease, maintain, repair and replace the Common Elements.
- (c) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.
- (d) The power to contract for the management and maintenance of the Condominium Property and to authorize a duly licensed management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.
- (f) The power to charge a fee for the exclusive use of any Common Elements by an Owner.
- (g) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property.
- (h) The power to acquire real and personal property. Personal property shall be acquired upon a majority vote of the Board of Directors, subject to Section 8 hereof. Real property shall be acquired upon a majority vote of

the Board of Directors; provided that the requirements of Section 8 pertaining to the Unit Owners' approval of costs in excess of the threshold amount stated therein (including the proviso as to the debt incurred) shall also apply to the acquisition of real property; provided further, however, that the acquisition of a Unit as a result of a foreclosure of the lien for Assessments shall be made upon a majority vote of the Board of Directors, regardless of the price for same.

- (i) The authority to operate and maintain the improvements, facilities and systems utilized in connection with the storm and surface water collection, retention, detention, drainage and disposal services for the Condominium (the "surface water management system"). Maintenance of the stormwater management system shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.
- (j) All of the powers which a corporation not for profit in the State of Florida may exercise pursuant to this Declaration, the Articles of Incorporation and By-Laws, Chapters 607 and 617, Florida Statutes and the Act, in all cases except as expressly limited or restricted in the Act.

In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration or the exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate authority over the Condominium, consistent with the Act.

- 11.2 Limitation of Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless if whether or not same shall have been approved by the Association pursuant to Section 9.1 hereof.

Notwithstanding anything contained herein or in the Articles of Incorporation, By-Laws, any rules or regulations of the Association or any other document governing or binding the Association (collectively, the "Association Documents"), the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner,

occupant or user of any portion of the Condominium Property including, without limitation, residents and their families, guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing:

- (a) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the use of the Condominium Property have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof;
- (b) The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Flagler County, The City of Tallahassee and/or any other jurisdiction or the prevention of tortious activities; and
- (c) Any provision of the Association Documents setting forth the uses of assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason.

Each Unit Owner (by virtue of his or her acceptance of title to his or her Unit) and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property (by virtue of accepting such interest or lien or making such uses) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision.

As used in this Section, "Association" shall include within its meaning all of the Association's Directors, officers, committee and Board members, employees, successors and assigns. The provisions of this Article shall also inure to the benefit of the Developer and its affiliates, which shall be fully protected hereby.

- 11.3 Restraint Upon Assignment of Shares In Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his or her Unit.
- 11.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.
- 11.5 Acts of the Association. Unless the approval or action of Unit Owners, and/or a certain specific percentage of the Board of Directors of the Association, is

specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

12. Determination of Common Expenses and Fixing of Assessments Therefor. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserves for (if required by law) the operation, maintenance, repair and replacement of the Common Elements, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, applicable rules and regulations or by the Association. Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws.
13. Collection of Assessments.
  - 13.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments levied by the Association coming due while he or she is the Unit Owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for his or her share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any



Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

- 13.2 Special and Capital Improvement Assessments. In addition to Assessments levied by the Association to meet the Common Expenses of the Condominium, the Board of Directors may levy "Special Assessments" to cover the cost incurred by the Association for specific purposes of a nonrecurring nature or for the acquisition, installation, construction or replacement (as distinguished from repairs and maintenance) of any capital improvements located or to be located within the Common Elements.
- 13.3 Default in Payment of Assessments. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at eighteen percent (18%) per annum from the date due until paid and shall be subject to an administrative late fee in an amount not to exceed the greater of \$25.00 or five percent (5%) of each delinquent installment. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel. The lien is effective and shall relate back to the recording of the Declaration, provided that as to First Mortgagees, the lien is effective from and after recording of the claim of lien. The claim of lien shall state the description of the Condominium Parcel, the name of the record Owner, the name and address of the Association, the amount due and the due dates. It must be executed and acknowledged by an officer or authorized agent of the Association and shall be recorded in the Public Records of Flagler County, Florida. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid but in no event for a period exceeding one year, unless lien enforcement action has commenced in a court of competent jurisdiction during such year. The one year period shall automatically be extended for any length of time during which the Association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the Unit Owner or any other person claiming an interest in the Condominium Parcel. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon and costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. Upon full payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner and the recording of a claim of lien, the Association may declare the Assessment installments to be accelerated which accelerated Assessment installments shall include the amount due for the remainder of the budget year in which the claim of lien was filed, and shall thereupon be immediately due and payable. In the event that the amount of such Assessment installments change prior to the end of the budget year, the Unit Owner or the Association,

as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued as provided above, then to any administrative late fee, then to any costs and reasonable attorneys fees incurred in collection as aforesaid and then to the delinquent and any accelerated Assessment.

- 13.4 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.
- 13.5 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent, the expenses of such receiver to be paid by the party, which does not prevail in the foreclosure action.
- 13.6 First Mortgagee. In the event a first mortgagee or other purchaser shall obtain title to a Unit as a result of a foreclosure action in which the Association has been joined as a defendant, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such acquirer of title or its successors and assigns ("first mortgagee") shall be liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed in lieu of foreclosure or in satisfaction of debt. However, the first mortgagee's liability as aforesaid shall be limited to (i) the Units Common Expenses or Assessments which accrued or came due during the six months immediately preceding the acquisition of title and for which payment in full has not been received by the Association or (ii) one percent (1%) of the original mortgage debt, whichever is less. The provisions of this Section 13.6 shall not apply unless the first mortgagee joins the Association as a defendant in the foreclosure action. Joinder is not

required if, on the date the complaint is filed, the Association was dissolved, administratively or otherwise, or did not maintain an office or agent for service of process at a location which was known or reasonably discoverable by the first mortgagee by the date the foreclosure action was filed. The person acquiring title shall pay the amount owed to the Association within thirty (30) days of transfer of title. The unpaid share of Common Expenses or Assessments are Common Expenses collectible from all of the Unit Owners, including such acquirer and its successors and assigns. A first mortgagee acquiring title to a Condominium Parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such Condominium Parcel, whether or not the Unit is occupied, be excused from the payment of same or all of the Common Expenses coming due during the period of such ownership.

- 13.7 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.
- 13.8 Installments. Regular Assessments shall be collected monthly, in advance, as determined from time to time by the Board of Directors.
- 13.9 Developer's Guarantee. So long as the Developer owns a Condominium Unit which is offered for sale, Developer shall be excused from the payment of assessments against these unsold units for the period of time the Developer has guaranteed all purchasers or other unit owners in the Condominium that the assessments will not exceed \$225.00 per month for each unit, and that Developer will pay any common expenses that exceed that amount. This guarantee begins on the date of recording of the Declaration of Condominium and shall end three (3) years from that date and may be extended for three (3) additional six (6) month periods.

Regular, periodic assessments for common expenses provided for in the Declaration or Prospectus and disclosed in the Estimated Operating Budget shall be used for payment of common expenses during such excused period. No funds which are receivable from unit purchasers or unit owners and payable to the Association, including capital contributions or start up funds collected from the unit purchasers at closing, may be used for payment of such common expenses.

14. Insurance. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:
- 14.1 Purchase, Custody and Payment.
- (a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and

shall be issued by an insurance company or provider authorized to do business in Florida.

- (b) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
- (c) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed)
- (d) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.
- (e) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage. The Association shall maintain insurance covering the following:

- (a) Casualty. The Building, including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies) - but excluding (i) all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners, and (ii) electrical fixtures, appliances, air conditioners or heating equipment, water heaters and built-in cabinets which are located in Units and the repair and replacement responsibility of Owners - and all Improvements located on the Common Elements or Association Property from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or Association Property (collectively the "Insured Property") , shall be insured against casualty loss (excluding loss by flood and other causes excluded from typical condominium package policy) in an amount not less than 100% of the full insurable replacement cost thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association.

Such coverage shall afford protection against such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

- (b) Liability. Comprehensive general public liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association.
- (c) Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable.
- (d) Fidelity Insurance. As required by the Act, fidelity insurance covering all persons who control or disburse Association funds.
- (e) Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available and determined by the Board of Directors to be desirable.
- (f) Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.
- (g) Policy Provisions. When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, if appropriate and obtainable, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.
- (h) Disclaimer. All Unit Owners, mortgagees and others should be aware of the fact that because of exclusions from coverage, changes in construction costs, land and profit components in sales prices and other factors, the amount of insurance coverage available in the event of substantial damage to the Condominium Property, the proceeds available for reconstruction and/or retirement of mortgage debt may not be entirely sufficient for such purposes. Accordingly, all persons are advised to consult with their own insurance providers as to what

supplemental coverage may be available under their own policies to mitigate any impact of a shortage of proceeds for Association policies.

- 14.3 Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the named insureds, including all mortgagees of Units.
- 14.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums may be financed in such manner as the Board of Directors deems appropriate.
- 14.5 Insurance Trustee; Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may be designated by the Board of Directors and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida or one or more of the Directors or Officers of the Homeowners Association. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:
- (a) Insured Property. Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units or their terraces, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in paragraph (b) below.
- (b) Optional Property. Proceeds on account of damage solely to Units or their terraces and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.
- (c) Mortgagees. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged

property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

14.6 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

- (a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.
- (b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.5 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.
- (d) Certificate. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

14.7 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

14.8 Unit Owners' Personal Coverage. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner arising from occurrences within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association. The foregoing shall also apply to patios of Units, and other Limited Common Elements.

- 14.9 Benefit of Mortgagees. Certain provisions in this Section 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.
- 14.10 Insurance Trustee. The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.
- 14.11 Presumption as to Damaged Property. In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.
15. Reconstruction or Repair After Fire or Other Casualty.
- 15.1 Determination to Reconstruct or Repair. Subject to the immediately following paragraph, in the event of damage to or destruction of the Insured Property as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If 75% or more of the Insured Property is substantially damaged or destroyed and if Unit Owners owning 80% of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and a majority of Institutional First Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of



Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

- 15.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units, Limited Common Elements and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered.
- 15.3 Special Responsibility. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.
- (a) Disbursement. The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
- (i) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$500,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

- (ii) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$500,000.00, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work.
- (iii) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured) , or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated,
- (iv) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.
- (v) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a

certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

- 15.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments shall be in proportion to all of the Owners' respective shares in the Common Elements. In the event of insufficient proceeds of insurance on Optional Property, the shortage shall be the individual responsibility of the Owners thereof.
- 15.5 Benefit of Mortgagees. Certain provisions in this Section 15 are for the benefit of mortgagees of Units and may be enforced by any of them.
16. Condemnation.
- 16.1 Deposit of Awards with Insurance Trustee. The taking of portions of the Condominium Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, or the amount of that award shall be set off against the sums hereafter made payable to the defaulting Owner (and if the award exceeds such sums, the Association shall have the right to bring legal action against that Owner).
- 16.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.
- 16.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and Special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if

appointed) after a casualty, or as elsewhere in this Section 16 specifically provided.

16.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit or its Limited Common Elements and the remaining portion of the Unit can be made habitable (in the sole opinion of the Association) , the award for the taking of a portion of the Unit or its Limited Common Elements shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be the individual responsibility of the Owner of the Unit.
- (b) Distribution of Surplus. The balance of the award in respect of the Unit or its Limited Common Elements, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.
- (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall then be restated as follows:
  - (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
  - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit. No Limited Common Elements shall be used in the aforesaid calculations.

16.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments; third,

jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.

- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be effected by restating the shares of continuing Unit Owners as follows:
- (i) add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof (the "Percentage Balance"); and
  - (ii) divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof, by the Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

- (d) Assessments. If the balance of the award (after payments to the Unit Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effective by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.
- (e) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in

accordance with the then existing rules of the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Unit Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

- 16.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.
- 16.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.
17. Occupancy and Use Restrictions. In order to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:
- 17.1 Occupancy. Each Unit shall be used as a residence only, except as otherwise herein expressly provided and permitted by the ordinances of the City of Flagler Beach. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, and such persons' families, provided that the Unit Owner or other permitted occupant must reside with his/her family: (i) the individual Unit Owner, (ii) an officer, director, stockholder, employee or designee of such corporation, (iii) a partner, employee or designee of such partnership, (iv) the fiduciary or beneficiary of such fiduciary, or (v) permitted occupants under an approved lease or sublease of the Unit (as described below) , as the case may be. Occupants of an approved leased or subleased Unit must be the following persons, and such persons' families who reside with them: (i) an individual lessee or sublessee, (ii) an officer, director, stockholder, employee or designee of a corporate lessee or sublessee, (iii) a partner, employee or designee of a partnership lessee or sublessee, or (iv) a fiduciary or beneficiary of a fiduciary lessee or sublessee. The provisions of this subsection 17.1 shall not be applicable to Units used by

the Developer for model apartments, guest accommodations, sales or other offices or management services.

As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Unit. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Section 17 and the Board of Directors of the Association shall enforce, and the Unit Owners comply with, same with due regard for such purpose.

17.2 Children. Children shall be permitted to reside in Units but shall be subject to the age restrictions imposed as to use of certain recreation facilities, as provided in the rules and regulations of the Association.

17.3 Pets. Each Unit Owner or occupant (regardless of the number of joint owners or occupants) may maintain no more than two (2) household pets in his or her Unit, to be limited to dog(s) or cat(s) with a total combined weight of not more than forty (40) pounds at maturity (or other household pet defined as such and specifically permitted by the Board of Directors of the Association), provided it is not kept, bred or maintained for any commercial purpose, does not become a nuisance or annoyance to neighbors and is first registered with the Association. No reptiles or wildlife shall be kept in or on the Condominium Property (including Units). There are no pet walk area on the Condominium Property. Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash no more than six (6) feet in length at all times when outside the Unit. No pets may be kept in/on patios when the Owner is not in the Unit. Without limiting the generality of Section 19 hereof, violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property. This Section 17.3 shall not prohibit the keeping of fish or a caged household-type bird(s) in a Unit, provided that a bird(s) is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors. Notwithstanding any of the foregoing, however, neither this Section 17.3, any other provision of this Declaration nor any rule or regulation of the Association shall be enforced, adopted or amended so as to prohibit or unlawfully restrict any right of the Owner or occupant of a Unit to keep and use a seeing eye dog or other assistive animal for purposes provided for in any local, state or federal law, statute or ordinance protecting the applicable person's right to do so.

17.4 Alterations. Without limiting the generality of Section 9.1 hereof, but subject to the proviso contained therein as to hurricane shutters, and subject to Section 10 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to-installing any electrical wiring, television or radio

antenna, machinery, or additional air conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Board of Directors of the Association (in the manner specified in section 9.1 hereof). Approval of the Board of Directors of the Association shall not be required for repainting, re-carpeting a previously carpeted area, or otherwise redecorating the interior of a Unit provided the same complies with all other terms and conditions of this Declaration.

- 17.5 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- 17.6 Nuisances. No nuisances (as reasonably determined by the Board of Directors of the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of unreasonable annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its residents or occupants. No activity specifically permitted by this Declaration shall be deemed a nuisance.
- 17.7 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the same shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction over the same, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 17.7. No activity specifically permitted by this Declaration shall be deemed a violation of this Section.
- 17.10 Exterior Improvements; Landscaping. Without limiting the generality of sections 9.1 or 17.4 hereof, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, terraces or windows of the Building (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), or on the interior side thereof so as to be visible to the exterior, without the prior written consent of the Board of Directors of the Association. Specifically, no "For Rent", "For Sale" or any other sign shall be displayed or exposed to view by a Unit Owner or other occupant without the consent of the Association. To insure a uniform appearance on the exterior of the Building, all window coverings, including, but not limited to verticals, shades, sheers, curtains, drapes, miniblinds and venetian blinds shall be faced on the exterior with white material approved by the Association. The furnishings and decorations which Unit Owners may place in, on or about the terraces may be subject to



such additional rules and regulations as the Board of Directors of the Association may adopt from time to time.

