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**DECLARATION OF CONDOMINIUM
 FOR
 MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM**

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EXHIBITS

1. Legal Description of Land
2. Articles of Incorporation of Mariner Village of Martin County Condominium Association, Inc.
3. By-Laws of Mariner Village of Martin County Condominium Association, Inc. and Rules and Regulations
4. Site Plan and Survey
5. Graphic Depiction of Improvements
6. Permit
7. Depiction of Road Maintenance Obligations
8. Depiction of Drainage Maintenance Obligations

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**DECLARATION OF CONDOMINIUM FOR
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM**

MARINER VILLAGE TOWNHOMES, INC., a Florida corporation ("Developer"), does hereby declare as follows:

1. Introduction and Submission:

1.1. The Land. Developer owns the fee simple title to that certain land located in Martin County, Florida, as more particularly described in Exhibit 1 attached hereto (the "Land").

1.2. Submission Statement. Developer hereby submits the Land and all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith to the condominium form of ownership and use in the manner provided by the Florida Condominium Act (the "Act") as it exists on the date hereof.

1.3. Name. The name by which this condominium is to be identified is Mariner Village of Martin County Condominium (the "Condominium").

2. Definitions. The following terms used in this Declaration and the exhibits hereto shall have the following meanings, unless the context in which they are used clearly requires a different meaning:

"Act" means the Florida Condominium Act (Chapter 718 of the Florida Statutes), as hereafter renumbered. Unless provided otherwise, the provisions of the Act, as amended from time to time, shall govern the Condominium.

"Articles" means the Articles of Incorporation of Association as amended from time to time, a copy of which is attached hereto as Exhibit 2.

"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. The term Assessment shall include a Special Assessment.

"Association" means Mariner Village of Martin County Condominium Association, Inc., a Florida corporation not-for-profit, the entity responsible for the operation of the Condominium.

"Association Property" means that property, real and personal, in which title or ownership is vested in Association for the use and benefit of its members. Association shall have the right, upon approval of the majority of the Board, to purchase or lease a vehicle for transportation of Unit Owners, tenants, and others. Association may finance any such acquisition, without the joinder or consent of Unit Owners, provided a majority of the Board approves such transaction. In addition, a majority of the Board may purchase or lease computer or similar equipment at any time if required or deemed beneficial for operation of the Condominium. Association shall have the right, but not the obligation, to acquire Association Property in its own name. Association may sell or transfer its interest in such Association Property.

"Board" means the Board of Directors of Association.

"Building" means the structure in which the Units are located on the Condominium Property. The Condominium has fourteen (14) buildings.

"By-Laws" means the By-Laws of Association, as they exist from time to time, a copy of which is attached hereto as Exhibit 3.

"Cable Services" shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Units including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, multipoint distribution systems, video dialtone, open video system or any combination thereof.

"Common Elements" shall have the meaning set forth in Section 3.5 hereof.

"Common Expenses" means all expenses and assessments properly incurred by Association for the Condominium, including but not limited to any item designated as a common expense by the Act, this Declaration, or the By-Laws. Without limiting any other provision hereof, Common Expenses may include, at the Board's option, any one or more of the following:

(a) the costs of maintaining, owning, repairing, insuring and operating a bus or other vehicle for use in transporting Unit Owners, tenants, and others to and from the Condominium, or for picking up and delivering items for the benefit of the Condominium and/or Unit Owners.

(b) the cost of purchasing or leasing computer equipment for Association.

(c) the cost of an on-site manager to provide services designated or requested by the Board.

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"Common Surplus" means the excess of all receipts of Association collected on behalf of the Condominium, including but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, over the Common Expenses.

"Condominium" shall have the meaning set forth in Section 1.3 hereof.

"Condominium Documents" means this Declaration of Condominium and all of the exhibits hereto, as they may be amended from time to time.

"Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to such Unit.

"Condominium Property" means the Land and the personal property that are subject to condominium ownership under this Declaration, all improvements on the Land, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

"Construction Matters" shall have the meaning set forth in Section 34 hereof.

"County" shall mean Martin County, Florida.

"Data Transmission Services" shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

"Declaration" means this instrument as it is amended from time to time.

"Defendant" shall have the meaning set forth in Section 34 hereof.

"Developer" means Mariner Village Townhomes, Inc., its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned; provided however, a Unit Owner shall not solely by the purchase of a Condominium Parcel be deemed a successor to, or assignee of, the rights of Developer under this Declaration unless such Unit Owner is specifically so designated as such successor to, or assignee of, such rights in the respective instrument of conveyance or any other instrument executed by Developer. Developer may assign only a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Condominium. In the event of such partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"Division" means the Division of Florida Land Sales, Condominiums and Mobile Homes.

"Guarantee Expiration Date" shall have the meaning set forth in Section 11.10.1 hereof.

"Improvements" mean all structures and artificial changes to the natural environment (exclusive of landscaping) on the Condominium Property, including but not limited to, the Building.

"Institutional First Mortgagee" means a bank, savings and loan association, insurance company, mortgage banker, real estate or mortgage investment trust, pension fund, Developer, Government National Mortgage Association, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, Federal Home Administration, or any other lender, or its loan correspondent or agency of the United States Government, holding, guaranteeing or insuring a first mortgage on a Unit or Units.

"Insurance Trustee" shall have the meaning set forth in Section 12.1 hereof.

"Insured Property" shall have the meaning set forth in Section 12.3.1 hereof.

"Land" shall have the meaning set forth in Section 1.1 hereof.

"Limited Common Elements" means those Common Elements which are designated by this Declaration for the exclusive use of a certain Unit or Units to the exclusion of other Units.

"Monitoring System" shall mean any electronic surveillance and/or monitoring system intended to control access, provide alarm service, and/or enhance the welfare of the Condominium. By way of example, and not of limitation, the term Monitoring System may include a central alarm system, electronic entrance gates, gatehouses, roving attendants, wireless communication to Units, or any combination thereof. THE PROVISION OF A MONITORING SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY WITHIN THE CONDOMINIUM. DEVELOPER AND THE ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OF FITNESS FOR USE OF ANY MONITORING SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR RELATED SERVICES) WILL PREVENT INTRUSIONS, FIRES, OR OTHER OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE MONITORING SERVICE IS DESIGNED TO MONITOR THE SAME. EACH AND EVERY UNIT OWNER AND THE OCCUPANT OF EACH UNIT ACKNOWLEDGES THAT DEVELOPER AND ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF UNIT OWNERS OR UNITS, OR THE PERSONAL PROPERTY LOCATED WITHIN UNITS. DEVELOPER AND ASSOCIATION WILL NOT BE

RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

“**MVPO**” shall mean Mariner Village Property Owners, Inc.

“**Permit**” shall mean the permit attached as **Exhibit 6** issued by the SFWMD.

“**Rules**” means any rules and regulations duly promulgated from time to time by the Board pursuant to its powers under any of the Condominium Documents.

“**SFWMD**” shall mean the South Florida Water Management District.

“**Special Assessment**” means any Assessment levied against Unit Owners other than the Assessment required by a budget adopted annually.

“**Surface Water Management System**” shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, wetlands, mitigation areas, retention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements and those works defined in Section 373.403(1)-(5) of the Florida Statutes. The Surface Water Management System includes those works authorized by SFWMD pursuant to the Permit.

“**Telecommunications Provider**” shall mean any party contracting with Association to provide Unit Owners with one or more Telecommunications Services. Developer may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

“**Telecommunications Services**” shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing, advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.

“**Telecommunications Systems**” shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to the Condominium. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antennae sites, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennae, earth stations, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

“**Telephony Services**” shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

“**Title Documents**” shall have the meaning given to such term in Section 43 herein.

“**Toll Calls**” shall have meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

“**Turnover Date**” shall have the meaning given such term in the By-Laws which are attached hereto as **Exhibit 3**.

“**Unit**” means a part of the Condominium Property which is subject to exclusive ownership and which is further described in Section 3.4 hereof.

“**Unit Owner**” or “**Owner**” means the owner(s) of a Condominium Parcel.

“**Use Fees**” shall have the meaning set forth in Section 10.7 hereof.

“**Utilities**” shall include, but not be limited to, Telecommunication Services, gas, electricity, water and sewage and garbage and trash disposal. The inclusion of any of the foregoing in the description of Utilities is for illustration purposes only, and not a guaranty that any of such services will be available to the Condominium.

“**Voting Interest**” shall mean one (1) vote per Unit regardless of the number of Unit Owners with respect to such Unit.

“**Working Capital Fund**” shall have the meaning set forth in Section 10.8 hereof.

3. Description of Condominium.

3.1. General Description. The Condominium Property is situated in Martin County, Florida. The improvements in the Condominium include fourteen (14) Buildings containing, in addition to the Common Elements therein, an aggregate of one hundred four (104) Units, all of which are more particularly hereinafter described. Each Unit is identified by a four digit Arabic number. Other improvements included in the Condominium are a pool, pool deck, clubhouse, gazebos, parking areas, walks, landscaping and all underground structures and improvements which are not part of or located within the Building, such as wires, cables, drains, pipes, ducts, conduits, valves and fittings.

3.2. No Timeshares. No time-share estates will or may be created with respect to Units in this Condominium.

3.3. Survey and Graphic Description. Exhibit 4 to this Declaration is a site plan and survey of the Condominium Property. Exhibit 5 is a graphic description of the improvements, including the Units. Exhibit 4 and Exhibit 5, together with this Declaration, identify the Common Elements and each Unit in the Condominium and their relative size and location.