- 17.11 Commercial/Recreational Vehicles and Trailers. Except as permitted below, no commercial vehicles, campers, mobile homes, recreational vehicles or boat or other trailers shall be kept on the Condominium Property exterior parking areas or within covered parking spaces. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. In general, vehicles shall have no more than four (4) wheels, two (2) axles, and be no longer than 17 1/2 feet. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the occupants thereof or the Association or (ii) vans with windows which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics. All vehicles kept on the Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Section, the good-faith determination of the Board of Directors shall be binding and conclusive.
- 17.12 Relief by Association. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 17 for good cause shown.
- 17.13 Changes in Permitted Uses. No amendments to this Section 17, any other provision of this Declaration governing the use of Units or the Common Elements or to any Rules and Regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.
18. Selling, Leasing and Mortgaging of Units. Units may be made subject to mortgages without restrictions, but sales and leases thereof shall be subject to the provisions of this Section 18.
- 18.1 Board Approval. There shall be no sale, lease or transfer of interest, legal or beneficial, nor transfer of possession of a Unit without the prior written approval of the Board of Directors of the Association. In the event a corporation, partnership, trust or other legal entity owns a Unit, the transfer of all or substantially all of the beneficial ownership of such entity shall be considered a transfer of interest in the Unit. In the event of leasing of Units, the Board shall have the right to require that a substantially uniform form of lease be used. No portion of a Unit (other than an entire Unit) may be rented.

All leases shall provide (or be automatically deemed to provide, absent an express statement) that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation, By-Laws, and Rules and Regulations of the Association. No lease shall be valid or approved for a term of less than one (1) month nor more than twice per calendar year. Regardless of whether or not expressed in the applicable lease, the Unit Owner shall be jointly and severally liable to the Association for the acts and omissions of his or her tenant(s) which constitute a violation of, or non compliance with, the provisions of this Declaration, the Articles, By-Laws and of any and all rules and regulations of the Association. The provisions of this Section 18.1 shall not apply to the sale of Units by the Developer. The provisions of this Section 18.1 shall not apply to a transfer or purchase by Institutional First Mortgagees which acquire title as a result of their mortgage lien on the Unit, regardless of whether the title is acquired by deed from the mortgagor or through foreclosure proceedings; nor shall this Section 18.1 require approval of a purchaser who acquires title to a Unit at a duly advertised public sale, with open bidding provided by law, including but not limited to an execution sale, a foreclosure sale, a judicial or a tax sale. No fee shall be charged by the Association in connection with the transfer or approval which is in excess of the expenditures reasonably required for such transfer, nor shall the expense exceed the fee permitted under the Act, from time to time, which at the time of recording of this Declaration is \$100.00. Any Unit Owner desiring to sell, lease or deliver possession of a Unit shall submit to the Board an application for approval, which application shall be in writing and in a form approved by the Association, and shall provide the name, address, and telephone number of the desired purchaser or tenant, the names of all intended occupants of the Unit, together with such other information as the Board may reasonably require. The Board must either approve or disapprove the request within ten (10) days after its receipt of the request or such supplemental information as it may reasonably require. If a sale is approved, a recordable Certificate of Approval shall be executed by the Association to be recorded at the expense of the purchaser. If a lease is approved, a written notice of approval will be provided by the Association. The Board's failure to give the Unit Owner the Certificate of Approval or written notice of approval, or written notice of disapproval within the ten (10) day period shall be deemed to be the Board's consent to the same.

- 18.2 No Severance of Ownership. No part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.
- 18.3 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit by gift, to devise his Unit by will, or to have Unit pass by intestacy, without restriction; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Section 18.

19. Compliance and Default. Each Unit Owner and every occupant of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:
- 19.1 Enforcement.
- (a) The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days. The hearing shall be held before a committee of other Unit Owners appointed by the Board of Directors of the Association. If the committee does not agree with the fine, the fine may not be levied. The notice shall include:
- (i) A statement of the date, time and place of the hearing.
- (ii) A statement of the provisions of the Declaration, Association By-laws or Association rules which have allegedly been violated; and
- (iii) A short and plain statement of the matters asserted by the Association.
- (b) The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.
- 19.2 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his or her intentional act, negligence, misuse or neglect or by that of any member of his or her family or his or her or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.
- 19.3 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property or administered by the Association, in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines or to sue in a court of law for damages.
- 19.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and

regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

- 19.5 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.
20. Termination of Condominium. The Condominium shall continue (unless earlier terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration) for a term of thirty (30) years from the date this Declaration is recorded, after which time the covenants and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years, unless prior to the end of such thirty (30) year period or prior to the end of any successive ten (10) year period, an instrument is duly executed by all of the Unit Owners and by all record owners of first mortgages on the Units agreeing to terminate the covenants and restrictions herein contained at the end of such period of time, which duly executed instrument shall be recorded in the public records of Flagler County, Florida. In the event the Board of Directors intends to terminate the Condominium, notice must be provided to the Department of Business & Professional Regulations, Division of Florida Land Sales, Condominiums and Mobile Homes of such intent before taking any action to terminate the Condominium. In said event, all easements and easement rights herein contained shall not be terminated, but shall continue in perpetuity although the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County. The Association shall notify the Florida Department of Business & Professional Regulations, Division of Florida Land Sales, Condominiums and Mobile Homes within thirty (30) working days of such termination, which notice shall include the date the certificate was recorded, the county where it was recorded and the official records book and page number, and a copy of the recorded termination notice certified by the Clerk of Court.

This Section 20 may not be amended without the affirmative vote of Unit Owners owning not less than 80% of the Units.

21. Additional Rights of Mortgagees and Others.

- 21.1 Institutional First Mortgagees shall have the right, upon written request to the Association, to: (i) examine the condominium documents and the Association's books and records, (ii) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (iii) receive notices of and attend Association meetings, (iv) receive notice of an alleged default in any obligations hereunder by any Unit Owner, on whose Unit such mortgagee holds a mortgage, which is not cured within thirty (30) days of notice of default to the Unit Owner, and (v) receive notice of any substantial damage or loss to any portion of the Condominium Property.
- 21.2 Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the condominium Property or the affected mortgaged Unit, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (iv) any proposed termination of the Condominium, and (v) any proposed action which requires the consent of a specified number of mortgage holders.
22. Covenant Running With the Land. All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.
23. Disclaimer of Warranties.

DEVELOPER HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE CONDOMINIUM PROPERTY, EXCEPT ONLY THOSE SET FORTH IN SECTION 718.203 OF THE ACT. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL

INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

ALL UNIT OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

24. Additional Provisions.

- 24.1 Notices. All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by first class mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the address of such Unit Owner appearing in the Association's records at the time the notice is transmitted. Where a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one (1) address which the Developer initially identifies for that purpose and thereafter as one (1) or more of the Owners of the Unit shall so advise the Association in writing, or if no address is given or the Owners of the Unit do not agree, to the address provided in the deed of record.

All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or 5 business days after proper mailing, whichever shall first occur.

- 24.2 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel to the Association, or the legal counsel having drafted this Declaration, that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 24.3 Mortgagees. Anything herein to the contrary notwithstanding (except as provided in Section 13.5 hereof) the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.
- 24.4 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, or enforcement shall control over those hereof.

- 24.5 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 24.6 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.
- 24.7 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.
- 24.8 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 24.9 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 24.10 Execution of Documents; Attorney-In-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium Property as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This Power of Attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.
- 24.11 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

- 24.12 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.
25. Rights of Developer. In addition to the rights which the Developer has by common law and pursuant to the Act, the Developer shall have the following rights:
- 25.1 Developer Control. Except as hereafter provided, the Developer shall have the right to appoint all of the members of the Board of Directors of the Association until Unit Owners other than Developer own 15% or more of the Units that will ultimately be operated by the Association. When Unit Owners other than the Developer own 15% or more of the Units that will ultimately be operated by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than 1/3 of the members of the Board of Directors. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors: (a) three years after 50% of the Units that will ultimately be operated by the Association have been conveyed to purchasers; (b) three months after 90% of the Units that will ultimately be operated by the Association have been conveyed to purchasers; (c) when all of the Units that will ultimately be operated by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by Developer in the ordinary course of business; (d) when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; or (e) seven years after the date the Declaration is recorded, whichever occurs first. Developer is entitled (but not obligated) to elect at least one member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business 5% of the Units that will ultimately be operated by the Association. After the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer owned Units in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board.
- 25.2 Easements. Until such time as Developer has completed all of the contemplated improvements and sold all of the Units that will ultimately be contained within the Condominium Property, easements, including but not limited to ingress and egress, are hereby reserved and shall exist through and over the Condominium Property as may be required, convenient, or desired by Developer for the completion of the contemplated improvements and the marketing and sale of said Units. Neither the Unit Owners or the Association, nor their use of the Condominium Property shall interfere in any way with such completion and sale.
- 25.3 Sale of Units. The Developer shall have the right to transact any business necessary to consummate the sale of Units, including but not limited to, the right to install and maintain a sales office and advertising on the Condominium Property, use the Common Elements and, notwithstanding anything to the contrary contained herein, the Developer may maintain and use sales offices, promotion and development offices, models and Units retained by the



Developer, or owned by the Developer, or the use of which has been reserved to the Developer in this Declaration or by contract or otherwise lawfully enforceable as a contract obligation by the Developer against the Association or any of the Unit Owners other than the Developer, so long as such use shall also conform with applicable laws, zoning, rules and ordinances of the appropriate governmental jurisdictions. Specifically, Developer shall have the right to use Units owned by the Developer as motel units for the purpose of housing guests and prospective purchasers of the Condominium Property for promotion and sales purposes, without limitation as to duration of stay or number of guests.

25.4 No Board Action Without Developer's Consent. During the period that Developer holds any Units for sale in the ordinary course of business none of the following actions may be taken by the Association, either through an act of its Board of Directors or as membership, without the Developers approval in writing:

- (a) Assessment of the Developer as Unit Owner for Capital Improvements;
- (b) Any action by the Association that would be detrimental to the sale of Units by the Developer; however an increase in assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units for the purpose of this paragraph.

25.5 Developer's Rights With Respect To Common Elements. The Developer reserves every right necessary or desirable relative to the Common Elements and the Condominium Property in general for the following purposes:

- (a) Furnishing of the Condominium Property;
- (b) The sale or mortgage of the Condominium Units; and

25.6 Sale Subject To A Lease. The Developer does not propose a program of leasing Units but does reserve the right to lease any individual Unit at its discretion prior to the sale of the Unit; provided that any lease shall have a term not to exceed twelve (12) months and shall terminate prior to conveyance of title by the Developer to the purchaser of the leased Unit, unless the Developer and such purchaser shall otherwise agree, in writing, to convey subject to any such lease.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 1 day November, 2002.

Signed, sealed and delivered in the presence of:

JMOR ENTERPRISES, INC., a Florida Corporation

Karolyn Sheekey  
Printed Name: Karolyn Sheekey  
Kelly Devore  
Printed Name: Kelly Devore

By: Nick Tebbia  
Printed Name: Nick Tebbia  
Title: CEO

STATE OF FLORIDA

COUNTY OF FLAGLER

The foregoing Declaration was acknowledged before me this 1 day of November, 2002, by Nicholas Tebbia, as President of JMOR Enterprises, Inc., a Florida corporation. He is personally known to me or provided \_\_\_\_\_ as identification.

Karolyn N. Sheekey  
Printed Name:  
Notary Public - State of Florida  
My Commission Expires:  
My Commission No:  
[NOTARIAL SEAL]



JOINDER

BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration and Exhibits attached hereto.

IN WITNESS WHEREOF, BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC. has caused these presents to be signed in its name by its proper officer and its corporate seal to be affixed this 1<sup>st</sup> day of November, 2002.

Signed, sealed and delivered in the presence of:

Karolyn Sheekey  
Printed Name: Karolyn Sheekey  
Kelly Devore  
Printed Name: Kelly Devore

BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit

By: Nick Tebbia  
Printed Name: NICK TEBBIA  
Title: CEO

STATE OF FLORIDA  
COUNTY OF FLAGLER

The foregoing Joinder was acknowledged before me this 1<sup>st</sup> day of November, 2002, by Nicholas Tebbia, as President of BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, on behalf of said corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

Karolyn N. Sheekey  
Printed Name:  
Notary Public - State of Florida  
My Commission Expires:  
My Commission Number:



**JOINDER BY MORTGAGEE**


OFF REC 0978 PAGE 0817

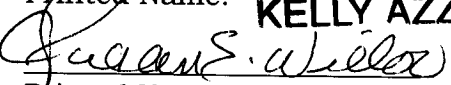
SunTrust Bank, a state banking association, as the holder of a Mortgage dated November 8, 2001, recorded in O.R. Book 781, Page 104, of the Public Records of Flagler County, Florida, encumbering the lands described in the foregoing Declaration of Bridgewater at Flagler Beach Condominium (the "Declaration"), joins in the filing of the Declaration as Mortgagee for the limited and sole purpose of consenting to execution and recording of the Declaration.

Signed, sealed and delivered  
in the presence of:

SunTrust Bank, a state banking  
association,

  
Printed Name: **KELLY AZZINARO**

By:   
Name: Jeffrey Linden  
Title: Vice President

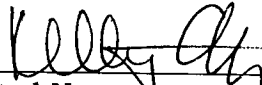
  
Printed Name: SUSAN S. WILLOR

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing Joinder was acknowledged before me this 27 day of August, 2003, by Jeffrey Linden, as Vice President of SunTrust Bank, a state banking association. He is personally known to me or has produced \_\_\_\_\_ as identification.



Kelly Azzinaro  
My Commission DD170288  
Expires May 01 2005

  
Printed Name: \_\_\_\_\_  
Notary Public - State of Florida  
My Commission Expires: \_\_\_\_\_  
My Commission Number: \_\_\_\_\_

BEING A PART OF TRACTS 2 AND 3 OF BLOCK "D" OF SECTION 11, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF THE NORTH HALF OF TRACT 3 OF THE SAID BLOCK "D" AND RUNNING THENCE SOUTH 87° 30' WEST, ALONG THE SOUTH BOUNDARY OF THE NORTH HALF OF THE SAID TRACT 3, A DISTANCE OF 214.00 FEET; THENCE NORTH 2° 22' WEST, A DISTANCE OF 100.00 FEET; THENCE NORTH 87° 30' EAST, A DISTANCE OF 264.00 FEET; THENCE SOUTH 2° 22' EAST, A DISTANCE OF 100.00 FEET TO AN INTERSECTION WITH THE SOUTH BOUNDARY OF THE SAID TRACT 2 OF BLOCK "D"; THENCE SOUTH 87° 30' WEST, ALONG THE SOUTH BOUNDARY OF THE SAID TRACT 2, A DISTANCE OF 50.00 FEET, TO THE SOUTHWEST CORNER OF TRACT 2 AND SAID POINT OF BEGINNING OF THIS DESCRIPTION.