3.4. Units. The Condominium contains a total of one hundred four (104) Units which are located and individually described in Exhibit 5 hereto. The boundaries of each Unit are as follows:

3.4.1. Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

3.4.1.1. Upper Boundaries. The horizontal plane of the lowest surface of the unfinished ceiling slab.

3.4.1.2. Lower Boundaries. The horizontal plane of the highest surface of the unfinished floor slab.

3.4.2. Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the boundary lines defined and depicted in Exhibit 5 extended to an intersection with each other and with the upper and lower boundaries. Any non-load-bearing portion of a perimeter wall inside the perimetrical boundary of a Unit shall be deemed a part of the Unit.

3.4.3. Apertures. Where there are apertures in any boundary including, but not limited to, windows, doors, and/or screens, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks, window casings and weather stripping thereof, together with exterior surfaces made of glass or other transparent materials.

3.4.4. Heating/Air Conditioning Equipment and Water Heater. The heating/air conditioning equipment and the water heater serving a Unit shall form a part of the Unit where such equipment is located. The maintenance of any such equipment shall be the sole responsibility of the Unit being served.

3.4.5. Garage. The garage attached to each Unit shall form a part of the Unit. The maintenance of any such garage shall be the sole responsibility of the Unit Owner.

3.4.6. Balconies. The balconies shall not form a part of a Unit as such areas are Limited Common Elements.

3.4.7. Certain Items Exclusively Serving a Unit. In addition to the area within the perimetrical and upper and lower boundaries described above, each Unit shall be deemed to include within its boundaries the air handling equipment (located on the concrete pad in the rear yard adjacent to such Unit) exclusively serving the Unit and all screen doors, screens, windows, glass, and any other materials covering openings, if applicable, in the exterior of the Unit, which serve the Unit exclusively.

3.4.8. Exceptions. Any piping or other fixtures which are located within one Unit but which service another Unit or Units and the reinforced concrete portions of any load-bearing columns or walls within a Unit shall be Common Elements.

3.4.9. General. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units shall control in determining the boundaries of a Unit, except that the provisions of 3.4.1 and 3.4.2 above shall control unless specifically depicted and labeled otherwise on such survey.

3.5. Common Elements. The Common Elements include:

3.5.1. The portions of the Condominium Property which are not included within the Units.

3.5.2. Easements through Units for conduits, ducts, plumbing, pipes, wiring and other facilities for the furnishing of Utilities and other services to Units and Common Elements.

3.5.3. An easement of support in every portion of the Unit which contributes to the support of the Building.

- 3.5.4. The property and installations required for the furnishing of Utilities and other services to more than one Unit or to the Common Elements.
- 3.5.5. The irrigation system and pump serving the Condominium.
- 3.5.6. Limited Common Elements; provided, however, Limited Common Elements are not accessible by all Owners.
- 3.5.7. Fixtures owned or held for the common use, benefit and enjoyment of all Unit Owners in the Condominium.
- 3.5.8. All unassigned parking spaces.
- 3.5.9. The surface collection system lying within the Land.
- 3.5.10. The mechanical rooms, meter rooms, electrical rooms
- 3.5.11. The pool, pool deck, cabanas, and restrooms by the pool.
- 3.5.12. The active recreational areas located throughout the Condominium Property, the bus shelter and the tot lot.

RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED BY DEVELOPER WITHOUT CONSENT OF UNIT OWNERS OR ASSOCIATION.

3.6. Limited Common Elements. Each Unit shall have certain Limited Common Elements appurtenant thereto.

3.6.1. Balconies and Patios. Balconies and/or patios which are accessible from a Unit shall be Limited Common Elements for the exclusive use of the Unit Owner owning such Unit. There is no guarantee that any Unit shall have any specific view.

3.6.2. Assigned Spaces for Units. Each Unit shall be entitled to the exclusive use of the parking space(s) located in the driveway immediately in front of the garage of the Unit. Developer shall have the right to assign additional parking spaces to particular Units for additional consideration paid by the Unit Owner. All assignments of parking spaces shall be made by instrument in writing placed in the official records of Association but shall not be recorded in the Public Records of County. Upon such assignment, the parking space so assigned shall be deemed to be a Limited Common Element of the Unit and the Unit Owner's right to use of such parking space shall become an appurtenance to the Unit. After exclusive use of any such parking space is assigned by Developer, it may not be conveyed, assigned or encumbered except as an appurtenance to the Unit to which it is assigned, without the prior written approval of Association. Further, a Unit Owner may give up his exclusive right to use a parking space by written instrument, in a form approved by Association, stating that Unit Owner gives up Unit Owner's exclusive right to use such parking space and that it shall henceforth be a Common Element. The instrument shall not be recorded in the Public Records of County, but rather, shall be placed in the official records of Association. Thereafter, Association, in its sole discretion, may assign, with or without consideration, such parking space to another Unit Owner as a Limited Common Element.

3.6.3. Mailboxes. Each Unit shall be assigned one (1) mailbox ("Mailbox"). Upon such assignment, the Mailbox so assigned shall be deemed a Limited Common Element of the Unit and the Unit Owner's right to use such Mailbox shall become an appurtenance to the Unit. The exclusive use of any such Mailbox may not be conveyed or assigned to another Unit or Unit Owner.

3.6.4. Reserved Common Elements. Any and all Common Elements which are reserved herein, or assigned, or granted separately herefrom, for the use of a certain Unit or Units to the exclusion of other Units.

3.6.5. Air Space and Area for Air Handling Compressor Equipment. The right of exclusive use of the air space and the areas of land adjacent to each Unit occupied by the air handling compressor equipment constituting a part of and serving a Unit shall be a Limited Common Element.

3.6.6. Other. Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one (1) Unit or more than one (1) Unit, shall be deemed a Limited Common Element of the Unit(s) served and shall be maintained by said Owner. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes a Limited Common Element or in the event of any question as to which Units are served thereby, a decision shall be made by a majority vote of the Board of Association and shall be binding and conclusive when so made.

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

3.7.1. 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.

3.7.2. Utilities and Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for Utilities, 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 Utilities, other services or drainage facilities or the use of these easements.

3.7.3. Encroachments. An easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of any Unit Owner, including without limitation, encroachments caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachment, as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment. Encroachments may result from (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 Association, and/or (iv) any repair or restoration of the Improvements (or any portion thereof) 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.

3.7.4. Ingress and Egress. Non-exclusive easements in favor of each Unit Owner and residents, 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. Each Unit Owner shall have reasonable access to the public roads from the Condominium. None of the easements specified in this Section shall be encumbered by any leasehold or lien other than those on the Condominium Parcels.

3.7.5. Construction; Maintenance. 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, of any Improvements or Unit located or to be located thereon.

3.7.6. Sales Activity. For as long as there are any unsold Units, Developer, its designees, successors and assigns and/or any other entity or individual authorized by Developer, shall have the right to use Units not closed and the Common Elements for marketing and sales purposes. By way of example, and not as a limitation, Developer, its designees, successors and assigns and/or any other entity or individual authorized by Developer may maintain model units and sales offices within the Condominium Property, show model units and the Common Elements to prospective purchasers and tenants of the Units or other property being offered for sale or lease by Developer its designees, successors and assigns and/or any other entity or individual authorized by Developer outside of the Condominium, and erect on the Condominium Property signs and other promotional material to advertise Units or other property being offered for sale or lease by Developer its designees, successors and assigns and/or any other entity or individual authorized by Developer outside of the Condominium. Developer reserves the right to use any Units not closed as temporary accommodations for, but not limited to, prospective purchasers. Such temporary accommodations shall not be considered a leasing of the Unit and shall not be subject to Section 16 hereof.

3.7.7. Additional Easements. Developer and Association, on their behalf and on behalf of all Unit Owners (each of whom hereby appoints Developer and Association as their attorney-in-fact for this purpose), each shall have the right to grant such additional electric, gas, other Utilities or service easements, or relocate any 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 Association shall deem necessary or desirable for the proper operations and maintenance of the Improvements, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration or otherwise, 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. Association has the authority without the joinder of any Unit Owners, to grant, modify or move any easement in and about the Common Elements.

3.7.8. Association Property. Without limiting in other provision herein to the contrary, in the event that Association elects to purchase or lease a vehicle, office equipment or other Association Property, it may do so in its own name. In addition, after the purchase or lease of any Association Property, Association may sell or transfer its interest in such Association Property.

3.7.9. Air Handling Equipment. Non-exclusive easements in favor of each Unit Owner for access to the air handling equipment exclusively serving a Unit located on the concrete pad in the rear yard adjacent to such Unit, and to all connections from such air handling equipment to the Unit or other utilities, for the use and maintenance of such air handling equipment and appurtenant connections.

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, an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, membership in Association designated in this Declaration, with the full voting rights appertaining thereto, and except as provided herein, the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated from and shall pass with the title to the Unit, whether or not separately described. All of these aforescribed appurtenances to a Unit, except as elsewhere 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. Each Unit, regardless of size, has an equal undivided percentage interest in the Common Elements and Common Surplus, and shall share equally in the Common Expenses. Each Unit's undivided share in the Common Elements is determined by dividing the number one (1) by the total number of Units comprising the Condominium. Accordingly, the undivided share in the Common Elements appurtenant to each Unit in the Condominium is 1/104, and each Unit Owner will be responsible for a proportionate share of the Common Expenses and will own a proportionate share of the Common Surplus equal to such undivided share in the Common Elements.

5.2. Voting. Each Unit shall be entitled to one (1) vote to be cast by its Unit Owner(s) in accordance with the provisions of the By-Laws and Articles. Each Unit Owner shall be a member of Association.