BEARINGS ARE REFERRED TO THE MAGNETIC MERIDIAN WITH NO VARIATION OFFSET AND PARCEL CONTAINING 0.61 ACRES.

ALSO:

A PARCEL OF LAND LYING IN GOVERNMENT SECTION 11, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF SR 100 (200' R/W) WITH THE EASTERLY RIGHT-OF-WAY LINE OF Volusia Anderson Highway (80' R/W, SR 201); THENCE SOUTH 89° 29' 02" EAST 107.41 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY OF SR 100 TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE SOUTH 89° 29' 02" EAST 799.43 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY 323.99 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2964.99 FEET AND A CENTRAL ANGLE OF 06° 15' 39" TO A POINT ON THE EASTERLY BOUNDARY LINE OF SAID SECTION 11; THENCE SOUTH 01° 30' 40" EAST 204.11 FEET ALONG SAID EASTERLY BOUNDARY LINE; THENCE DEPARTING SAID BOUNDARY LINE SOUTH 88° 13' 43" WEST 570.98 FEET; THENCE NORTH 01° 18' 25" WEST 100.00 FEET; THENCE SOUTH 88° 33' 35" WEST 264.00 FEET; THENCE SOUTH 01° 18' 25" EAST 100.00 FEET; THENCE SOUTH 88° 33' 36" WEST 288.81 FEET; THENCE NORTH 01° 18' 21" WEST 304.76 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

Less and Except the property described in attached Exhibit "B".

EXHIBIT A

\* LESS AND EXCEPT:

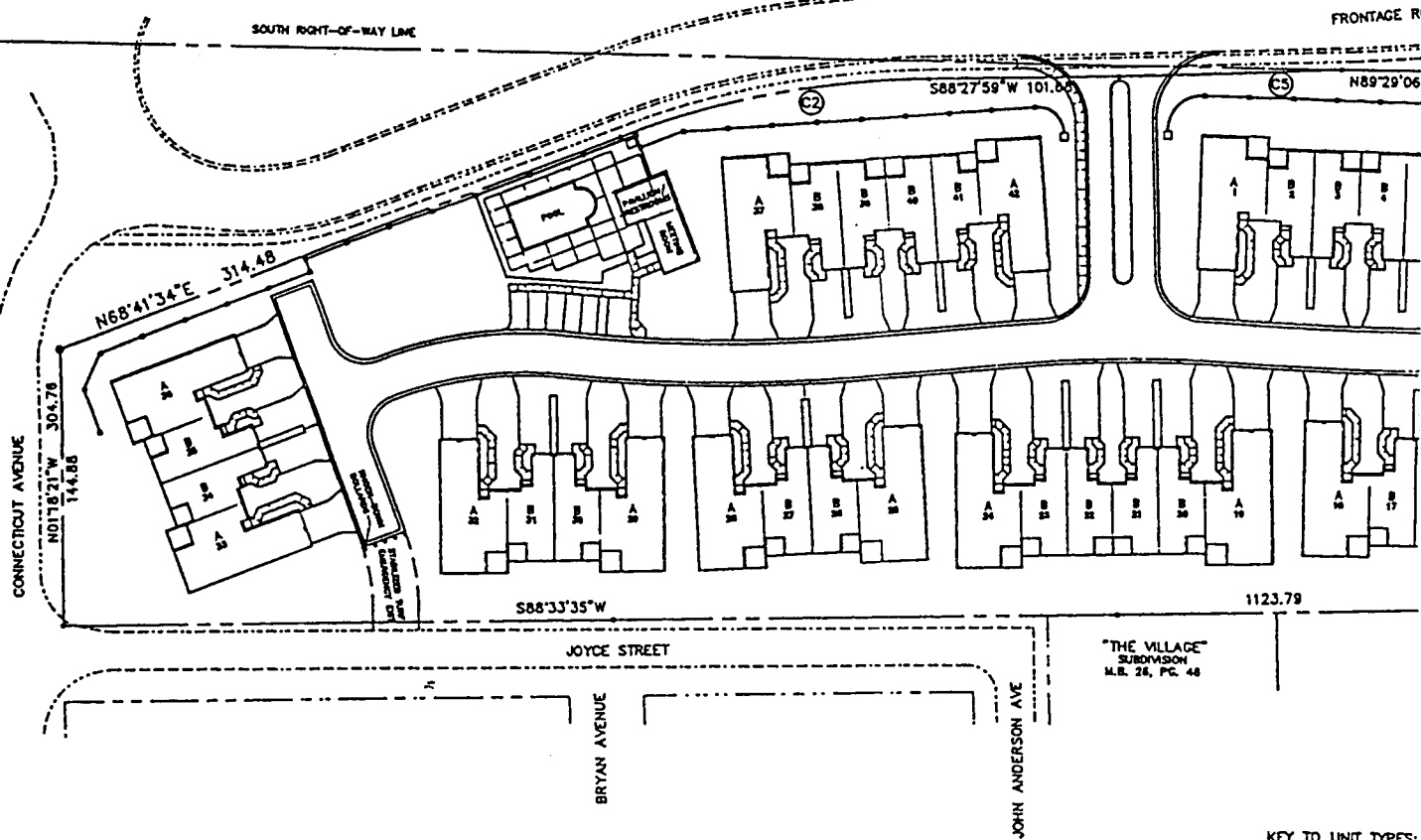
DESCRIBED AS FOLLOWS:

Commence at a 4"x4" CM marking the Northeast corner of the Southeast 1/4 of Section 11, Township 12 South, Range 31 East, Flagler County, Florida; thence South  $01^{\circ}30'42''$  East along the East line of said Section 11, a distance of 374.69 feet to the Southerly existing right-of-way line of State Road 100, said point being on a curve, concave Northerly, having a radius of 2964.79 feet and a chord bearing South  $87^{\circ}22'46''$  West; thence Westerly along the arc of said curve through a central angle of  $06^{\circ}16'16''$  a distance of 324.50 feet; thence North  $89^{\circ}29'06''$  West a distance of 124.47 feet, to the POINT OF BEGINNING, said point being the point of intersection with a curve, concave Northerly, having a radius of 4936.07 feet and a chord bearing of South  $87^{\circ}47'20''$  West; thence, departing said Southerly right-of-way line, Westerly along the arc of said curve through a central angle of  $01^{\circ}21'02''$  a distance of 116.35 feet; thence South  $88^{\circ}27'59''$  West, a distance of 101.68 feet to a point of curvature of a tangent curve concave Southerly; thence along said tangent curve having a radius of 475.00 feet, a distance of 163.93 feet through a central angle of  $19^{\circ}46'25''$  (chord bearing South  $78^{\circ}34'47''$  West, chord distance of 163.12 feet); thence South  $68^{\circ}41'34''$  West, a distance of 314.48 feet; thence North  $01^{\circ}17'29''$  West, a distance of 159.88 feet to the Southerly existing right-of-way line of State Road 100; thence South  $89^{\circ}29'06''$  East, a distance of 674.41 feet to the POINT OF BEGINNING.

Containing 0.791 acres, more or less.

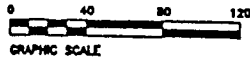
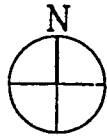
CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	CHORD BEARING
C1	314.48	2964.78	324.33	0°14'15"
C2	163.93	475.00	163.12	18°34'27"
C3	116.30	4934.07	116.29	01°21'00"

STATE ROAD #100  
(200' PUBLIC R/W, ASPHALT PAVT)

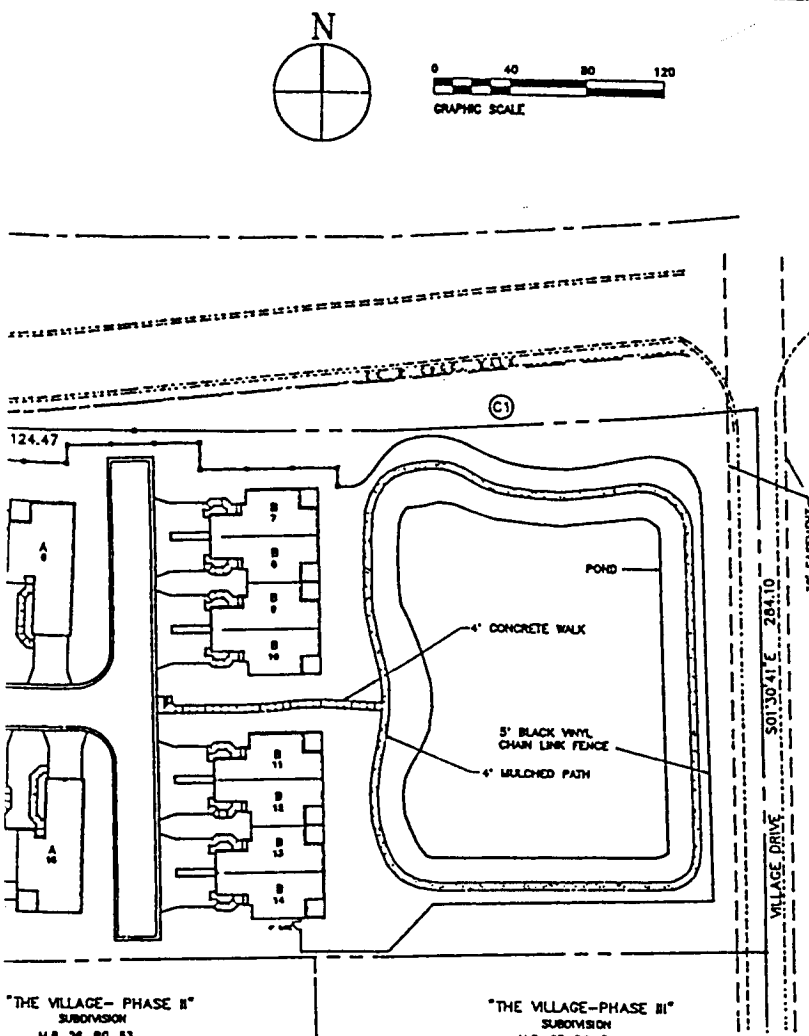
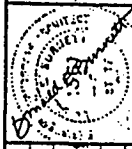


KEY TO UNIT TYPES:  
A = ONE STORY  
B = TWO STORY

# BRIDGEWATER AT FLAGL CONDOMINIUM



**DONALD E. BURRITT, A.S.P.A.**  
 Landscape Architects and Site Planning  
 87 Furness Place, Palm Coast, Florida 32137-8403 (386) 415-1813



**PLOT PLAN**

**DESCRIPTION OF COMMON ELEMENTS:**

ALL LAND AND PORTIONS OF CONDOMINIUM PROPERTY NOT WITHIN ANY UNIT ARE PART OF THE COMMON ELEMENTS. DRIVEWAYS, WALKWAYS AND LANAS THAT ARE APPURTENANT TO EACH UNIT ARE LIMITED COMMON ELEMENTS.

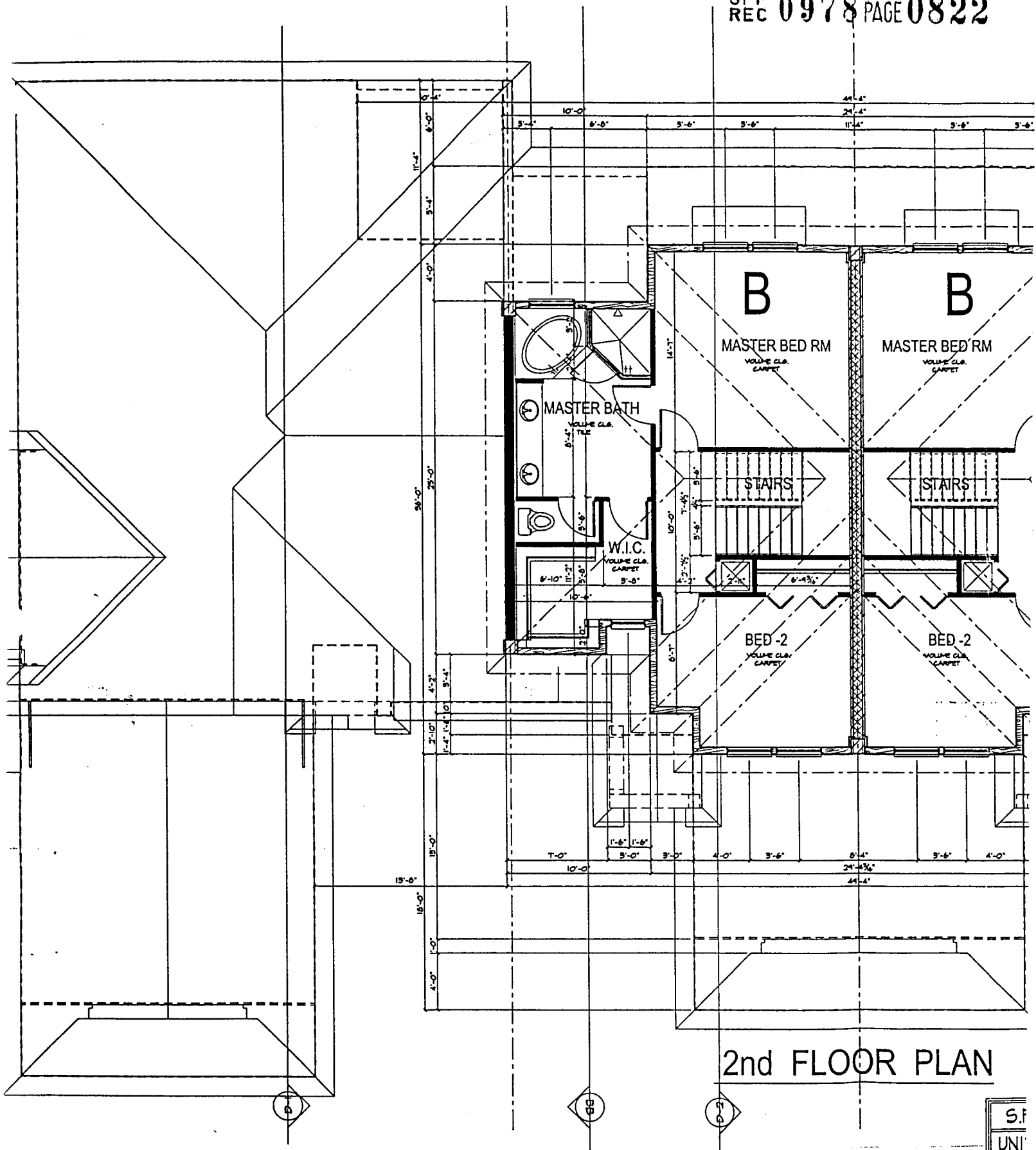
ALL BEARING WALLS TO THE UNFINISHED SURFACE OF SAID WALLS LOCATED WITHIN A UNIT CONSTITUTE PART OF THE COMMON ELEMENTS.

ALL CONDUIT AND WIRES TO OUTLETS AND ALL OTHER UTILITY LINES TO OUTLETS AND ALL WASTE PIPES, REGARDLESS OF LOCATION CONSTITUTE PART OF THE COMMON ELEMENTS.

DATE	6-4-02
SCALE	1" = 40'-0"
NO.	1
TOTAL	OF 1

ER BEACH





2nd FLOOR PLAN

Unit A

# BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM

S.F.
UNI
LIVING
GARA
ENTR
COVT
TOTA

REF 0978 PAGE 0823

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 ANY FORM WITHOUT THE EXPRESS WRITTEN AUTHORIZATION OF  
 J. STEPHEN CRUZ, AIA, ARCHITECT

ISSUE / REVISION	
NO.	DESCRIPTION
5-23-02	ISSUED FOR TRUSS DESIGN

THIS STRUCTURE HAS BEEN DESIGNED IN CONFORMANCE WITH SECTION 1606 OF FLORIDA BUILDING CODE 2001 EDITION.

EXPOSURE C  
 BASIC WIND SPEED 120 MPH  
 WIND IMPORTANCE FACTOR 1.0  
 MAIN FORCE DESIGN PRESSURES \_\_\_\_\_

THIS STRUCTURE HAS BEEN DESIGNED FOR WIND PRESSURE PER ASCE 7-98 AND COMPLEX W/ 1606.1 PER 2001 EDITION FOR PARTIALLY ENCLOSED BUILDING

MIN. ROOF HEIGHT OF 3' OR LESS, ROOF SLOPE 16-30" PRESSURES IN SQ. FT. PER TABLE 6.2 OF ASCE 7-98

**ARCHITECT**  
 A. STEPHEN CRUZ, AIA, P.A.  
 AN 0014260

**ARCHITECTURE & PLANNING**

4-A MARKET PLACE CT.  
 PALM COAST, FL 32137  
 (386) 446-1954

**J M O R**

P.O. BOX 2027  
 FLAGLER BEACH, FL  
 32136  
 386 445-3326

PROJECT :

**BRIDGEWATER  
 AT FLAGLER BEACH  
 FLAGLER BEACH, FL.**

DRAWING TITLE

**FOUR PLEX RESIDENCE  
 2ND FLOOR PLAN**

DATE  
 15 MAY 02

PROJ. NO.  
 0241

CHK. BY  
 SC

DWG. BY  
 SC

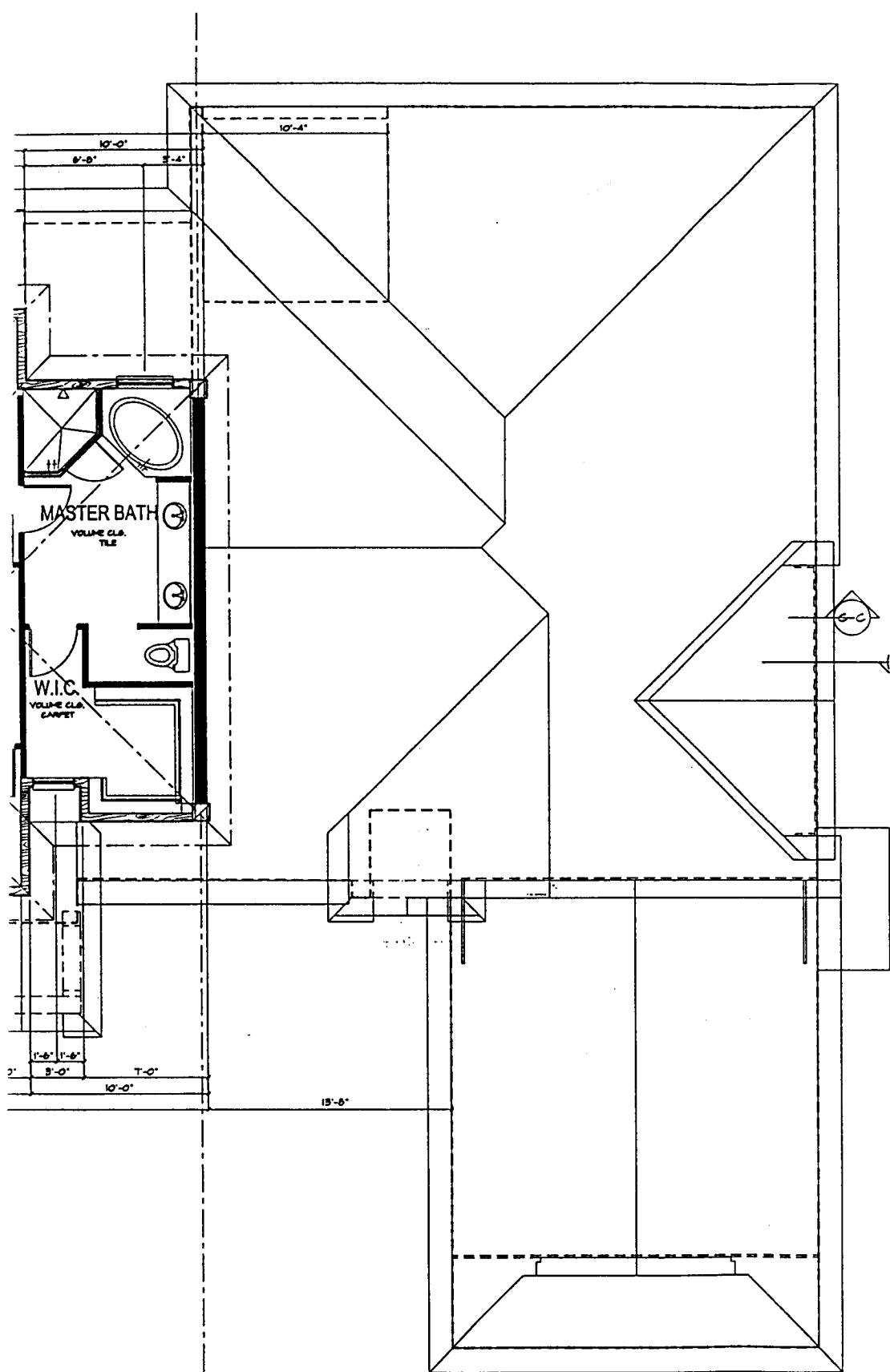
SCALE

AS NOTED

DRAWING NUMBER

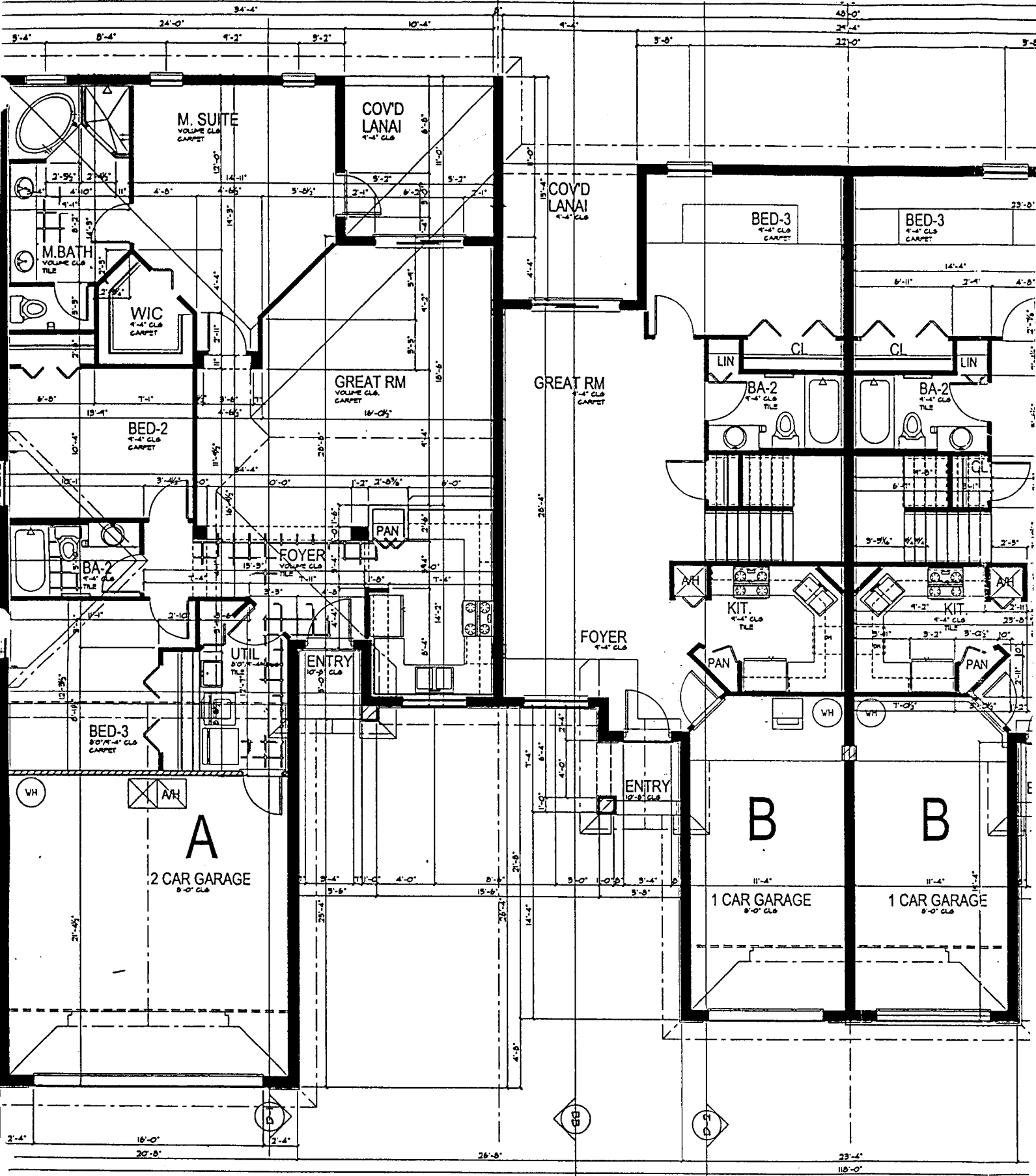
**A-1.2**

SHEET NUMBER 2 OF --



SUMMATION	
A	
1st LIVING AREA	1482'
2nd LIVING AREA	441'
TOT. LIVING AREA	18'
GARAGE/STOR	117'
ENTRY	2058'

S.F. SUMMATION	
UNIT -B	
1st LIVING AREA	812'
2nd LIVING AREA	742'
TOT. LIVING AREA	1554'
GARAGE/STOR	242'
ENTRY	13'
COVERED PORCH	87'
TOTAL UNDER ROOF	1896'



**BRIDGEWATER AT FLAGLER BEACH** 1st FLOOR PLAN  
**CONDOMINIUM**

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ISSUE / REVISION	
NO.	DATE DESCRIPTION
1	3-23-02 ISSUED FOR TRUSS DESIGN

THIS STRUCTURE HAS BEEN DESIGNED IN CONFORMANCE WITH SECTION 1606 OF FLORIDA BUILDING CODE 2001 EDITION.

EXPOSURE C  
 BASIC WIND SPEED 120 MPH  
 WIND IMPORTANCE FACTOR 1.0  
 MAX FORCE DESIGN PRESSURES \_\_\_\_\_

THIS STRUCTURE HAS BEEN DESIGNED FOR INTERNAL PRESSURE, PER ASCE 7-98, AND COMPLEX II (1606.2) PER 2001 EDITION FOR PARTIALLY ENCLOSED BUILDING.

MIN. ROOF HEIGHT OF 3' ON LESS, ROOF SLOPE 14-30" PRESSURES IN SQ. FT. PER TABLE 6.2 OF ASCE 7-98

**ARCHITECT**  
 J. STEPHEN CRUZ, AIA, P.A.  
 AR 0014260

**ARCHITECTURE & PLANNING**  
 4-A MARKET PLACE CT.  
 PALM COAST, FL 32137  
 (386) 446-1954

**J M O R**

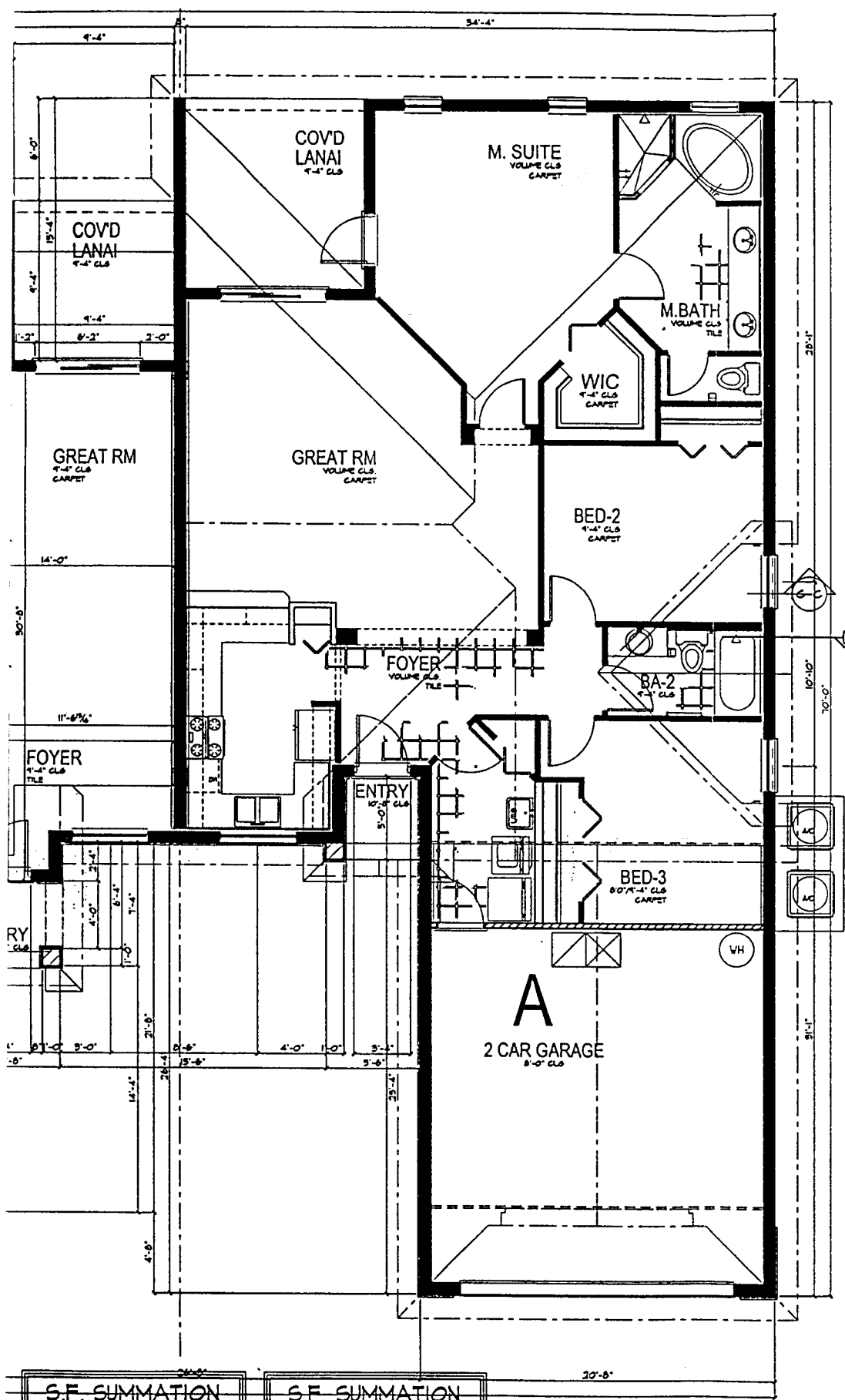
P.O. BOX 2027  
 FLAGLER BEACH, FL.  
 32136  
 386 445-3326

PROJECT:  
**BRIDGEWATER**  
**AT FLAGLER BEACH**  
**FLAGLER BEACH, FL.**  
 DRAWING TITLE  
**FOUR PLEX RESIDENCE**  
**1st FLOOR PLAN**