6. Amendments.

6.1. Amendment by Association.

6.1.1. Proposal. Amendments to this Declaration may be proposed by the Board by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board, or by the Owners of a majority of the Units, whether by vote of such Owners as members of Association at a special or regular meeting of the members or by written instrument signed by them. Any amendment to this Declaration so proposed by the Board or members of Association shall be transmitted to the President of Association, or, in the absence of the President, to a Vice President or other acting chief executive officer.

6.1.2. Notice. Notice of the subject matter of the proposed amendment to this Declaration shall be included in the notice of any regular or special meeting of Association at which such proposed amendment is to be considered.

6.1.3. Adoption. Except as elsewhere provided, approval of an amendment must be by affirmative vote of:

6.1.3.1. Unit Owners owning in excess of fifty percent (50%) of the Voting Interests represented at any meeting at which a quorum has been attained and by not less than sixty-six and two-thirds percent (66-2/3%) of the Board; or

6.1.3.2. Unit Owners owning not less than eighty percent (80%) of the Voting Interests represented at any meeting at which a quorum has been attained; or

6.1.3.3. Prior to the date upon which Unit Owners other than the Developer control the Board, one hundred percent (100%) of the Board. Notwithstanding the foregoing, if the Act requires Unit Owner approval for the amendment being considered, then the amount of Unit Owner approval required under the Act will also be necessary for the approval of the amendment.

6.1.4. Not Present. Directors not present in person at the meeting considering the amendment may express their agreement or disagreement in writing, provided that the same is delivered to the Secretary at or prior to the meeting. Such agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purpose of creating a quorum.

6.2. By Developer. For so long as Developer owns any Units in the Condominium, Developer may, without joinder or consent of Association or any Unit Owner or mortgagee, adopt and record an amendment to this Declaration for the purpose of correcting a defect, error or omission in or of this Declaration not materially affecting the rights of Unit Owners, lienors or mortgagees. The execution and recording of any amendment by Developer pursuant to this Section shall be effective as provided below unless subsequently rescinded. Without in any way limiting the generality of the foregoing, and except as prohibited by the Act as it exists on the date hereof (e.g., those actions governed by Section 718.110(4) and (8) of the Florida Statutes), as long as Developer owns one or more Units, Developer shall have an absolute right to make any amendment to this Declaration, including, without limitation, any amendments that are requested or required by the Federal Home Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association or any other governmental or quasi-governmental body which owns or expects to own one or more institutional first mortgages on Units or to insure the payment of one or more such mortgages or that are requested or required by any Institutional First Mortgagee or prospective Institutional First Mortgagee to enhance the marketability of its first mortgages on Units to one or more of the foregoing.

6.3. Execution and Recording. An amendment, other than amendments made by Developer pursuant to the Act or this Declaration, shall be evidenced by a certificate of Association which shall include recording information identifying this Declaration and shall be executed in the form required for the execution of a deed. Amendments by Developer must be evidenced in writing, but a certificate of Association is not required. An amendment of this Declaration is effective when properly recorded in the Public Records of County.

6.4. Procedure. The procedure for adopting amendments and the form of all amendments shall be in conformance with the requirements of the Act.

6.5. Restrictions on Amendments.

6.5.1. 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 Unit Owner shares the Common Expenses and owns the Common Elements and Common Surplus, unless a majority of the total Voting Interests of Association, including all of the Voting Interests of Units affected by such amendment, approve the amendment; provided, however, no approval of a majority of the total Voting Interests of Association shall be required if such amendment is required by any governmental entity having jurisdiction over the Condominium.

6.5.2. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to Developer, without the written consent of Developer. This provision may not be amended.

6.5.3. No amendment shall materially affect the rights or interests of Institutional First Mortgagees without their prior consent, which shall be evidenced as provided in the Act and which shall not be unreasonably withheld. It shall be presumed that, except as to those matters set forth in Sections 718.110(4) and (8) of the Florida Statutes (2003), amendments to the Declaration do not affect the rights or interests of Institutional First Mortgagees.

7. Maintenance and Repairs. Responsibility for maintenance, repairs and replacements of Condominium Property and property of Unit Owners located or situated within the Condominium shall be as follows:

7.1. Units. Each Unit Owner shall maintain, repair and replace, as necessary and whether ordinary or extraordinary, all portions of his or her Unit, including but not limited to fixtures, screens, windows (both sides, provided that exterior surfaces of windows which are not accessible to Unit Owner shall be washed by Association and the cost thereof shall be a Common Expense), the foyer door, all screen doors, and all other doors and door hardware within or affording access to a Unit, that portion of the mechanical, electrical (including all wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment (including the air handling equipment exclusively serving a Unit which is located on the concrete pad in the rear yard adjacent to such Unit), thermostats, fixtures and outlets, smoke alarms, appliances, carpets and other floor covering lying within the boundaries of the Unit, all interior surfaces including interior partitions (and, in general, the entire interior of the Unit) at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. All maintenance, repairs and/or replacements for which Unit Owners are responsible and obligated to perform, which, if not performed or omitted, would affect other Units or Common Elements, shall be performed promptly as the need arises. Notwithstanding the obligation of Unit Owners for maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by Association for loss of or damage to or within Units (if any such insurance is available) shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance. If a Unit Owner fails to perform promptly his or her responsibilities of repair, maintenance and replacement, Association shall be entitled to seek all remedies available at law, including the right to impose fines and/or to take legal action to require the Unit Owner to perform the responsibilities. Association shall be entitled to perform the necessary work at the cost of the Unit Owner and shall be entitled to access to the Unit for that purpose. Association reserves the right to, but is not obligated to, enter into a service contract with an entity that will be available to provide minor maintenance or repair services to the electrical, plumbing, and heating and air conditioning equipment. The service contract may also provide for minor maintenance and repair services to all appliances originally provided by Developer. There is no guarantee that the service contract will be in place or that all of the items listed will be covered under the service contract. The Unit Owner will continue to be responsible for the maintenance and repair of any item not covered under a service contract. The costs of a service contract, if in place, will be a Common Expense of Association.

7.2. Limited Common Elements.

7.2.1. General Maintenance Requirements. Each Unit Owner shall maintain, repair and replace, as necessary and whether ordinary or extraordinary, all non-structural portions of Limited Common Elements exclusively serving his or her Unit, excluding Parking Spaces and Mailboxes (which does not include interior hallways) including but not limited to fixtures, light bulbs, ceiling fans, screen doors, screening, the foyer door, all garden items and the grass, plants, shrubs and flowers within such Limited Common Element, if applicable, and all other doors within or affording access to a Limited Common Element, that portion of the electrical (including wiring), plumbing, if any (including fixtures and connections), fixtures and outlets, appliances, floor covering lying within the boundaries of the Limited Common Element, all interior surfaces (and, in general, the entire interior of the Limited Common Element) at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

7.2.2. Balconies and Patios. The Unit Owner shall be responsible for maintenance and care of the balconies and patios, including, without limitation, all wiring, electric outlets, lighting fixtures, flooring, screening, or screened doors, if applicable. Unit Owners may not, however, screen or tile the balconies. Unless damage is caused due to the Unit Owner's negligence, Association shall be responsible for maintaining all structural components of the balconies and patios including, without limitation, any rebar running through or underneath such facilities, and such cost will be a Common Expense.

7.2.3. Parking Spaces, Mailboxes, and other Limited Common Elements. Unless otherwise provided in this Declaration, Association shall be responsible for performing necessary maintenance, repairs and

replacements, and keeping in clean and orderly condition, all Parking Spaces, Mailboxes, or other facilities, if any, designated herein as Limited Common Elements, and the cost of the same shall be treated as Common Expenses assessed against all Unit Owners.

7.2.4. Air Handling Equipment. The Unit Owner shall be responsible for maintenance and care of the air handling equipment exclusively serving a Unit (which is located in the rear yard adjacent to each Unit), including, without limitation, all wiring, plumbing, mounting, supports, attachments, and electric and other connections.

7.2.5. Failure to Perform Responsibilities. If a Unit Owner fails to perform promptly his or her responsibilities of repair, maintenance and replacement of Limited Common Elements, Association shall be entitled to seek all remedies available at law, including the right to impose fines and/or to take legal action to require the Unit Owner to perform the responsibilities. Association shall be entitled to perform the necessary work at the cost of the Unit Owner and shall be entitled to access to all Limited Common Elements for that purpose or for the repair, replacement, and maintenance of all Limited Common Element screening and other facilities.

7.3. Common Elements. Except to the extent (i) expressly provided to the contrary herein, or if (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements and Limited Common Elements (other than certain Limited Common Elements as provided above and otherwise as provided in this Declaration) shall be performed by Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners.

7.4. Paved Common Elements. Without limiting any other provision of this Declaration, Association is responsible for the maintenance of all roads, pathways, and sidewalks forming a part of the Common Elements, including, without limitation, the pruning of roots in the parking areas and other paved Common Elements. Although pavement appears to be a durable material, it requires maintenance. Association shall have the right, but not the obligation, to arrange for an annual inspection of all roads and sidewalks forming a part of the Common Elements by a licensed paving contractor and/or engineer with a Florida Department of Transportation Asphalt Pavement Certification. The cost of such inspection shall be a part of the Common Expenses of Association. Association shall determine annually the parameters of the inspection to be performed, if any. By way of example, and not of limitation, the inspector may be required to inspect the roads and sidewalks forming part of the Common Elements annually for deterioration and to advise Association of the overall pavement conditions including any upcoming maintenance needs. Any patching, grading, or other maintenance work should be performed by a company licensed to perform the work. From and after the Turnover Date, Association should monitor the roads and sidewalks forming the Common Elements monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

7.5. Association's Right of Access to Units. Association has the irrevocable right of access to each Unit during reasonable hours when necessary for the maintenance, repair, or replacement of any Common Elements or Limited Common Elements, or for making emergency repairs which are necessary to prevent damage to the Common Elements, Limited Common Elements or to another Unit or Units.