DATE: 15 MAY 02  
 PROJ. NO: 0241  
 CHK. BY: SC  
 DWG. BY: SC

SCALE: AS NOTED

DRAWING NUMBER:  
**A1.2**  
 SHEET NUMBER 8 OF 11

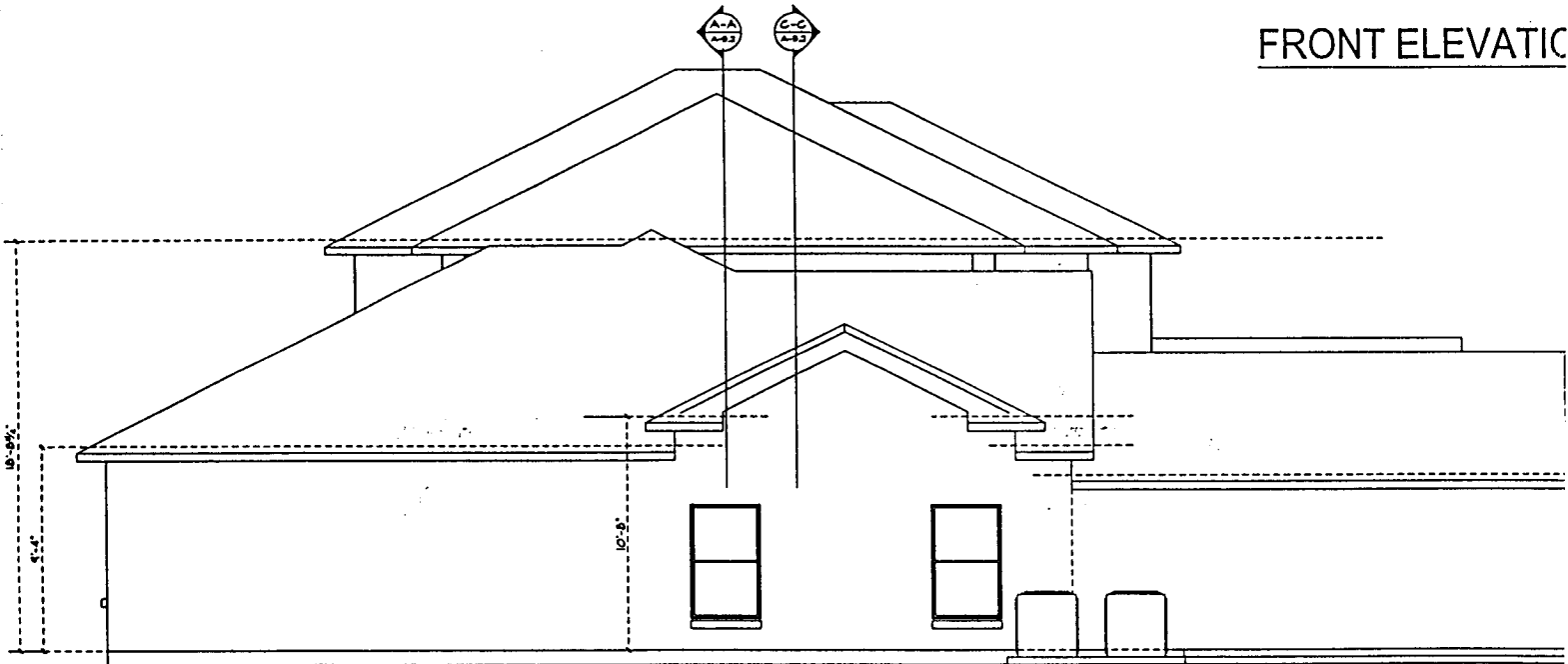


S.F. SUMMATION	
UNIT-A	
LIVING AREA	1482'
GARAGE/STOR	441'
ENTRY	18'
COVID PORCH	117'
TOTAL UNDER ROOF	2058'

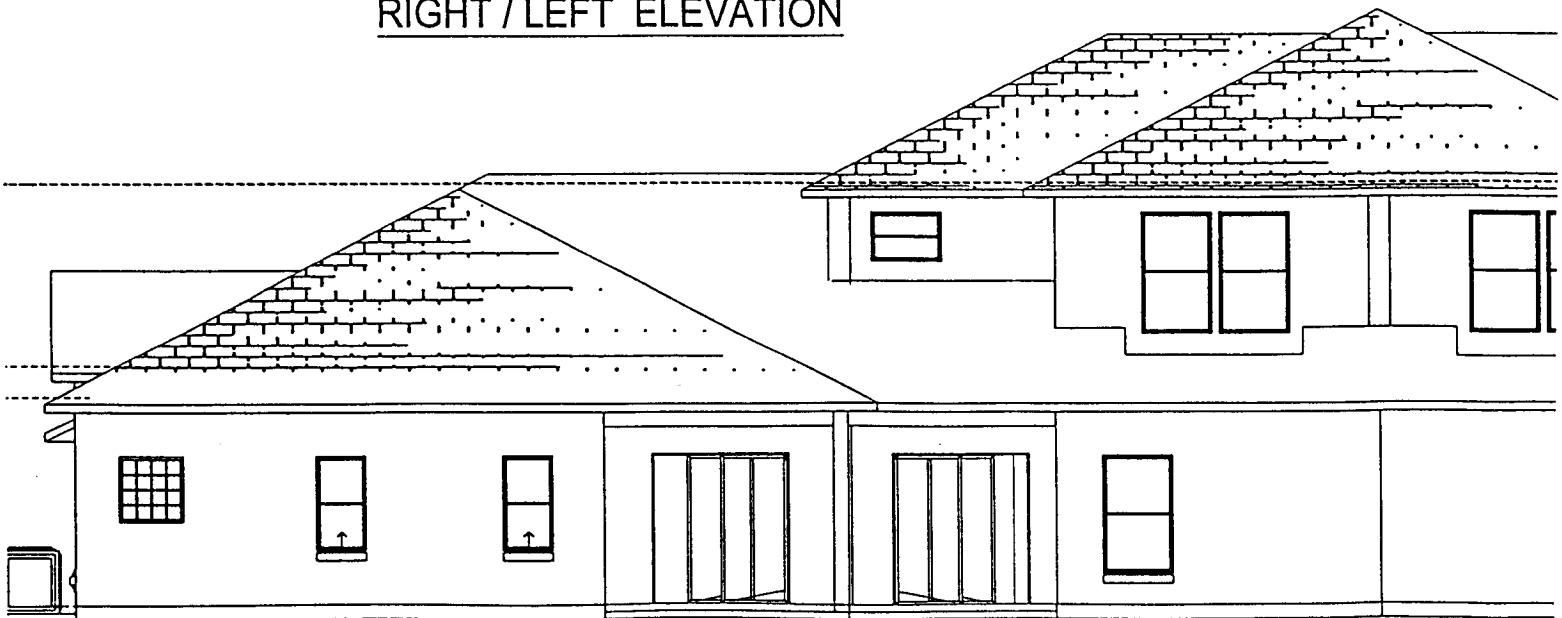
S.F. SUMMATION	
UNIT -B	
1st LIVING AREA	812'
2nd LIVING AREA	742'
TOT. LIVING AREA	1554'
GARAGE/STOR	242'
ENTRY	13'
COVID PORCH	87'
TOTAL UNDER ROOF	1866'



FRONT ELEVATION



RIGHT / LEFT ELEVATION



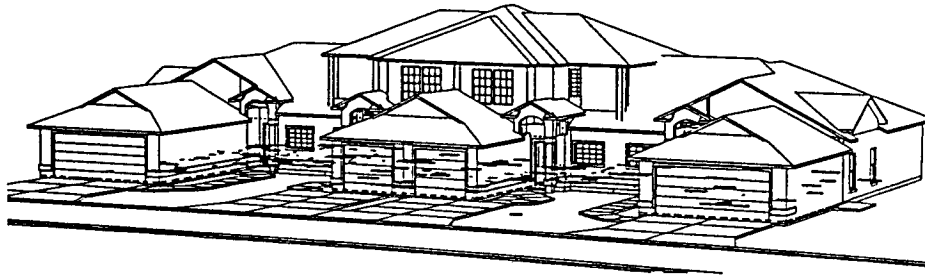
# BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM

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J. STEPHEN CRUZ, AIA, ARCHITECT

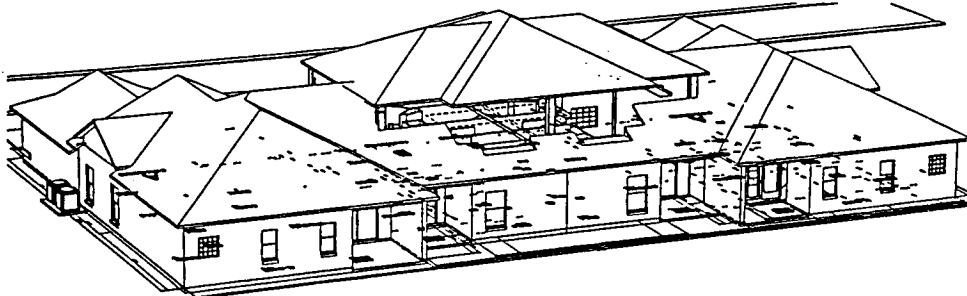
ISSUE / REVISION	
NO.	DATE DESCRIPTION
5-23-02	ISSUED FOR TRUSS DESIGN

THIS STRUCTURE HAS BEEN DESIGNED IN  
CONFORMANCE WITH SECTION 1606 OF  
FLORIDA BUILDING CODE 2001 EDITION.  
EXPOSURE C  
BASIC WIND SPEED 120 MPH  
WIND IMPORTANCE FACTOR 1.0  
MINIMUM FORCE DESIGN PRESSURES  
THIS STRUCTURE HAS BEEN DESIGNED FOR WIND  
PRESSURE, PER ASCE 7-98, AND COMPLEX 1/1000 (1)  
FBC 2001 EDITION FOR PARTIALLY ENCLOSED BUILDING  
MIN. ROOF HEIGHT OF 3' OR LESS, ROOF SLOPE 14-30°  
PRESSURES IN S.F. FT. PER TABLE 6.2 OF ASCE 7-98



**ARCHITECT**  
J. STEPHEN CRUZ, AIA, P.A.  
AR 0014260  
**ARCHITECTURE  
& PLANNING**  
4-A MARKET PLACE CT.  
PALM COAST, FL 32137  
(386) 446-1984

**J M O R**  
P.O. BOX 2027  
FLAGLER BEACH, FL  
32136  
386 445-3326



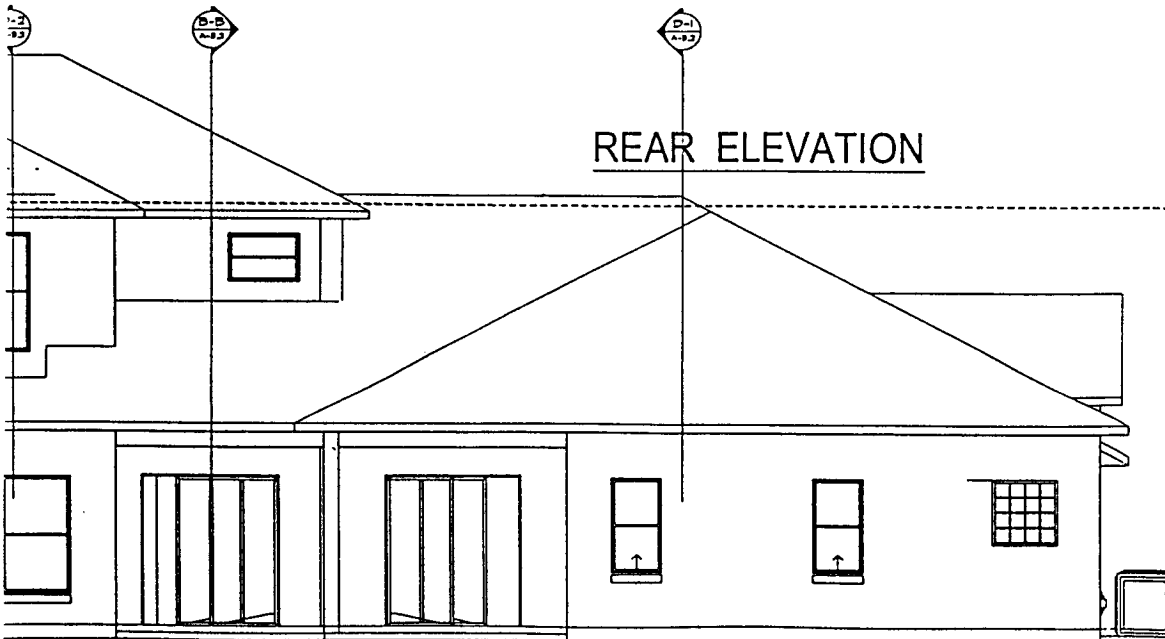
PROJECT  
**BRIDGEWATER  
AT FLAGLER BEACH**  
FLAGLER BEACH, FL.  
DRAWING TITLE  
**FOUR PLEX RESIDENCE  
ELEVATIONS**

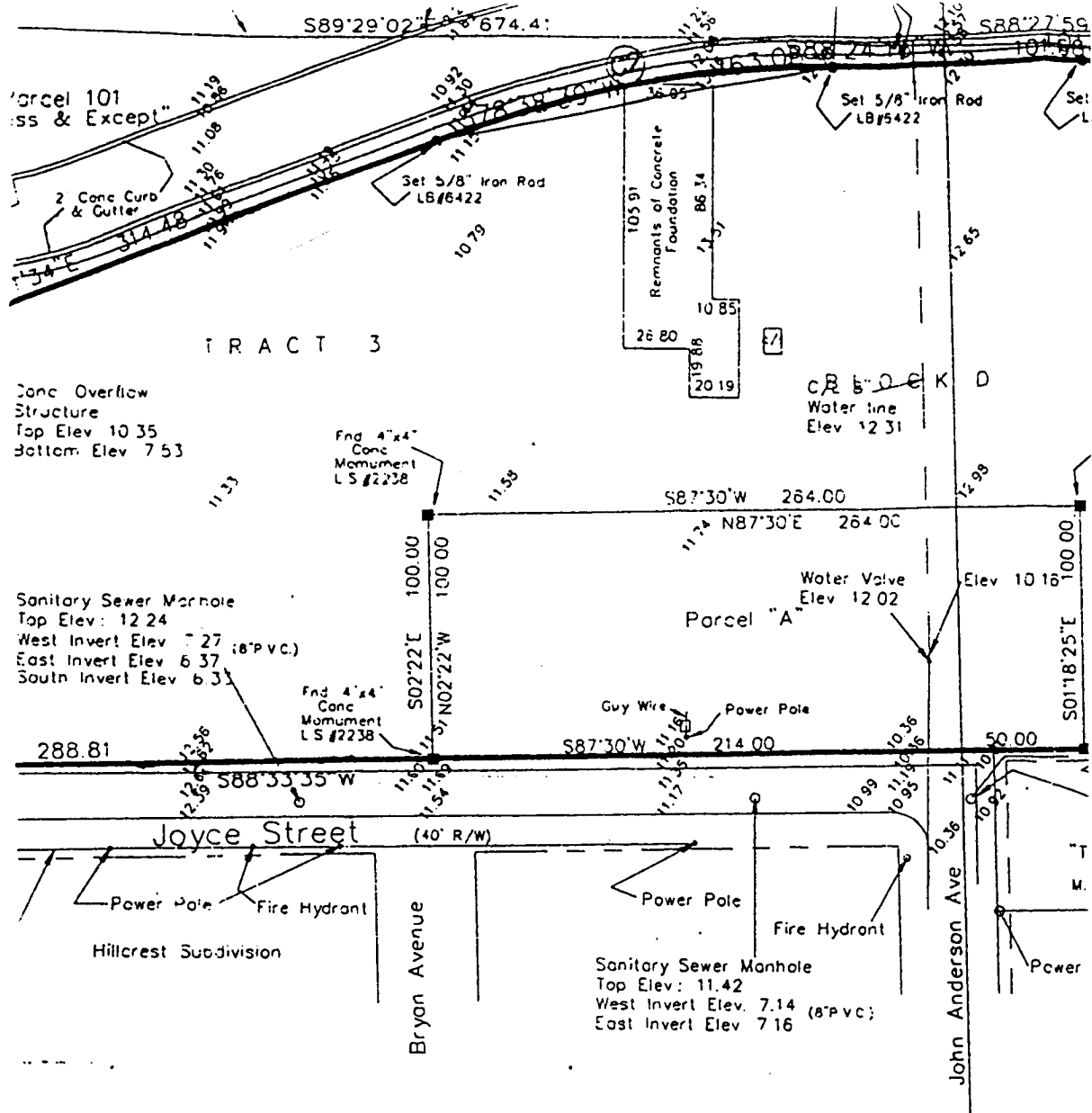
DATE  
15 MAY 02  
PROJ. NO.  
0241  
CHK. BY  
SC  
DWG. BY  
SC