7.6. Light Fixtures. If Developer installs light fixtures immediately outside each Unit and/or in the balconies, such light fixtures shall be maintained and operated by each applicable Unit Owner.

7.7. Requirements. All work performed on the Condominium Property or any portion thereof shall be in compliance with all applicable governmental building and zoning requirements. All plumbing and electrical maintenance, repairs, and replacements shall be made only by plumbers or electricians duly licensed and qualified to perform such services.

7.8. Shared Manager. Association may, but is not obligated to, retain a manager to assist the Board in connection with the operations of Association.

7.9. Affirmative Obligation of Association. In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Elements or Limited Common Elements are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Elements or Limited Common Elements and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Elements or Limited Common Elements deemed defective by Developer during its inspections of the same. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree are a fair and reasonable remedy.

7.10. Surface Water Management System. To the extent the Surface Water Management System is not maintained by the SFWMD, or other entity, Association shall maintain, repair, replace and insure the same and comply with all SFWMD permits and requirements.

7.10.1. Duty to Maintain Surface Water Management System. The SFWMD has the right to take enforcement action to compel Association to correct any outstanding problems with the Surface Water Management System facilities under the responsibility or control of Association, including a civil action for an injunction and penalties against Association. If owned by Association as Common Elements, the costs of the operation and maintenance of the Surface Water Management System shall be part of the Operating Costs of Association. Each Builder and Owner within Bent Creek at the time of construction of a building, residence or structure shall comply with the construction plans for the Surface Water Management System approved and on file with the SFWMD.

7.10.2. Adjoining Areas. Association shall also maintain those drainage areas, swales, maintenance easements, driveways, and landscape areas that are within the Common Elements and immediately adjacent to a Unit, provided that such areas are readily accessible to Association. Under no circumstances shall Association be responsible for maintaining any inaccessible areas within fences or walls that form a part of a Unit.

7.10.3. Amendments Affecting Surface Water Management System. Any proposed amendment to Association Documents which will affect the Surface Water Management System including any environmental conservation area and the water management portions of the Common Elements, must have the prior written approval of the SFWMD. Association's registered agent shall maintain copies of all Surface Water Management System permits and correspondence respecting such permits, and any future SFWMD permit actions shall be maintained by Association's registered agent for Association's benefit.

7.11. Other Maintenance and Repairs. Association shall pay to Mariner Village Property Owners, Inc. ("MVPO") twenty four percent (24%) of the costs for the maintenance, repair, and/or replacement of the following infrastructure (collectively, the "Infrastructure"): (1) the portion of Devenwood Way between S.E. Federal Highway and S.E. Mariner Garden Circle, as depicted on Exhibit 7 attached hereto; and (2) that certain outfall control structure, water management area Lake "A", and associated storm drainage structures, as depicted on Exhibit 8 attached hereto (collectively, the "MVPO Assessments"). The MVPO Assessments shall be based on the annual MVPO budget (the "MVPO Budget"), as determined in the reasonable discretion of the board of directors of MVPO. It is anticipated that the MVPO Budget will include two (2) assessments; one for the routine maintenance and repairs of the Infrastructure ("MVPO Maintenance Assessment") and another for the periodic repair and/or replacement of the Infrastructure (the "MVPO Reserve Assessment"). Notwithstanding the foregoing, it is possible that the amount due by Association to MVPO may be greater than the MVPO Assessments in the event there are emergency or unforeseen repairs and/or replacements to the Infrastructure (due to acts of God, or otherwise) or in the event the amount collected by the MVPO Assessments is not adequate to fund the maintenance, repair, and/or replacement of the Infrastructure, provided however, Association's portion of such unforeseen costs shall continue to be twenty four percent (24%) of the total cost for such repairs and/or replacement. In the event such additional unforeseen costs to the Infrastructure are required to be paid by Association, the Board shall create a Special Assessment against Unit Owners to pay for the costs of the same, unless such amount is otherwise available through the funds of Association. All amounts due for the MVPO Assessments shall be part of the Common Expenses of Association. Association shall deposit the MVPO Maintenance Assessment into a separate account of Association and shall pay such amount directly to MVPO on a quarterly or annual basis (as determined by MVPO) within thirty (30) days of receipt of an invoice from MVPO, provided invoices from vendors reflecting payments made or to be made with respect to such routine Infrastructure repair or maintenance are provided with such invoice to Association. Association may hold the MVPO Reserve Assessment in its own separate reserve account until such amounts are due to MVPO, provided that Association shall provide evidence, upon the reasonable request of MVPO, that such MVPO Reserve Assessment is being collected by Unit Owners. Such MVPO Reserve Assessment is due to MVPO by Association within thirty (30) days of receipt of an invoice, provided invoices from vendors reflecting payments made or to be made with respect to such periodic Infrastructure repair and/or replacement(s) are provided with such invoice to Association. Alternatively, Association may remit such MVPO Reserve Assessment to MVPO on a quarterly or annual basis (as determined by MVPO) along with its MVPO Maintenance Assessment. Notwithstanding the foregoing, no amounts due by Association with respect to MVPO Maintenance Assessments or MVPO Reserve Assessments shall begin to accrue until the first conveyance of a Unit from Developer to a Unit Owner has occurred. For example, if a reserve item has (i) an estimated replacement cost of \$100,000, (ii) a twenty (20) year useful life, and (iii) a ten (10) year remaining useful life on the date of the first conveyance of a Unit from Developer to a Unit Owner, then at the time of invoice to Association for the replacement of such reserve item, Association would be responsible to pay MVPO \$12,000 (24% of \$100,000/20 years times 10 years). In addition, if in the foregoing example the actual replacement cost was \$120,000, in lieu of the anticipated replacement cost of \$100,000 upon which the reserve collections were based, the Association would be responsible to pay MVPO \$14,400 (24% of \$120,000/20 years times 10 years).

8. Architectural Control by Association. Any alterations, additions and improvements to the Condominium Property shall comply with the following:

8.1. Alterations by Unit Owners Other than Developer. No Unit Owner other than Developer shall, without first having obtained the written consent of the Board and all required governmental approvals and permits, make any alteration, replacement, decoration, enclosure, or addition in or to the Common Elements (including any Limited Common Element appurtenant to a Unit), or any exterior portion of the Building (whether a part of a Unit or a part of the Common Elements), except, for replacement of a foyer door or glass contained in a Unit or Limited Common Element with a door or glass identical to the material that is being replaced. Without limiting the

generality of the foregoing, no Unit Owner other than Developer, without having first obtained the prior consent of the Board, shall:

8.1.1. change, modify and remove, in whole or in part, replace, reroute, or otherwise affect any column, wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for; or

8.1.2. change, modify or otherwise affect in any manner any mechanical, Utilities, electrical, plumbing, Telecommunication Services, architectural or structural system or element of the Building; or

8.1.3. remove, or change the style, pattern, material, texture or outside color of any door, window, fixture or equipment in or on an exterior of a Unit or Building wall; or

8.1.4. cover, from the inside or outside, the glass or other transparent or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opaque or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color material, any and all of which shall conform to Building standards and Rules and Regulations from time to time promulgated by the Board; or

8.1.5. affix to or cover any exterior door or window, or otherwise install on the exterior of any Unit or the Building, any storm or hurricane shutter which has not been approved by Association or any awning or any protective or decorative panel, paneling, trim, enclosure, fixture, or appliance; or

8.1.6. change, modify or otherwise affect in any manner the impact resistant glass windows and sliding glass doors; or

8.1.7. otherwise change, modify or alter the exterior of any Unit or Building so that it thereby differs in appearance from any other Units of the same type.

8.2. Requests for Approval. All requests by Unit Owners for approval of alterations or additions shall be submitted to the Board in writing together with (a) two (2) copies of such plans and specifications as the Board shall require to evaluate the request, and (b) such reasonable fee as from time to time may be fixed by the Board to defray the expenses of reviewing such requests. The Board shall have a period of thirty (30) days after the date of its receipt of any such request within which to approve or disapprove the same. Any Unit Owner making an addition, alteration, or improvement shall be deemed to have agreed to indemnify and hold Association and all other Unit Owners harmless from all damages and liability which results from such addition, alteration or improvement. In the event any Unit Owner performs any alterations, improvements, or additions without having obtained the consent of the Board, Association shall have all remedies provided by the Act and the right to seek injunctive relief. In addition, Association may remove or modify any such alterations, improvements or additions at the Unit Owner's expense and shall be entitled to access to the Unit for the purpose of doing so.

8.3. Alterations by Association. Whenever, in the judgment of the Board, 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 Thousand Dollars (\$5,000.00) in the aggregate in any calendar year, 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 Voting Interests 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 of Five Thousand Dollars (\$5,000.00) or less in a calendar year may be made by Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. The dollar cap provided in this Section shall be adjusted annually to take into account changes in the cost of living as reflected in any nationally available Consumer Price Index selected by the Board.

8.4. Alterations by Developer. As long as Developer shall own at least one (1) Unit in the Condominium, Developer shall have the right, without the vote or consent of Association to make structural and non-structural changes, alterations, additions, or improvements in and to the Units owned by Developer and to change the interior design and arrangement of Developer-owned Units.

9. Operation of the Condominium by Association; Power and Duties; Limitation Upon Liability of Association. Association shall be the entity responsible for the operation of the Condominium. The powers and duties of Association shall include those set forth in the Articles and By-Laws. Notwithstanding the duty of Association to maintain and repair parts of the Condominium Property, Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair caused by any condition of the Condominium Property.

10. Assessments. Association has been granted the right to make, levy and collect Assessments against the Unit Owners of all Units to provide the funds necessary for proper operation and management of the Condominium. The following provisions shall govern the making, levying and collecting of such Assessments for Common Expenses, and the payment of the costs and expenses of operating and managing the Condominium by Association.

10.1. Determination of Assessments. The Board 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. Each Unit Owner shall be liable for his or her

share of all Common Expenses which shall be in the same percentage as his or her ownership of the Common Elements.

10.2. Association as Unit Owner. Should Association become the Unit Owner of a Unit, the Assessment which would otherwise be due and payable to Association by the Unit Owner of such Unit, reduced by the amount of income which may be derived from the leasing of such Unit by Association, shall be apportioned and the Assessment therefor levied ratably among the Owners of all Units which are not owned by Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to the Unit owned by Association.

10.3. Time for Payment. The Assessment for Common Expenses levied against each Unit Owner shall be payable in monthly installments to begin as of the date that such Unit Owner closes on the purchase of the Condominium Parcel and at such time as shall from time to time be fixed by the Board.

10.4. Annual Budget. The Board shall, in accordance with the By-Laws of Association, establish an annual budget in advance for each fiscal year, which shall correspond to the calendar year, which shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium and all property owned by Association including, to the extent required by law or when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves, and shall estimate all income to be collected during the year. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit Owner, and the Assessment for the year shall be based upon such Budget; provided, however, that failure to deliver a copy of the Budget to a Unit Owner shall not affect the liability of such Unit Owner for such Assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the Assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional Assessment or Assessments as it shall deem necessary. 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. Additionally, the charges for Telecommunication Services, if any, to be provided to all of the Units of the Condominium, shall be deemed to be a Common Expense. The Board, in determining the amount of the Assessments payable by the Unit Owners, shall be authorized to include such charges in the estimated operating budget for the Condominium. Accordingly, the provisions contained in Section 11 of this Declaration with respect to the collection of Assessments shall be applicable to the charges for Telecommunication Services if the same are not expenses of and paid by the Master Association.

10.5. Reserve Funds. The Board, in establishing each annual budget, shall include therein sums to be collected and maintained as a reserve funds for the repair and replacement of Common Elements and personal property held for the joint use and benefit of the Owners of all Units as required by the Act. Developer reserves the right to vote to waive reserves or reduce the funding of reserves in accordance with the rights and obligations set forth in the Act.

10.6. Special Assessments. The specific purpose or purposes of any Special Assessment approved in accordance with this Declaration, Articles, or By-Laws shall be set forth in a written notice of such Special Assessment sent or delivered to each Unit Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Unit Owners. However, upon completion of such specific purpose or purposes, any excess funds shall be considered Common Surplus.

10.7. Use Fees. The Board has the right, but not an obligation, to establish use fees ("Use Fees") from time to time for any of the following items:

10.7.1. the exclusive use of any portion of the Common Elements.

10.7.2. the cost of transportation provided to Unit Owners, tenants, and guests.

Alternatively, the Board may elect not to charge Use Fees and include the costs of all or any of the foregoing in Common Expenses, which will then be shared by all Unit Owners in accordance with their percentage interest in the Common Elements.

10.8. Working Capital Fund. Association has established a working capital fund for the operation of Association (the "Working Capital Fund") in an amount equal to two (2) months of Assessments for each Unit. Each Unit's share of the Working Capital Fund (an amount equal to two (2) months Assessments) shall be collected from each Unit Owner that purchases a Unit from Developer at the time when the purchase of the Unit closes. The purpose of the Working Capital Fund is to assure that Association will have cash available to meet unforeseen expenditures, or to acquire additional property, equipment or services deemed necessary or desirable. Amounts paid into the Working Capital Fund are not to be considered as advance payment of Assessments. The Working Capital Fund may not be used by Developer to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while Developer is in control of Association. Notwithstanding the foregoing, Developer may reimburse itself for funds it paid to Association, if any, for an unsold Unit's share of the Working Capital Fund, by using funds collected at closing when the sale of the Unit closes. Developer will transfer the Working Capital Fund to Association when control of Association is transferred to Unit Owners. The Working Capital Fund shall be a segregated fund of Association. Further, the Working Capital Fund may not be used in a manner inconsistent with Section 718.116(9)(b) of the Florida Statutes.

11. Collection of Assessments.

11.1. Delinquency or Default. The payment of any charges or Assessment or installment thereof due to Association shall be in default if not paid to Association on or before the date due. When in default, the delinquent charges, Assessments or installments thereof shall bear interest at the highest rate permissible by law until the same, and all interest due thereon, has been paid in full.

11.2. Personal Liability of Unit Owner. The Owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to Association for the payment of all charges for Assessments for Common Expenses, regular or special, interest on such delinquent charges, Assessments or installments thereof as above provided, and for all costs of collecting the charges, Assessments and interest thereon, including reasonable attorneys' fees and paraprofessional fees and costs (at the trial and appellate levels) whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

11.3. Liability not Subject to Waiver. No Unit Owner may exempt himself from liability for any Assessment or charge levied against such Unit Owner and his or her Unit by waiver of the use or enjoyment of any of the Common Elements, Limited Common Elements, or property owned by Association, or by abandonment of the Unit, or in any other manner.

11.4. Lien for Assessment. Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements and upon any Limited Common Elements appurtenant to any such Unit, which lien shall and does secure the monies due for all: (1) Assessments levied against the Unit and the Unit Owner(s), thereof, and (2) interest, if any, which may become due on delinquent Assessments or charges owing to Association, and (3) reasonable costs and expenses, including actual attorneys' fees, paraprofessional fees and costs (at the trial and appellate levels) which may be incurred by Association in enforcing its lien upon the Unit and its appurtenances. The lien granted to Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of such lien, the Owner may be required by the Court in its discretion to pay to Association reasonable rent for the Unit if the Owner remains in possession after a foreclosure judgment is entered, and Association shall be entitled to the appointment of a Receiver for such Unit if the Unit is rented or leased during the pendency of the foreclosure action. The lien of Association shall also secure all advances for taxes, and payments on account of superior mortgages, liens or encumbrances made by Association to preserve and protect its lien, together with interest at the highest rate permitted by law on all such advances made for such purpose, and the priority of the lien shall relate back to the date upon which this Declaration was recorded, except as otherwise provided in Section 11.5 below. No foreclosure judgment may be entered against a Unit Owner until at least thirty (30) days after Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments and/or charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments and/or charges, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, Association may 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 mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry 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 attorneys' fees and paraprofessional fees and costs as permitted by law. The notice requirements of this Section are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

11.5. Recording and Priority of Lien. The lien of Association shall be effective from and after recording in the Public Records of County a claim of lien stating the name and address of Association, the description of the Unit encumbered thereby, the name of the record Unit Owner, the amount and the date when due, and shall continue for one (1) year unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction, in which case the lien shall continue until such action is brought to completion. Such claims of lien shall include Assessments and charges which are due and which accrue subsequent to the recording of the claim of lien and prior to the entry of a certificate of title, plus interest, costs, attorney's fees, paraprofessional fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording Association's claim of lien except that the lien of Association for tax or Special Assessment advances made by Association where any taxing authority having jurisdiction levies any tax or Special Assessment against the Condominium as an entirety instead of levying the same against each Unit and its appurtenant undivided interests in Common Elements, shall be prior in lien, right and dignity to the lien of all mortgages, liens and encumbrances, whether or not recorded prior to Association's claim of lien therefor, and Association's claim of lien for collection of such portion of any tax or Special Assessment shall specifically designate that the same secures an Assessment levied pursuant to this Declaration.

11.6. Effect of Foreclosure or Judicial Sale. Subject to the provisions of Section 11.9 hereof, a Unit Owner, regardless of how title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all Assessments which come due while he or she is the Unit Owner, and is also jointly and severally liable with the previous Unit Owner for all unpaid Assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the current Unit Owner may have to recover from the previous Unit Owner the amounts paid by the current Unit Owner.

11.7. Effect of Voluntary Transfer. When a Owner of any Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, Association, upon written request of the Owner of such Unit, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any Assessment or charge which shall be due and payable to Association by the Owner of such Unit. Such statement shall be executed by any officer of Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and Association shall be bound

by such statement. In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments and charges against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor. In the event that a Unit is conveyed when payment of any Assessment or charge against the Owner of the Unit and the Unit which is due to Association shall be in default (whether or not a claim of lien has been recorded by Association), then the party acquiring title shall pay the amount owed to Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided in this Section 11 for the collection of unpaid Assessments.

11.8. No Election of Remedies. Institution of a suit at law to attempt to effect collection of the payment of any delinquent Assessment or charge shall not be deemed to be an election by Association which shall prevent it from thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

11.9. Institutional First Mortgagees.

11.9.1. The liability of an Institutional First Mortgagee or its successor or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments that became due prior to the mortgagee's acquisition of title is limited to the lesser of: (i) the Unit's unpaid regular periodic Assessments for Common Expenses which accrued or came due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not yet been received by Association; or (ii) one percent (1%) of the original mortgage debt. The provisions of this Section shall not apply unless the Institutional First Mortgagee joins Association as a defendant in the foreclosure action. Joinder of Association is not required if, on the date the complaint is filed, Association was dissolved or did not maintain an office or agent for service of process at a location which was known to, or reasonably discoverable by the first mortgagee.

11.9.2. The Institutional First Mortgagee or its successor or assignees acquiring title shall pay the amount owed to Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle Association to record a claim of lien against the Unit and proceed in the same manner as provided in this Section for the collection of unpaid Assessments.

11.9.3. The provisions of this subsection shall not be available to shield an Institutional First Mortgagee from liability for Assessments in any case where the unpaid Assessments sought to be recovered by Association are secured by a lien recorded prior to the recording of the mortgage.