SCALE  
AS NOTED

DRAWING NUMBER  
**A-3.0**  
SHEET NUMBER 8 OF

REAR ELEVATION





11. Township 12 South, Range 31 East, and more particularly described as

the corner of the North half of Tract 3 of the said Block "D" and running said Tract 3, a distance of 214.00 feet; thence North 2°22' West, a distance 100 feet; thence South 2°22' East, a distance of 100.00 feet to an

South, Range 31 East, Flagler County, Florida, being more particularly

erly Right-of-way line of SR 100 (200'R/W) with the Easterly Right-of-Way 89°29'02" East: 487.11 feet along said Southerly Right-of-Way of SR 100 to 89°29'02" East 799.43 feet to a Point of Curvature; thence Northeasterly 3 feet and a central angle of 06°15'39" to a point on the Easterly boundary along said Easterly boundary line; thence departing said boundary line South et; thence South 88°33'35" West 264.00 feet; thence South 01°18'25" East rth 01°18'2" West 304.76 feet to the Point of Beginning of this description.

Description Parcel No. That part of:

A parcel of land East, Flagler County, Florida Described as

Commence at a 4 Section 11, Township 12 01°10'42" East along the Southerly existing right concave Northerly, having South 87°22'46" West; thence of 06°16'16" a distance of 163.93 feet, to the Point of concave Northerly, having 87°47'28" West; thence of said curve through 88°27'59" West, a distance concave Southerly; thence distance of 163.93 feet 73°34'47" West, a chord of 314.48 feet; thence existing right-of-way 674.41 feet to the Point Containing 0.791





**EXHIBIT C TO DECLARATION OF CONDOMINIUM  
FOR BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM**

12 Buildings - 20 units **Type A**: 3BR 2BA; 2058 sq.ft.  
16 units **Type B**: 3BR 2BA; 1896 sq.ft.

REC 0978 PAGE 0830

UNIT NUMBER	UNIT TYPE	NUMBER OF BEDROOMS	NUMBER OF BATHS	SHARE IN COMMON ELEMENTS & SURPLUS
A101	A	3	2	1/36
A102	A	3	2	1/36
A103	A	3	2	1/36
A104	A	3	2	1/36
B101	B	3	2	1/36
B102	B	3	2	1/36
B103	B	3	2	1/36
B104	B	3	2	1/36
C101	B	3	2	1/36
C102	B	3	2	1/36
C103	B	3	2	1/36
C104	B	3	2	1/36
D101	A	3	2	1/36
D102	B	3	2	1/36
D103	B	3	2	1/36
D104	A	3	2	1/36
E101	A	3	2	1/36
E102	A	3	2	1/36
E103	A	3	2	1/36
E104	A	3	2	1/36
F101	A	3	2	1/36
F102	B	3	2	1/36
F103	B	3	2	1/36
F104	A	3	2	1/36
G101	A	3	2	1/36
G102	B	3	2	1/36
G103	B	3	2	1/36

G104	A	3	2	1/36
H101	A	3	2	1/36
H102	B	3	2	1/36
H103	B	3	2	1/36
H104	A	3	2	1/36
I101	A	3	2	1/36
I102	A	3	2	1/36
I103	A	3	2	1/36
I104	A	3	2	1/36

Total Percentage of Shares in Common Elements/Surplus 100%

Square footage includes living areas, garage/storage, entry-way and covered porch.

Type "A" units are single-story units.

Type "B" units are two-story units.

**EXHIBIT C (Page 2)**

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on November 4, 2002, as shown by the records of this office.

The document number of this corporation is N02000008526.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Fifth day of November, 2002



CR2EO22 (7-02)

*Jim Smith*

Jim Smith  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC.  
(A Florida Corporation Not For Profit)**

In order to form a corporation not for profit under and in accordance with Chapters 617 and 718 of the Florida Statutes, the undersigned hereby associate into a corporation for the purpose and with the powers hereinafter set forth, and to that end, do, by these Articles of Incorporation, certify and set forth the following:

**EXPLANATION OF TERMINOLOGY**

A. The terms contained in these Articles of Incorporation which are contained in the Condominium Act, Chapter 718, Florida Statutes, as amended prior to the date of execution of these Articles, shall have the meaning of such terms set forth in such Act. All terms which are defined in the Declarations of Condominium shall be used herein with the same meanings as defined in said Declarations.

B. "Association" as used herein shall mean the Bridgewater at Flagler Beach Condominium Association, Inc., a Florida corporation not for profit, the corporation formed by these Articles, its successors or assigns.

**ARTICLE I  
NAME**

The name of this Association shall be the BRIDGEWATER AT FLAGLER BEACH CONDOMINIUM ASSOCIATION, INC., whose present address is P. O. Box 2027, Flagler Beach, FL, 32136.

**ARTICLE II  
PURPOSE OF ASSOCIATION**

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (the "Act"), as it exists on the date hereof, for the operation of one condominium (the "Condominium") which will be the Bridgewater at Flagler Beach Condominium.

The Association shall operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent

with the St. Johns River Water Management District permit no. 42-035-82380-1 requirements and applicable District rules, and shall assist in the enforcement of the Declaration of Covenants and Restrictions which relate to the surface water or stormwater management system.

**ARTICLE III  
POWERS**

The Association shall have the following powers which shall be governed by the following provisions:

1. The Association shall have all of the common law and statutory powers of a corporation not for profit which are not in conflict with the terms of the condominium documents or the Act.

2. The Association shall have all of the powers of a condominium association under the Act and shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:

(a) to make, establish and enforce reasonable rules and regulations governing the use of Condominium Units, Common Elements and the Condominium Property;

(b) to make, levy, collect and enforce Assessments against Condominium Unit Owners to provide funds to pay for the expenses of the Association, the maintenance, operation and management of the Condominium and the maintenance and operation of the surface water or stormwater management system, in the manner provided in the condominium documents and the Act and to use and expend the proceeds of such Assessments in the exercise of the powers and duties of the Association;

(c) to collect the Common Expenses of the Condominium;

(d) to maintain, repair, replace and operate each Condominium Property in accordance with the condominium documents and the Act;

(e) to reconstruct improvements of each Condominium Property in the event of casualty or other loss;

(f) to enforce by legal means the provisions of the condominium documents;

(g) to employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation and management of each Condominium Property and to enter into any other agreements consistent with the purposes of the Association;

(h) to acquire, own, mortgage, and convey real and personal property and to take such other reasonable actions in that regard; and

(i) to carry out its duties and obligations under the condominium documents.

3. All funds and the titles to all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declarations, these Articles and the By-Laws.

4. The Association shall make no distribution of income to its members, Directors or officers, and upon dissolution, all assets of the Association shall be transferred only to another non-profit corporation or a public agency, except in the event of a termination of all Condominiums.

5. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declarations, the By-Laws and the Act.

#### **ARTICLE IV MEMBERS**

The qualification of members, the manner of their admission to membership in the Association, the manner of the termination of such membership and voting by members shall be as follows:

1. Until such time as the Bridgewater at Flagler Beach Condominium is submitted to condominium ownership by the recordation of a Declaration in the Public Records of Flagler County, Florida, the members of this Association shall be comprised solely of Declarant.

2. After the Bridgewater at Flagler Beach Condominium shall be submitted to the condominium form of ownership by the recordation of a Declaration, the Condominium Unit Owners, which in the first instance shall mean Declarant as the owner of all the Condominium Units, shall be entitled to exercise all of the rights and privileges of members.

3. Except as to Declarant, who shall be a member as long as it shall own a Unit, membership in the Association shall be established by the acquisition of ownership of fee title to a Condominium Unit in a Condominium as evidenced by the recording of an instrument of conveyance in the Public Records of Flagler County, whereupon, the membership in the Association of the prior owner thereof, if any, shall terminate as to that Condominium Unit. New members shall deliver a true copy of the recorded deed or other instrument of acquisition of title to the Association.

4. No member may assign, hypothecate or transfer in any manner his membership in the Association or his share in the funds and assets of the Association except as an appurtenance to his Condominium Unit.

5. Each Condominium Unit shall be entitled to one (1) vote, which vote shall be exercised and cast in accordance with the Declaration and the By-Laws.

6. The following provisions shall govern the right of each member to vote and the manner of exercising such right:

(a) If there is more than one (1) Condominium Unit Owner with respect to a Condominium Unit as a result of the fee interest in such Condominium Unit being held by more than one (1) person, such Condominium Unit Owners, collectively, shall be entitled to only one (1) vote determined in the manner set forth by the Declaration;

(b) The members shall elect the Board of Directors in the manner provided in Article IX of these Articles;

(c) The President or the person designated by the President in writing shall serve as the "Voting Member" of the Condominium.

#### **ARTICLE V**

##### **TERM**

The term for which this Association is to exist shall be perpetual. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

**ARTICLE VI  
INCORPORATOR**

The Incorporator of the Association is JMOR Enterprises, Inc., a Florida corporation, whose address is P. O. Box 2027, Flagler Beach, FL, 32136.

**ARTICLE VII  
OFFICERS**

A. The affairs of the Association shall be managed by a President, one (1) or more Vice Presidents, a Secretary and a Treasurer and, if elected by the Board of Directors, an Assistant Secretary and an Assistant Treasurer, which officers shall be subject to the directions of the Board of Directors.

B. The Board of Directors shall elect the President, a Vice President, the Secretary, the Treasurer and as many other Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time determine appropriate. Such officers shall be elected annually by the Board of Directors at the first meeting of the Board of Directors; provided, however, such officers may be removed by such Board of Directors, and other persons may be elected by the Board of Directors as such officers in the manner provided in the By-Laws. The President shall be a Director of the Association, but no other officer need be a Director. The same person may hold two (2) offices; provided, however, the offices of President and Vice President shall not be held by the same person, nor shall the same person hold the office of President who holds the office of Secretary, Assistant Secretary, or Treasurer.

**ARTICLE VIII  
FIRST OFFICERS**

The names of the officers who are to serve until the first election of officers by the Board of Directors are as follows:

President	-	<u>Nick Jebia</u>
Vice President	-	<u>Michael Morgan</u>
Secretary/Treasurer	-	<u>Kelli F. Jebia</u>



**ARTICLE IX  
BOARD OF DIRECTORS**

A. The number of Directors on the first Board of Directors of Directors (the "First Board") and the "Initial Elected Board" (as hereinafter defined) shall initially be three (3). After the "Majority Election Meeting" (as that term is hereinafter defined), the Board of Directors shall have the right to increase the number of Directors to five (5).

B. The names and addresses of the persons who are to serve as the First Board are as follows:

<u>Nick Jebbia</u>	-	<u>1437 E. Hwy 100</u> <u>P.O. Box 2613, Bunnell, FL 32110</u>
<u>Michael Morgan</u>	-	<u>1437 E. Hwy 100</u> <u>P.O. Box 2613, Bunnell, FL 32110</u>
<u>Kelli F. Jebbia</u>	-	<u>1437 E. Hwy 100</u> <u>P.O. Box 2613, Bunnell, FL 32110</u>

Declarant reserves the right to designate successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided.

C. Within seventy-five (75) days after Condominium Unit Owners other than Declarant ("Purchaser Members") shall own fifteen percent (15%) or more of the Condominium Units ultimately intended to be operated by the Association, the Purchaser Members shall be entitled to elect one-third (1/3) of the Board of Directors, which election shall take place at a special meeting (the "Initial Election Meeting") to be called by the Board of Directors, notice of which shall be given not less than sixty (60) days after the conveyance to Purchaser Members of fifteen percent (15%) of the Condominium Units ultimately intended to be operated by the Association. Declarant shall designate the remaining Directors on the Board of Directors. The Director to be so elected by the Purchaser Members and the Directors to be designated by Declarant are hereinafter collectively referred to as the "Initial Elected

Board". The Initial Elected Board shall succeed the First Board upon their election and designation. Subject to the provisions of Paragraph D herein, the Initial Elected Board shall serve until the next annual members' meeting, at which time one-third (1/3) of the Board shall be elected by the Purchaser Members and the remaining Directors shall be designated by Declarant. Directors shall continue to be so elected and designated at each subsequent annual members' meeting until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors. Declarant reserves the right, until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors, to designate successor Directors to fill any vacancies caused by the resignation or removal of Directors designated by Declarant pursuant to this Paragraph C.

D. Purchaser Members shall be entitled to elect not less than a majority of the Board of Directors in the event of any of the following, whichever shall first occur (the "Majority Election Event"):

1. Three (3) years after fifty percent (50%) of the Condominium Units ultimately intended to be operated by the Association have been conveyed to Purchaser Members as evidenced by the recording of instruments of conveyance amongst the Public Records of the County; or

2. Three (3) months after ninety percent (90%) of the Condominium Units ultimately intended to be operated by the Association have been conveyed to Purchaser Members as evidenced by the recording of instruments of conveyance amongst the Public Records of the County; or

3. After all of the Condominium Units ultimately intended to be operated by the Association have been sold and none of the others are being offered for sale by Declarant in the ordinary course of business; or

4. After some of the Condominium Units ultimately intended to be operated by the Association have been conveyed and none of the others are being constructed by Declarant in the ordinary course of business; or

5. Seven (7) years after the Declaration of Condominium has been recorded with the Public Records of the County; or, seven (7) years in the case of a phase condominium being operated by an association created pursuant to §718.403 after recordation creating the initial phase.

6. When Declarant, as Declarant has the right to do at any time, upon written notice to the Association, relinquishes its right to designate a majority of the Board of Directors.

E. The election of not less than a majority of Directors by the Purchaser Members shall occur at a special meeting (the "Majority Election Meeting") to be called by the Board of Directors, notice of which shall be given within sixty (60) days of the Majority Election Event.

F. The Initial Election Meeting and Majority Election Meeting shall be called by the Board of Directors by written notice given to all members in accordance with the By-Laws; provided, however, that the members shall be given at least sixty (60) days notice of such meeting. The notice shall also specify the number of Directors which shall be elected by the Purchaser Members and the number of Directors to be designated by Declarant.

G. Declarant shall cause all of its designated Directors to resign ("Declarant's Resignation Event") when Declarant no longer holds for sale five percent (5%) of the Total Condominium Units ultimately intended to be operated by the Association. If Declarant's Resignation Event shall occur after the Majority Election Meeting, then upon the occurrence of the Declarant's Resignation Event, the Directors elected by Purchaser Members shall appoint a successor Director to fill the vacancy caused by the resignation or removal of Declarant's designated Director. Such successor Director shall serve until the next annual members' meeting, at which time the members shall elect his successor. If, upon the occurrence of the Declarant's Resignation Event, the Majority Election Meeting has not occurred, the remaining Purchaser Director shall call the Majority Election Meeting in accordance with the By-Laws and the Act at which all of the Directors shall be elected by the Purchaser Members.

H. At each annual members' meeting held subsequent to the Declarant's Resignation Event, the Directors shall be elected by the members.

I. Upon the resignation of a Director who has been elected or designated by Declarant or the resignation of an officer of the Association who has been elected by the First Board or the Initial Elected Board, the Association shall be deemed to have remised, released, acquitted, satisfied and forever discharged such officer or Director of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in

law or in equity, which the Association or Purchaser Members had, now have, or which any personal representative, successor, heir or assign of the Association or Purchaser Members hereafter can, shall or may have against said officer or Director for, upon, or by reason of any matter, cause or thing whatsoever, relating to his actions as such officer or Director, excepting only willful misconduct or gross negligence, from the beginning of the world to the day of such resignation. Members of the Board of Directors designated by the Declarant do not have to be members of the Association.

#### **ARTICLE X INDEMNIFICATION**

Every Director and every officer of the Association (and the Directors and officers as a group) shall be indemnified by the Association against all expenses and liabilities, including counsel fees (at all trial and appellate levels or if no litigation or proceeding has been instituted) reasonably incurred by or imposed upon him or them in connection with any proceeding, litigation, claim or settlement to which he may be made a party by reason of his being or having been a Director or officer of the Association; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement. The foregoing provisions for indemnification shall apply whether or not he is a Director or officer at the time such expenses and liabilities are incurred. If in such litigation, proceeding, claim, or settlement a Director or officer admits or is adjudged guilty of willful misfeasance or malfeasance or gross negligence in the performance of his duties, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all right of indemnification to which a Director or officer may be entitled whether by statute or common law.

#### **ARTICLE XI BY-LAWS**

The By-Laws of the Association shall be adopted by the First Board of Directors, and thereafter may be altered, amended or rescinded in the manner provided for in the By-Laws and the Act.

**ARTICLE XII  
AMENDMENTS**

A. Prior to recording the Declaration of the Bridgewater at Flagler Beach Condominium among the Public Records of the County, these Articles may be amended only by an instrument in writing signed by all of the Directors and filed in the Office of the Secretary of State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended and give the exact language of such amendment, and a certified copy of each such amendment shall always be attached to any certified copy of these Articles and shall be an exhibit to the first Declaration of the Bridgewater at Flagler Beach Condominium upon the recording of such Declaration.

B. After recording the Declaration in the Bridgewater at Flagler Beach Condominium among the Public Records of the County, these Articles may be amended by any of the following methods:

1. The proposed amendment shall be adopted by the affirmative vote of a majority of the votes of all members at an annual members meeting or special meeting of the members. Any number of amendments may be submitted to the members and voted upon by them at one meeting; or

2. An amendment may be adopted by a written statement signed by a majority of all members setting forth their consent to the amendment.

C. No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in a Declaration.

D. A copy of each amendment shall be certified by the Secretary of State of Florida and recorded among the Public Records of the County.

E. No amendment may be made to these Articles which shall abridge, amend or alter the rights of Declarant, including the right to designate and select the Directors as provided in Article IX hereof, or the provisions of this Article XII, without the prior written consent of Declarant.

F. Notwithstanding the foregoing provisions of this Article XII, the Board of Directors may amend these Articles without a vote of the members to correct a scrivener's error therein.

ARTICLE XIII  
CONFLICT

In the event of any conflict between the provisions of these Articles and the provisions of the Declarations the provisions of the Declarations shall prevail. In the event of any conflict between the provisions of these Articles and the provisions of the By-Laws, the provisions of these Articles shall prevail.

ARTICLE XIV  
REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 4B Old Kings Road North, Palm Coast, Florida 32137 and the initial registered agent of the Association at that address shall be Michael D. Chiumento III.

IN WITNESS WHEREOF, the Incorporator has caused these Articles of Incorporation to be executed this 31 day of October, 2002.

JMOR ENTERPRISES, INC., a  
Florida corporation

By:  Richard J. [unclear] CEO  
Its President



BYLAWS  
OF  
BRIDGEWATER AT FLAGLER BEACH  
CONDOMINIUM ASSOCIATION, INC.

Article I  
Identifying Data

Section 1. Name of Association. The name of this corporation shall be Bridgewater at Flagler Beach Condominium Association, Inc. and hereinafter the corporation shall be referred to as the Association. These are the By-Laws of the Bridgewater at Flagler Beach Condominium Association, Inc. as duly adopted by its Board of Directors. The Association is a corporation not for profit, organized pursuant to and under Chapters 617 and 718 of the Florida Statutes for the purpose of administering this condominium located in Flagler County, Florida.

Section 2. Address of Association. The principal office of the Association shall ultimately be at the condominium complex known as Bridgewater at Flagler Beach, which is located at 200 Palm Drive, Flagler Beach, 32136, Flagler County, Florida, or such other place as may be designated by the Board of Directors.

Article II  
Terms And Meanings

The terms used herein shall have the meanings as defined in the Florida Condominium Act, which comprises Chapter 718 of the Florida Statutes and is herein referred to as the Condominium Act.

Article III  
Membership In The Association

Section 1. Membership. Membership in the Association shall be limited to unit owners of condominium units in Bridgewater at Flagler Beach Condominium, and transfer of such membership shall be made only as a part of and incident to the transfer of ownership of such condominium unit, with such transfers being subject to and controlled by the transfer procedures set forth in the Declaration of Condominium.

Section 2. Roster of Membership. The Secretary of the Association shall maintain a roster of the membership entitled to vote at the meetings as hereinafter provided.

Article IV  
Meetings Of The Membership

Section 1. Location. All meetings of the Association, unless otherwise provided for in the notice of such meetings, will take place at the office of the Association.

Section 2. Annual Meeting.

A. The regular annual meetings shall be held each year at a specific time and place to be determined by the Board of Directors, provided that there shall be an annual meeting every calendar year and no later than thirteen (13) months after the last annual



meeting. Unless, or until changed by the Board of Directors, the annual meeting shall be held on the first Tuesday in April.

B. At the annual meeting, except as heretofore set forth and as otherwise provided in the Articles of Incorporation, a Board of Directors shall be elected which shall also be known as the Board of Administration, and such other business shall be transacted as may properly come before the meeting.

C. Written notice, which notice must include an agenda, shall be mailed to each unit owner at least 60 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 60 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Where a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which was initially identified for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association.

### Section 3. Special Meetings.

A. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called by the President and shall be called by the President or Secretary, at the request in writing of the holders of not less than one-tenth of all of the voting interests entitled to vote at the meeting. Such requests shall state the purpose or purposes of the proposed meeting.

### Section 4. Voting Interests.

A. At each meeting of the Association, the owner of each unit shall be entitled to one vote. Where a unit is owned by more than one person, the vote for such unit shall be cast by any one of the owners of a unit or the primary occupant, if title is held in the name of an entity rather than an individual. If the right of the individual casting the vote for the unit is challenged by any other person or entity having an ownership interest in the same unit then the vote for that unit shall not be permitted or counted unless or until all entities having an ownership interest in the Unit agree as to which of them shall have the right to vote.

B. When a Corporation is the owner of a unit the vote for that unit may be cast by any director or officer of the corporation unless there is a dispute by an officer, director or stockholder of the corporation as to who holds such right and the Association is notified of such dispute in which case the Corporation shall be required to produce a corporate resolution naming the proper person to cast the vote. Otherwise the vote for that unit shall not be considered on the matter before the Association.

C. When the unit is owned in the name of a Partnership or Trust, any partner or trustee shall have the right to cast the vote for the unit unless it is challenged by another partner, trustee or beneficiary in which case the vote shall not be considered unless adequate proof of the right to cast the vote is presented to and accepted by the Board of Directors.

D. The total number of votes shall be equal to the total number of units in the condominium and each individual vote of a unit must be cast as a whole and not in parts.

Section 5. Quorum. Members entitled to vote and representing owners of one-third (1/3rd) of the units, present in person or by written proxy, shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statutes, by the Articles of Incorporation, or by these Bylaws. If, however, such quorum shall not be present or represented at any meeting of the members, the members entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 6. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a majority of the voting interests present in person or represented by written proxy entitled to vote, shall decide any question brought before the meeting unless the question is one upon which a definite percentage of the vote is required by express provision of the statutes, the Articles of Incorporation, the Declaration of Condominium or these Bylaws, in which case such expressed provision shall govern and control the decision on such question.

Section 7. Required Approvals. Any approval by unit owners called for by Florida Statutes, or the applicable declaration or bylaws, including, but not limited to, the approval requirements in Florida Statutes § 718.112(2)(e), shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of the Florida Statutes or the applicable condominium documents relating to unit owner decision making except that unit owners may take action by written agreement, without meetings on matters for which action agreement without meetings is expressly allowed by the applicable bylaws or declaration or any Florida Statute which provides for the unit owner action.

Section 8. Consent To Action Without Meeting or Waiver. Whenever the vote of members at a meeting is required or permitted by any provision of the statutes, the Articles of Incorporation, Declaration of Condominium or these Bylaws, to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if a majority of the voting interest that would have been entitled to vote if such meeting were held, shall consent in writing to such action being taken.

Section 9. Waiver. Unit owners may waive notice of any meeting, whether annual or special, unless such waiver is prohibited by these Bylaws or Declaration of Condominium, or any Florida Statute.

Section 10. Right to Vote and Proxies. At any meeting of the members, every voting interest having the right to vote shall be entitled to vote in person or by a limited proxy. Proxy voting shall be governed by the following:

- A. No unit owner may vote by general proxy except as provided for herein.
- B. Limited and general proxies may be used to establish a quorum.
- C. Unit owners may vote by limited proxies substantially conforming to the forms adopted by the State of Florida Division of Land Sales and Condominiums.
- D. Limited proxies may be used for votes taken:
- 1) to waive or reduce reserves as permitted by Florida Statutes § 718.112(f)2.
  - 2) to amend the Declaration of Condominium pursuant to Florida Statutes § 718.110.
  - 3) to amend the Articles of Incorporation or bylaws pursuant to Florida Statutes § 718.112.
  - 4) for any other matter for which Chapter 718 Florida Statutes requires or permits by vote of the unit owners.
- E. No proxy limited or general shall be used in the election of board members.
- F. General proxies may be used for other matters for which limited proxies are not required.
- G. General proxies may be used in voting for non-substantial changes in items for which a limited proxy is required and given.
- H. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it is given.
- I. Every proxy is revocable at any time at the pleasure of the unit owner who executed it.

Article V  
Members Of The Board Of Administration And Directors

Section 1. Titles. The Directors of the Association shall be members of the Board of Administration with the titles being interchangeable within the meaning of these Bylaws and the other related condominium documents.

Section 2. Number. The number of Directors which shall constitute the entire Board of Administration shall be not less than three (3). Until changed by a majority vote at a duly called annual meeting of the members, the number of Directors shall be three (3).

Section 3. Term. The term of the Directors shall be for the period from the date of their election or appointment until their successors have been elected at the next annual meeting.

Section 4. First Board of Directors. The developer shall be entitled to appoint the members of the Board of Directors until such time as the members are entitled to elect a Director or Directors, as the case may be. At such time as the members are entitled to elect a Director or Directors, the Developer's right to appoint Directors shall be limited to those Director positions which the membership is not entitled to elect.

The members of the first Board of Directors shall serve until they are replaced by the Developer or until the unit owners elect their successors as hereinafter provided and any vacancies occurring before the election of their successors shall be filled through appointment by the developer.

Section 5. Subsequent Members of Board of Directors.

A. When unit owners other than the developer own fifteen (15) percent or more of the units in the condominium that will be operated ultimately by the Association, the unit owners other than the developer shall be entitled to elect not less than 1/3 of the members of the Board of Directors of the Association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the Board of Directors of the Association upon the first to occur of the following conditions or circumstances:

1) Three years after 50 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers; or

2) Three months after 90 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers; or

3) When all the units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or

4) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

5) Seven years after the recording of the Declaration of Condominium in the Public Records.

B. The Developer is entitled to designate at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the units in the condominium operated by the Association.

Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned units in the same manner as any other unit owner, except for purposes of re-acquiring control of the Association or selecting the majority of members of the Board of Directors.

Nothing contained in this Section shall be deemed to prevent the developer from transferring the control of the association to unit owners other than the developer before the occurrence of the events described in this Section.

C. Within seventy-five (75) days after the unit owners other than the Developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call, and give not less than sixty (60) days' notice of a meeting of unit owners to elect the members of the Board of Directors. The meeting may be called and the notice given by any unit owner if the Association fails to do so.

D. At the time that unit owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association, and the unit owners shall accept control. Simultaneously (or with respect to financial records, not more than ninety (90) days thereafter), the Developer shall deliver to the Association, at the Developer's expense, all property of the units owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under the provisions of the Florida Condominium Act.

Section 6. Election of Directors. Election of Directors shall be conducted in the following manner:

The members of the board of administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in Chapter 718 of the Florida Statutes, or the rules promulgated pursuant to such Statute. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association not less than 40 days before a scheduled election.

Together with the written notice and agenda as provided for in Florida Statute 718.112(2)(d)2, the Association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates.

Upon request of a candidate, the association shall include an information sheet, no larger than 8 ½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the association. The Association shall have no liability for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The aforesaid second notice shall be given not less than fourteen (14) days before the election. Any voting procedures established by the Division of Florida Land Sales, Condominiums and Mobile Homes shall apply to the voting process. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board of administration. No unit owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in Florida Statute 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with Florida Statute 718.303. The regular election shall occur on the date of the annual meeting.

Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the board.

Section 7. Vacancy and Removal. The method of removing board members by recall and the procedures for filling vacancies thus created shall be in accordance with Florida Administrative Code Rules 61B-23.0027 and 61B-23.0028. Other vacancies shall be filled in accordance with Florida Administrative Code Rule 61B-23.0021.

Section 8. Removal by Developer.

A. Any Directors appointed by the Developer may be removed and replaced by the Developer prior to turn over of control of the Association to the Unit Owners.

B. The original Directors, or any Director appointed by the developer to fill a vacancy arising prior to the turnover of control by the developer as provided for in Florida Statutes § 718.301, shall not be capable of being removed by vote of the voting interests.

Section 9. Salaries or Fees. The salaries or fees, if any, to be paid to Directors, after the unit owners have elected all members of the Board of Directors, shall be determined by a majority vote of the members at the general membership meetings.

Section 10. Powers. The property and business of the corporation shall be managed and administered by the Board of Directors, which may exercise all corporate powers specifically set out in the Condominium Act, the Articles of Incorporation, or the Declaration of Condominium, which powers may be delegated to its agents, officers, contractors or employees, subject only to approval by the unit owners when that is specifically required.