11.9.4. In the event of the acquisition of title to a Unit by foreclosure or judicial sale or by deed in lieu of foreclosure, any Assessment or charges as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Unit Owners as a part of the Common Expenses, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent Assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

11.10. Developer's Liability for Assessments.

11.10.1. Developer shall be excused from the payment of the share of the Common Expenses and Assessments relating to Units it is offering for sale, for a period beginning with the recording of this Declaration and ending the earlier of the date upon which Unit Owners control the Board or one year from the first day of the month following the month in which the Certificate of Occupancy is issued respecting the Building (the "Guarantee Expiration Date"), provided that the regular monthly Assessments for Common Expenses equally imposed on each Unit Owner other than Developer shall not increase during such period over \$270.00 and provided further that Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed level receivable from Unit Owners. The period that Developer is excused from the payment of the share of Common Expenses and Assessments relating to Units it is offering for sale may be unilaterally extended by Developer for one or more successive periods of one year each until such time as Developer does not own any Units in the Condominium. If an audit of the Association's financial records, performed for the period which includes the Guarantee Expiration Date (including any extensions thereof), reveals that Developer has funded a greater amount than required under this Section, then any such excess shall be promptly refunded to the Developer by the Association.

11.10.2. No funds receivable from Unit purchasers or Unit Owners payable to Association or collected by Developer on behalf of Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget for the first twelve (12) months of operation contained in the Offering Circular (Prospectus) delivered to such Unit purchasers or Unit Owners when such Unit purchaser or Unit Owner contracted to purchase a Unit, if applicable, shall be used for payment of Common Expenses prior to the Guarantee Expiration Date. This restriction shall apply to funds including, but not limited to, capital contributions, reimbursements for utility deposits, or start-up funds collected from Unit purchasers at closing.

11.11. Possession of Unit. Subject to Association's rights under this Declaration and under law, any person who acquires an interest in a Unit, except Institutional First Mortgagees through foreclosure of a first mortgage of record (or deed in lieu thereof), including, without limitation, persons acquiring title by operation of law, shall be entitled to occupancy of the Unit and enjoyment of the Common Elements.

11.12. Certificate of Unpaid Assessments. Association shall provide a certificate stating all Assessments, Special Assessments and other moneys owed to Association by the Unit Owner with respect to the Condominium Parcel, within fifteen (15) days after request by a Unit Owner or Institutional First Mortgagee.

12. Insurance. Insurance covering portions of the Condominium Property shall be governed by the following provisions:

12.1. Insurance Trustee. At any time the Board shall have the option to appoint a bank or trust company in Florida with trust powers to act as its insurance trustee ("Insurance Trustee") hereunder. Insurance Trustee and Association shall enter into a written agreement outlining the duties and obligations of Insurance Trustee and Association with respect to the requirements of this Declaration. Insurance Trustee (if appointed) shall not be liable for payment of insurance premiums, nor for the renewal or the sufficiency of insurance policies nor for the failure to collect any insurance proceeds. If Association does not appoint an Insurance Trustee, Association will perform directly all obligations imposed upon such Insurance Trustee by this Declaration. The sole duty of Insurance Trustee shall be to receive such proceeds of property insurance as are paid and to hold the same in trust for the purposes herein stated, and for the benefit of Association, Unit Owners and their respective mortgagees, to be disbursed as herein provided. Association shall pay a reasonable fee to Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as Insurance Trustee may incur in the performance of its duties hereunder; such fees and costs to be assessed against and collected from Unit Owners as a Common Expense. Insurance Trustee shall be liable only for its willful misconduct or gross negligence, and then only for such money as may come into the possession of Insurance Trustee.

12.2. Named Insured. The named insured shall be Association, individually, and as agent for Unit Owners covered by the policy, without naming them and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be additional insureds.

12.2.1. Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to Insurance Trustee (if appointed), or to Association (if no Insurance Trustee is appointed), and all policies and endorsements thereto shall be deposited with Insurance Trustee (if appointed) or otherwise with Association.

12.2.2. Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy.

12.3. Coverage. Association shall maintain insurance covering the following:

12.3.1. Property Insurance. The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units initially installed, or replacements thereof, of like kind or quality in accordance with the original plans and specifications therefor, or as existed at the time the Unit was initially conveyed if the original plans and specifications are not available, but excluding floor coverings, wall coverings and ceiling coverings, all furniture, furnishings, electrical fixtures, appliances, air-conditioning or heating equipment, water heaters, built-in cabinets or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners) and all Improvements located on the Common Elements from time to time, together with all service machinery contained therein (collectively, the "Insured Property"), shall be insured, to the extent available, in an amount not less than one hundred percent (100%) of the full insurable replacement value thereof, excluding foundation and excavation costs so that there will be no co-insurance applicable. The insurance policy shall provide a replacement cost valuation. Such policies may contain reasonable deductible provisions as determined by the Board (and approved by Developer so long as Developer owns a Unit in the Condominium). Such coverage shall afford protection against loss or damage by fire and other hazards covered on an all-risk basis.

12.3.2. Liability. Comprehensive general public liability and automobile 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, but with combined single limit liability of not less than \$2,000,000 for each occurrence. The limits required herein can be satisfied by using an umbrella liability policy. Each policy shall have a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.

12.3.3. Workers' Compensation Insurance. Workers' compensation including employer's liability in an amount determined by the Board and other mandatory insurance, when applicable.

12.3.4. Flood Insurance. Flood insurance if Association so elects.

12.3.5. Fidelity Insurance. Fidelity insurance, if required under the provisions of the Act, covering all directors, officers and employees of Association and managing agents who handle Association funds, if any.

12.3.6. Directors and Officers Insurance. Directors and officers insurance, if desired and/or required under the provisions of the Act, covering all directors, officers and employees of Association, for claims arising out of their alleged "wrongful acts."

12.3.7. Windstorm Coverage. Windstorm coverage if Association so elects.

12.3.8. Other Insurance. Such other insurance as the Board shall determine from time to time to be desirable.

12.3.9. Waiver of Subrogation. When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right of subrogation against Association and against the Unit Owners individually and as a group.

12.4. Premiums. Premiums upon insurance policies purchased by Association shall be paid by Association as a Common Expense. Premiums may be financed in such manner as the Board deems appropriate.

12.5. Proceeds. 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.

12.6. 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.

12.7. Distribution of Proceeds. Proceeds of insurance policies received by Insurance Trustee (if appointed) or Association shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

12.7.1. Expenses of the Trust. All expenses of Insurance Trustee (if appointed) shall be first paid or provisions shall be made therefor.

12.7.2. 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. Regardless of any delay in disbursement, only Unit Owners holding title at the time of any disbursement of insurance proceeds shall have any rights to the same.

12.7.3. Failure to Reconstruct or Repair. If elsewhere it is determined in the manner 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 13.7.2 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. This is a covenant for the benefit of any Institutional First Mortgagee of a Unit and may be enforced by them.

12.7.4. Certificate. In making the distributions to Unit Owners and their mortgagees, Insurance Trustee (if appointed) may rely upon a certificate of Association made by its President or Vice President or Association's attorney as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution. Insurance Trustee (if appointed) may rely upon a certificate of Association made by its President or Vice-President or Association's attorney to determine whether or not the damaged property is to be reconstructed or repaired.

12.8. Association as Agent. 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 Association, collect and appropriately distribute the proceeds of insurance policies, to execute and deliver releases upon the payment of claims, and to execute any document necessary for the performance of any of the insurance provisions of the Condominium Documents. Association may designate for Insurance Trustee to act as the attorney in fact.

12.9. Unit Owners Personal Coverage. Unit Owners should obtain insurance coverage at their own expense upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, all floor, wall and ceiling coverings, electrical fixtures, appliances, air conditioning and heating equipment, water heaters and built-in cabinets. Unit Owners should also obtain personal liability and living expense insurance. Insurance policies issued to individual Unit Owners shall provide that the coverage afforded by such policies is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against Association. Unless Association elects otherwise, the insurance purchased by Association shall not cover claims against a Unit Owner due to accidents occurring within his or her Unit, nor casualty or theft loss to the contents of such Unit. It shall be the obligation of the individual Unit Owner, if such Unit Owner so desires, to purchase and pay for insurance as to all such other risks not covered by insurance carried by Association.

13. Reconstruction or Repair After Fire, Acts of Terrorism or Other Casualty.

13.1. Determination to Reconstruct or Repair. In the event of damage to or destruction of the Insured Property, the Board shall arrange for the prompt repair and restoration of the Insured Property; provided, however if seventy-five percent (75%) or more of the Insured Property is substantially damaged or destroyed and if Unit Owners owning eighty percent (80%) of the applicable interests in the Common Elements vote not to proceed with the repair or restoration thereof, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by 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 Association; provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his or her share of such funds all mortgages and liens on his or her Unit in the order or priority of such mortgages and liens.

13.2. Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements; or if not, then in accordance with the plans and specifications approved by the Board, and if the damaged property which is to be altered is the Building, by a majority of Unit Owners. Notwithstanding the foregoing, each mortgagee of a Unit which will be altered shall have the right to approve the plans for the alteration, which approval shall not be unreasonably withheld.

13.3. Unit Owner Responsibility. If there is damage to those parts of the Condominium for which the responsibility of maintenance and repair is that of the Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair. In all other instances, the responsibility for all necessary reconstruction and repair shall be that of Association.

13.4. Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which Association has the responsibility of reconstruction and repair, Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

13.5. Special Assessments and Additional Charges. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by 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, Special Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Special Assessments on account of damage to the Insured Property shall be in proportion to all of the Unit Owner's respective shares in the Common Elements.

13.6. Disbursement of Construction Funds. 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:

13.6.1. Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of Association is less than One Hundred Thousand Dollars (\$100,000), then the construction fund shall be disbursed in payment of such costs upon the order of the Board; provided, however, that upon request to Association 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 as set forth in Section 13.6.2 below.

13.6.2. Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of Association is more than One Hundred Thousand Dollars (\$100,000), then the construction fund shall be disbursed in payment of such costs in the manner contemplated by Section 13.6.1 above, but then only upon the further approval of an architect qualified to practice in Florida and employed by Association to supervise the work.

13.6.3. Surplus. It shall be presumed that the first moneys disbursed in payment of cost 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 a Unit Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable to any mortgagee.

13.6.4. Certificate. Notwithstanding the provisions herein, Insurance Trustee (if appointed) shall not be required to determine whether or not sums paid by Unit Owners upon Special Assessments shall be deposited by Association with Insurance Trustee (if appointed), nor to determine whether the disbursements from the construction fund are to be made upon the order of Association alone or upon the additional approval of an architect 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 Special Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. Insurance Trustee (if appointed) may rely upon a certificate of Association, made by its President or Vice President or Association's attorney, 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.

14. Condemnation.

14.1. 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 Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee (if appointed).

14.2. 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 shall also be deemed to be a casualty.

14.3. 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 14 specifically provided.

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

14.4.1. 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 charged against the Unit Owner.

14.4.2. Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Unit Owner and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and such mortgagees.

14.5. 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 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:

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

14.5.2. 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; 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.

14.5.3. 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 equally among the reduced number of Unit Owners (and among reduced Units).

14.5.4. Special Assessments. If the balance of the award (after payments to the Unit Owner and such Unit 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 Special Assessments against all of the Unit Owners who will continue as Unit Owners after the changes in the Condominium affected by the taking. The Special Assessments shall be made in proportion to the applicable percentage shares of those Unit Owners after all adjustments to such shares affected pursuant hereto by reason of the taking.

14.5.5. 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 Association within thirty (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, except that the arbitrators shall be two appraisers appointed by 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 Unit Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Unit Owners as they exist prior to the adjustments to such shares affected pursuant hereto by reason of the taking.

14.6. Taking of Common Elements. Awards for the taking of Common Elements or Limited Common Elements shall be used to render the remaining portion of the Common Elements or Limited Common Elements usable in the manner approved by the Board; 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 Unit Owner and the mortgagees of the Unit.

14.7. Discretion of Board. In circumstances not covered by this Declaration or by law, a two-thirds (2/3) majority of the Board may, upon an opinion of counsel that its decision is reasonable, deal with the condemnation in such reasonable manner as it determines to be appropriate under the circumstances.

14.8. Amendment of Declaration. The changes in Units, in the Common Elements, in the Limited Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are affected by the taking shall be evidenced by an amendment to this Declaration that is only required to be approved by and executed upon the direction of a majority of the Board.

15. 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:

15.1. Assumption of Risk. Without limiting any other provision in this Declaration, each person within any portion of the Common Elements accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of such Common Elements including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees, shrubbery, or other buildings (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within the Condominium, and (e) design of any portion of the Condominium. Each person also expressly indemnifies and agrees to hold harmless Developer, Association, and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or relating to the person's use of the Common Elements including, without limitation, attorneys' fees, paraprofessional fees and costs at trial and upon appeal. Without limiting the foregoing, all persons using the Common Elements do so at their own risk. BY ACCEPTANCE OF A DEED, EACH UNIT OWNER ACKNOWLEDGES THAT THE COMMON ELEMENTS OR SURROUNDING AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS, AND FOXES. DEVELOPER AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING UNIT OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH UNIT OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

15.2. Awnings, Canopies and Shutters. No awning, canopy, or shutter, including a hurricane or storm shutter, shall be attached or affixed to the exterior of a Unit unless such awning, canopy or shutter has been approved by the Board in writing. Association will specify the type and color of all hurricane shutters which must be uniform for all Units. Hurricane shutters approved by the Board may only be installed and remain in place during a hurricane or hurricane watch or alert, and such shutters must be removed or opened by the respective Unit Owner thereof within forty-eight (48) hours thereafter, and if not so removed or opened by a Unit Owner, such shutters may be removed or opened by Association at the expense of such Unit Owner.

15.3. Balconies. Unit Owner may not screen or tile the balconies.

15.4. Bicycles. Bicycles may not be stored in the balconies or in any place that causes the bicycle to be visible from the exterior of the Building.

15.5. Common Elements. The Common Elements and Limited Common Elements shall be used only for the purposes of which they are intended in the furnishing of services and facilities for the enjoyment of the Unit Owners.

15.6. Effect on Developer; Association. The restrictions and limitations set forth in this Section 16 shall not apply to Developer or to Units owned by Developer unless the Rules of the Act as it currently exists require otherwise. 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 16 for good cause shown.

15.7. Exterior Improvements; Landscaping. Without limiting the other provisions hereof, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, or windows of the Building (including, but not limited to, awnings, signs, storm shutters, furniture, fixtures, and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Board; provided, however, an American flag and official flags that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard may be displayed as permitted by the Act. Prior to placing or affixing satellite dishes or antennas within a Unit or on the Limited Common Elements of the Unit, Unit Owner shall obtain Association's written approval. Due to the restrictions set forth in Section 15.15.4 relative to affixing satellite dishes or antennas, Association will in no way consent to satellite dishes or antennas being affixed in a way that penetrates the post tension concrete slab system.

15.8. Garages. Each Unit may have its own garage. No garage shall be converted into a general living area. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

15.9. Lawful Use. No immoral, improper, offensive 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 thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

15.10. Leases. No portion of a Unit (other than an entire Unit) may be rented. All leases shall be on forms approved by Association and shall provide that 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 and By-Laws of Association, applicable Rules or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by Association. Unit Owners are responsible for providing to their tenants copies of all such documents or instruments. No Unit may be leased more than two (2) times per year. Each lease must be for a minimum period of six (6) months. No subleasing or assignment of lease rights by the tenant is permitted. Association may also charge a reasonable fee to offset the costs of a background check on tenant, if any. The Unit Owner will be jointly and severally liable with the tenant to Association for any amount required by Association to effect repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. All leases shall also comply with and be subject to the provisions of Section 16 hereof.

15.11. Litter. No article of personal property shall be hung or shaken from the doors or windows of any Unit. No Unit Owner shall sweep or throw from his Unit any dirt or any other materials. No garbage, trash, refuse or rubbish shall be deposited, dumped, or kept on any part of the Common Elements except in closed containers deposited in chutes or placed for pick-up in accordance with Rules promulgated by the Board.

15.12. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. No use shall be made of any Unit or of the Common Elements or Limited Common Elements which will increase the rate of insurance upon the Condominium Property.

15.13. Parking. Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. All vehicles of any nature shall be parked only on the surfaced parking area thereof. No vehicle which cannot operate on its own power shall be permitted to remain on the Condominium Property for more than forty-eight (48) hours.

15.13.1. No commercial vehicles, campers, mobile homes, motor homes, house trailers, or trailers of every other description, recreational vehicles, boats or boat trailers or vans shall be permitted to be parked or to be stored at any place on the Condominium Property; provided, however, the Board shall have the right to permit vans to be parked for specified periods of time in designated service parking areas. The term commercial vehicle shall also not be deemed to include law enforcement vehicles. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction or maintenance vehicles in connection with the construction, improvement, installation, or repair by Developer of any part of the Condominium Property. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other temporary commercial services, nor to any of Developer's vehicles.

15.13.2. No vehicle which cannot operate on its own power shall remain on the Condominium Property for more than twelve (12) hours, except in the garage of a Unit. No repair or maintenance, except emergency repair, of vehicles shall be made within the Condominium Property, except in the garage of a Unit. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view.

15.14. Pets. Each Unit may house up to two (2) animals, in the aggregate, which may only be domestic cats and/or dogs with a weight of not more than forty (40) pounds in the aggregate, unless such animals are of a breed prohibited by County, City or any other ordinance. Pit bulls are not permitted in the Condominium. Further, each Unit may house fish and/or two (2) domestic (household type) birds, as long as the fish and birds are kept indoors and do not become a source of annoyance to other Unit Owners. Pets shall not be allowed on or about the Common Elements except on a leash of no longer than six (6) feet or when being carried by their owner. No pets shall be left unattended in or on the balcony, patio or other similar area even if the area has been enclosed. No reptiles, wildlife, amphibians, poultry or livestock shall be raised, bred or kept on the Condominium Property. No pets or other animals shall cause or be the source of annoyance, nuisance or disturbance to any other owner or occupant. Each pet owner shall be responsible for the removal and disposal of the pet's feces or waste. The ability to have and keep an animal or pet is a privilege, not a right, and the Board is empowered to order and enforce the removal of any animal or pet which becomes a source of annoyance to other residents of the Condominium or in any way causes any damage to the property. Unit Owners may provide in a lease that tenants shall not be permitted to keep or have pets of any kind. The pet restrictions provided for herein apply to pets visiting a Unit and pets permanently housed in a Unit.

15.15. Post Tension Concrete Slab System. The Condominium may be constructed using a post tension concrete slab system. Nothing can be allowed to penetrate the slabs of the Building without the permission of the Board, which may be withheld for any reason.

15.15.1. This means that there can be no penetration into the top or underside of a slab. By way of example, the Units are not designed to allow the installation of a ceiling fan, soffits or lighting in the ceiling unless the same are part of the original construction. No penetration into the surface is permitted in structural walls, columns and floors. Each Unit Owner indemnifies and holds harmless Association and every other Unit Owner from any and all damages, liabilities and costs including, without limitation, attorneys' and paraprofessional fees and costs (at all levels including trial and appellate levels), resulting from such Unit Owner's improper penetration of any slab within the Condominium.