Section 11. Meetings of Board of Directors.

A. Annual Meetings. After proper notice, the annual meeting of each Board of Directors newly elected by the members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practical. The annual meeting of the Board of Directors shall be held at the same place as the general members' meeting;

B. Special Meetings. Special meetings of the Board of Directors shall be held whenever called by the President or a majority of the Board of Directors. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

C. Unit Owner Attendance. Meetings of the board of administration and any committee thereof at which a quorum of the members of that committee is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration subject to the rules set forth in Florida Administrative Code Rule 61B-23.002. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items subject to the rules set forth in Florida Administrative Code Rule 61B-23.002. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the

meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be notified and ratified at the next regular meeting of the board.

However, written notice of any meeting at which non-emergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed or delivered to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property upon which all notices of board meetings shall be posted. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

D. Quorum. A majority of the Board of Directors shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business, and the act of a majority present at any meeting at which there is a quorum shall be the act of the Board of Directors.

E. Adjourned Meetings. If at any meeting of the Board of Administration there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present.

F. Joinder in Meeting by Approval of Minutes. Directors not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the secretary at or prior to the meeting, however, such approval or disapproval may not be used as a vote for or against the action taken and may not be used for purposes of creating a quorum.

G. Presiding Officer. The Presiding officer of Directors meetings shall be the Chairman of the Board if such an officer has been elected; and if none, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

H. Order of Business. The order of business at all meetings of the Board of Directors shall be as follows:

- 1.) Roll call.
- 2.) Reading of Minutes of the last meeting.
- 3.) Consideration of communications.
- 4.) Resignations and elections.
- 5.) Reports of officers and employees.
- 6.) Reports of committees.
- 7.) Unfinished business.
- 8.) Original resolutions and new business.
- 9.) Adjournment.

I. Minutes. The Minutes of all meetings shall be kept in a book available for inspection by unit owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these Minutes for a period of not less than seven years.

Article VI  
Officers

Section 1. Executive Officers. The executive officers of this corporation shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected annually by said Board of Directors. Any two of said offices may be united in one person except that the President shall not also be the Secretary, or an Assistant Secretary of the corporation. If the Board of Directors so determines, there may be more than one Vice President.

Section 2. Subordinate Officers. The Board of Directors may appoint such other officers and agents as they may deem necessary, who shall hold office at the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by said Board.

Section 3. Tenure of Officers; Removal. All officers and agents shall be subject to removal, with or without cause at any time by action of the Board of Directors. The Board of Directors may delegate powers of removal of subordinate officers and agents to any officer.

Section 4. President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

Section 5. Vice President. The Vice President shall be vested with all the powers and required to perform all the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

Section 6. Secretary.

A. The Secretary shall keep the Minutes of the meetings of the members and of the Board of Directors.

B. He shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.

C. He shall be custodian of the corporate records and of the seal of the corporation and shall see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these Bylaws.

D. He shall keep the register of the Post Office addresses of each unit owner which shall be furnished to the Secretary by such unit owner.

E. In general he shall perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.



Section 7. Treasurer.

A. The Treasurer shall keep full, accurate accounts of receipts and disbursements, and shall keep all books belonging to the corporation and shall deposit all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors.

B. He shall disburse the funds of the corporation as ordered by the Board, get proper vouchers for such disbursements, shall render to the President and Directors at the regular meeting of the Board or whenever they may require an account of all his transactions as Treasurer and of the financial condition of the corporation.

C. He may be required to give the corporation a bond in the sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office and the restoration to the corporation, in the case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the corporation.

Section 8. Vacancies. If the office of the President, Vice President, Secretary or Treasurer, one or more, becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining Directors by a majority vote of the whole Board of Directors provided for in these Bylaws may choose a successor or successors who shall hold office for the unexpired term.

Section 9. Resignations. Any Director or other officer may resign his office at any time, such resignation to be made in writing, and to take effect from the time of its receipt by the corporation, unless some time be fixed in the resignation, and then from that date.

Section 10. Salaries Fees. The salaries or fees, if any, to be paid to officers shall be determined by the Directors and subject to approval by a majority of the members.

Article VII  
Bonding Of Certain Persons

The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary and treasurer of the association. The association shall bear the cost of bonding.

Article VIII  
Finances

Section 1. Fiscal Year. The fiscal year shall commence on the first day of the month in which the Declaration is recorded and end the last day of the twelfth month after the Declaration is recorded. For example, if the Declaration is recorded January 10, the fiscal year will begin January 1 and end December 31. The Board of Directors may establish a different fiscal year and must notify each of the then existing members of the change.

Section 2. Depository And Checks. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the

monies of the Association shall be deposited. All checks or demands for money and notes of the Association shall be signed by and one (1) of the following officers: President, Vice-President, Secretary or Treasurer, or by such officer or officers or such other person or persons as the Board of Administration may from time to time designate. The Board of Administration, by resolution, may require more than one (1) signature.

Section 3. Annual Budget.

A. The Board of Directors shall propose an annual budget each year and shall mail a copy of the Association's proposed annual budget of common expenses to each Unit Owner not less than fourteen (14) days prior to the meeting of the Board of Administration at which the budget will be considered together with a notice of that meeting. Such meeting of the Board of Administration shall be open to all Unit Owners.

B. The Board of Directors may approve annual budgets so long as the amount does not exceed one hundred fifteen percent (115%) of the Assessment for the preceding year.

C. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in Florida Statutes § 718.504(21). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance for any item for which the deferred maintenance expense or replacement cost is greater than \$10,000.00. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which shall be based upon the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. Prior to turn-over of control of the association by the Developer to non-developer unit owners, the Developer may, pursuant to Florida Statute 718.112(f)(2), vote to waive the reserves or reduce the funding of reserves for the first two fiscal years of operation of the Association beginning with the year in which the Declaration of Condominium is recorded, after which time, reserves may be waived or reduced only upon a majority vote of the non-developer owners at a duly called meeting of the Association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget shall go into effect.

Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts and shall be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the Association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to Florida Statute § 718.301, the developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval by a majority vote of all non-developer voting interests, voting at a duly called meeting of the Association.

D. If an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115% of the assessments for the preceding year, the following shall apply:

- 1) The board, upon its own motion or written application of ten percent (10%) of the voting interests to the board, shall call a special meeting of the unit

owners within thirty (30) days, upon not less than ten (10) days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget.

2) The adoption of the budget shall require a vote of not less than a majority vote of all the voting interests.

3) The Board of Administration may propose a budget to the unit owners at such a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget shall be adopted.

4) If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors shall go into effect as scheduled.

5) In determining whether assessments exceed 115% of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property shall be excluded from the computation.

E. As long as the developer is in control of the Board of Administration, the Board shall not impose an assessment for any year greater than 115% of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests.

F. If the majority of the voting interests at a duly called meeting of the Association vote to waive, in whole or in part, the reserve requirements such action shall be subject to the following:

- 1) Any such waiver shall be effective for only one annual budget.
- 2) The vote to waive must be taken annually to continue to waive the reserves.

G. Reserves must be included in the proposed annual budget and shall not be waived or reduced prior to the mailing to the unit owners of a proposed annual budget.

H. Each Budget shall show each reserve account as a separate item and include the estimated life, estimated replacement costs and the estimated remaining useful life for each such item as well as the current balance in each such reserve account as of the date of the budget.

Section 4. Financial Reports. Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the Association shall prepare and complete, or cause to be prepared and completed by a third party, compiled financial statements for the preceding fiscal year in accordance with generally accepted accounting principles. Within 21 days after the financial report is completed or received by the Association from the third party, the Association shall mail to each unit owner at the address last furnished to the Association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. The Association may prepare or cause to be prepared, without a meeting of

or approval by the unit owners, reviewed or audited financial statements. If approved by a majority of the voting interests present at a properly called meeting of the Association, the Association may prepare or cause to be prepared a report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement. Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. With respect to an Association to which the developer has not turned over control of the Association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first two (2) fiscal years of the Association's operation, beginning with the fiscal year in which the Declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the Association by the developer.

Section 5. Assessments. Assessments against the unit owners for their shares of the items of the budget shall be made by the Board of Administration for the fiscal year annually in advance. The amount required from each unit owner to meet the annual budget shall be divided into twelve equal payments, one of which shall be due on the first day of each calendar month of the year for which the assessment are made, or thirty days after the mailing to the unit owners concerned of a statement for the assessment coming due, whichever date shall last occur. If assessments are not made annually as required, quarterly assessments shall be presumed to have been made in the amount of the last prior quarterly assessment, and assessments in this amount shall be due on the first day of each calendar quarter until changed by an amended assessment. In the event a quarterly assessment shall be insufficient in the judgment of the Board of Administration to provide funds for the anticipated current expense for the ensuing quarter and for all of the unpaid operating expenses previously incurred, the Board of Administration shall amend the budget and shall make amended quarterly assessments for the balance of the year in sufficient amount to meet these expenses for the year; provided, however, that any account of the amended budget that exceeds the limit upon increases for that year shall be subject to the approval of the membership of the Association as previously required in these Bylaws.

Section 6. Charges. Charges by the Association against members for other than common expense shall be payable in advance. Charges for other than common expense may be made only after approval by the member, to be charged, and may include but shall not be limited to charges for maintenance services furnished at the request of the individual member and other services furnished for the benefit of the specific member.

Section 7. Assessments for Emergencies. Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expenses shall be due only after 30 days' notice is given to the unit owners concerned, and shall be paid in such manner as the Board of Administration may require in the notice of assessment.

Section 8. Transfer Fees. The Association may charge a fee in an amount not to exceed the highest amount permitted by law for processing the approval of a transfer in connection with the sale, lease, sublease, or other transfer of a unit. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made.

Article IX  
Mediation And Arbitration

Any internal dispute among the unit owners and the Association may be submitted to voluntary mediation through Citizen Dispute Settlement Centers, as provided for in Florida Statutes § 44.201.

Prior to the institution of court litigation the parties to a dispute, as that term is defined in Florida Statutes § 718.1255, shall petition the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business and Professional Regulation for Mandatory Non-binding Arbitration pursuant to Florida Statutes § 718.1255.

Article X  
Seal

The seal of the corporation shall have inscribed thereon the name of the corporation, the year of its organization and the words "non profit." Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

Article XI  
Compliance And Default; Remedies

In addition to the remedies provided in the Declaration, the following provisions shall apply:

Section 1. Fines. The Board of Directors may levy reasonable fines against a unit for the failure of the owner of a unit, or its occupant, licensee, or invitee, to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. No fine will become a lien against a unit. No fine may exceed \$100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000.00. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other unit owners. If the committee does not agree with the fine, the fine may not be levied. The provisions of this subsection do not apply to unoccupied units.

A. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

- 1) A statement of the date, time and place of the hearing.
- 2) A statement of the provisions of the condominium document, the Condominium Act, and the Rules and Regulations which have allegedly been violated.
- 3) A short and plain statement of the matters asserted by the Association.

B. The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

Section 2. Correction of Health and Safety Hazards. Any violations which are deemed by the Board of Directors to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association.

Section 3. Enforcement of Rules and Regulations. If any dispute over the enforcement or interpretation of Association Rules and Regulations should arise, either between two or more unit owners, or between the Association and one or more unit owners, it is intended that such dispute be resolved by agreement or by voluntary binding mediation or mandatory non-binding arbitration.

Section 4. Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

#### Article XII Fire And Safety

The Association may accept a Certificate of Compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium units to the applicable fire and safety code.

#### Article XIII Surrender

In the event the Association becomes the owner of a unit, the prior unit owner member or any other person or persons in possession by or through the right of such prior member, shall promptly surrender the owned unit to the corporation in good repair, ordinary wear and tear and damage by fire or other casualty excepted, and the corporation shall have the right to enter and to possess the unit, after complying with applicable Florida law.

#### Article XIV Notices

Section 1. Notice. Whenever, under the provisions of the statutes, the Articles of Incorporation or these Bylaws, notice is required to be given to any Director or member, it shall be construed to mean either personal notice, or notice given in writing by mail by depositing the same in the Post Office or letter box in a postpaid envelope addressed to such Director or member as his name appears on the books of the corporation.

Section 2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Articles of Incorporation, Declaration of Condominium or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such

notice, whether before or after the time stated therein, shall be deemed to be equivalent to the required notice.

Article XV  
Definitions

Whenever the masculine singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, whenever the context so requires.

Article XVI  
Amendments

These Bylaws may only be altered amended or added to in accordance with the following terms, conditions and procedures:

A. Proposed amendments shall contain the full text of the Bylaws with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. If the proposed change is so extensive the use of underlining and hyphens as indications of words added or deleted will not be necessary. However, in such cases a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaw. See Bylaw (giving identifying data) for present text."

B. Notice of the proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

C. A resolution adopting a proposed amendment may be proposed by either the Board of Administration of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing providing it is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, the approval of an amendment must be either by:

1) By not less than a majority of the votes of the entire membership of the Association; or

2) Until a majority of the Directors are elected by members other than the Developer of the Condominium, only by all of the Directors.

3) No amendment to these Bylaws is valid unless recorded in the Public Records with an identification on the first page of such amendment of the Book and Page number of the Public Records where the Declaration of Condominium is recorded.

Article XVII  
Official Records

The Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

- A. The plans, permits, warranties, and other items provided by the developer pursuant to § 718.301(4).
- B. A photocopy of the recorded Declaration of each Condominium operated by the Association and all amendments thereto.
- C. A photocopy of the recorded Bylaws of the Association and all amendments thereto.
- D. A certified copy of the Articles of Incorporation and all amendments thereto.
- E. A copy of the current Rules and Regulations.
- F. A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than seven (7) years.
- G. A current roster of all Unit Owners, their mailing addresses, unit identifications, voting certifications, and if known telephone numbers.
- H. All current insurance policies of the Association and Condominiums operated by the Association.
- I. A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.
- J. Bills of sale or transfer for all property owned by the Association.
- K. Accounting records for the Association and separate accounting records for each condominium it operates, according to good accounting practices. All accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but are not limited to:
  - 1) Accurate, itemized, and detailed records of all receipts and expenditures.
  - 2) A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.
  - 3) All audits, reviews, accounting statements, and financial reports of the Association or Condominium.



4) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

L. Voting proxies, which shall be maintained for a period of one year from date of the meeting for which the proxy was given.

M. All rental records where the Association is acting as agent for the rental of Condominium Units.

#### Article XVIII Administrative Rules And Regulations

Except for the restrictions and regulations specifically set out in the Declaration of Condominium or elsewhere in these Bylaws, the Board of Administration shall have the power to pass, alter or amend Rules and Regulations governing the details of the operation and use of the common elements.

The Association, through the action of the Board of Directors, shall have the power to convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, rights of ways expansion, or other public purposes, whether negotiated or as the result of eminent domain proceedings.

#### Article XIX Written Inquiries By Members

When a unit owner files a written inquiry by certified mail with the Board of Directors, the Board shall respond in writing to the unit owner within thirty (30) days of receipt of the inquiry. The Board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Division of Florida Land Sales, Condominiums and Mobile Homes ("Division"). If the Board requests advice from the Division, the Board shall, within ten (10) days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the complaint.

The association may through its Board of Directors adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquires, one of which may be that the association is only obligated to respond to one written inquiry per unit in any given thirty (30) day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent thirty (30) day period, or periods, as applicable.