15.15.2. Trellis work and lattice work are not permitted if penetration that will in any way affect the post tension concrete slab system is required.

15.15.3. The installation of hurricane shutters may be restricted. There may be restrictions as to the types of installation permitted and the method of fastening the hurricane shutters to the Building.

15.15.4. Satellite dishes and antennas shall not be affixed in a way that penetrates the post tension concrete slab system.

15.16. Rules and Regulations. Reasonable Rules concerning the use of the Condominium Property may be made and amended from time to time by a majority vote of the Board. Copies of such Rules and amendments thereto shall be furnished by Association to all Unit Owners and residents of the Condominium upon request.

15.17. Signs. No signs, advertisement, notice, lettering or descriptive design of any kind shall be displayed or placed upon any part of the Condominium Property except in a place, style and manner approved by the Board in its sole discretion.

15.18. Units. Each Unit shall be used as a residence only, except as otherwise herein expressly provided, and no commercial occupation or activity may be carried on in any Unit except as such occupation or activity is permitted to be carried on by Developer under this Declaration. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, in addition to such persons' families and guests: (i) the individual Unit Owner, (ii) an officer, director, stockholder or employee of such corporation, (iii) a partner of or employee of such partnership, (iv) the fiduciary or beneficiary of such trust or other 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, in addition to such person's families and guests: (i) an individual lessee or sublessee, (ii) an officer, director, stockholder or employee of a corporate lessee or sublessee, (iii) a partner or employee of a partnership lessee or sublessee, or (iv) a fiduciary or beneficiary of a fiduciary lessee or sublessee. Under no circumstances may more than one family reside in a Unit at one time. "Families" or words of similar import used herein shall be deemed to include spouse, parents, parents-in-law, brothers, sisters, children, grandchildren, unmarried couples and housekeepers. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. The Board shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above.

15.19. Utility Addition. No additional utility fixture or improvement, including without limitation, any water, sewage, electrical, air conditioning or heating system, line, duct, conduit, pipe, or wire shall be added to service any Unit without the prior written consent thereto by the Board.

15.20. Sound Restrictions. Each Unit Owner, by acceptance of a deed or other conveyance of their Unit, hereby acknowledges and agrees that sound transmission in an improvement such as the Building of the Condominium is very difficult to control, and that noises from adjoining or nearby Units and/or mechanical equipment can often be heard in another Unit. By way of example, certain fans in the Condominium may run continuously, causing noise and vibration. Flushing toilets, high heels walking on tiles or marble, alarms, pumps and intermittent fans all make noise and vibrations which will be noticeable to some Unit Owners. These sounds are normal, and to be expected. Volumes and pitches may vary, and are not guaranteed. Developer does not make any representation or warranty as to the level of sound transmission between and among Units and other portions of the Condominium Property, and each Unit Owner hereby waives and expressly releases Developer from any such warranty and claim for loss or damages resulting from sound transmission.

16. Selling, Leasing and Mortgaging of Units. In order to maintain complementary uses, congenial neighbors and to protect the value of Units, the transfer of title to or possession of Units by any Unit Owner shall be subject to the following provisions so long as the Association exists, which provisions each Unit Owner covenants to observe:

16.1. Notice to Association.

16.1.1. Sale. A Unit Owner intending to make a bona fide sale of his or her Unit, or any interest therein, shall give to Association a transfer fee (in an amount determined by the Board and permitted by the Act) and notice pursuant to a form approved by Association of such intentions, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as Association may reasonably require.

16.1.2. Lease. A Unit Owner intending to make a bona fide lease of his or her Unit or any interest therein shall give to Association a transfer fee (in an amount determined by the Board and permitted by the Act) and notice pursuant to a form approved by Association of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as Association may reasonably require, and an executed copy of the proposed lease.

16.1.3. Gift; Other Transfers. A Unit Owner who proposes to transfer his or her title by gift or in any other manner not heretofore considered, shall give to Association a transfer fee (in an amount determined by the Board and permitted by the Act) and notice pursuant to a form approved by Association of the proposed transfer of his or her title, together with such information concerning the transferee as Association may reasonably require, and a copy of all instruments to be used in transferring title.

16.2. Exceptions. The foregoing provisions of this Section shall not apply to a transfer or purchase by an Institutional First Mortgagee or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an Institutional Mortgagee or other approved mortgagee which so acquires its title. Neither shall such provisions

require the approval of a purchaser who acquires the title to a Unit at a duly advertised public sale with open bidding which is provided by law, such as but not limited to, an execution sale, foreclosure sale, judicial sale or tax sale. The provisions of this Section 16 shall not apply to Developer.

16.3. Notice of Lien or Suit.

16.3.1. Notice of Lien. A Unit Owner shall give notice to Association of every lien upon his or her Unit other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

16.3.2. Notice of Suit. A Unit Owner shall give notice to Association of every suit or other proceeding which may affect the title to his or her Unit; such notice is to be given within five (5) days after the Unit Owner receives knowledge thereof.

16.3.3. Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial sale.

17. Compliance and Default. Each Unit Owner, every occupant of a Unit, and Association shall be governed by and shall comply with the terms of this Declaration, all Exhibits attached hereto, and the Rules. Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

17.1. Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his or her negligence or by that of any member of his or her family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected with respect to such negligence by Association.

17.2. 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 this Declaration, the By-Laws, the Articles, applicable Rules or any other agreement, document or instrument affecting the Condominium Property or administered by Association, in the manner required, Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to the extent permitted by, and in accordance with, the Act, and to sue in a court of law for damages. In addition, Association shall have the irrevocable right of access to each Unit during reasonable hours when necessary for the maintenance, repair, or replacement of any Common Elements or Limited Common Elements or for making emergency repairs which are necessary to prevent damage to the Common Elements, or Limited Common Elements or to another Unit or Units.

17.3. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or Association to comply with the requirements of the Act, this Declaration, the Exhibits attached hereto or the Rules, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees and paraprofessional fees and costs (at all levels, including trial and appellate levels) as may be awarded by the court.

17.4. No Waiver of Rights. The failure of Association or any Unit Owner to enforce any covenant, restriction or other provisions of the Act, this Declaration and the exhibits shall not constitute a waiver of their right to do so thereafter.

18. Merger of Condominium. The Condominium may be merged with one or more condominiums to form a single condominium upon (i) the approval of such Voting Interests of each Condominium as is required by each declaration for modifying the appurtenances to the Units or changing the proportion or percentages by which the owners of the Condominium Parcels share the Common Expenses and own the Common Surplus, and (iii) upon the recording of new or amended Articles of Incorporation, Declaration(s) of Condominium and/or By-Laws. The Board shall notify the Division before taking any action to merge the Condominium or Association.

19. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least eighty percent (80%) of the applicable interests in the Common Elements (after twenty percent (20%) of the Units have been sold to Unit Owners other than Developer, Developer will not vote the Units owned by it for such withdrawal unless the Owners of at least eighty percent (80%) of all other applicable interests in the Common Elements so elect for such withdrawal, at which time Developer may choose to vote either in favor of or against withdrawal from Condominium ownership, as it sees fit). In the event such withdrawal is authorized as aforesaid, 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 interest 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 or her share of such net proceeds all mortgages and liens of his or her Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of Association executed by its President and one other officer of Association, certifying as to the basis of the termination and said certificate shall be recorded among the Public Records of County. This Section may not be amended without the consent of all Institutional First Mortgagees and Developer so long as it owns any Unit. Such prior consent of the Institutional First Mortgagees may not be unreasonably withheld. Notwithstanding any language to the contrary in this section or anywhere else in this Declaration, the Board shall notify the Division before taking any action to terminate the Condominium or Association.

20. Additional Rights of Institutional First Mortgagees. In addition to all other rights herein set forth, Institutional First Mortgagees shall have the right, after providing adequate proof of their status and upon written request to Association, to:

- 20.1. Examine Association's books and records; and require copies of the annual reports and other financial data;
- 20.2. Receive notice of Association's meetings and attend such meetings;
- 20.3. Receive notice of an alleged default by any Unit Owner, for whom such Institutional First Mortgagee holds a mortgage, which is not cured within sixty (60) days of notice of default to such Unit Owner; and
- 20.4. Receive notice of any substantial damage or loss to any portion of the Condominium Property.
- 20.5. Receive notice of any amendment to this Declaration affecting Unit boundaries or changes in Common Elements or terminating the Condominium.
- 20.6. Receive notice of the lapse, cancellation or other material modifications of any insurance policy maintained by Association.

21. Covenant Running With The Land. All provisions of this Declaration, the Articles, By-Laws and applicable Rules 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 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, 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 by such Unit Owner, tenant or occupant.

22. Developer's Additional Rights.

22.1. Marketing Items. Developer, its agents, affiliates, or assignees, and any other person or entity designated by Developer, shall have the right to market Units and other property within the Condominium in advertisements and other media by making reference to the Condominium, including, but not limited to, pictures or drawings of the Building and the Common Elements. All logos, trademarks, and designs used in connection with the Condominium are the property of Developer, and Association shall have no right to use the same after the Turnover Date (as such term is defined in the By-Laws) except with the express written permission of Developer.

22.2. Use by Prospective Purchasers. So long as Developer owns a Unit, Developer shall have the right, without charge, to use the Common Elements for the purpose of entertaining prospective purchasers of Units, or other properties owned by Developer outside of the Condominium.

22.3. Developer's Limited Right of Entry. Developer shall have the perpetual right to access and enter the Common Elements and Limited Common Elements at any time, even after the Turnover Date, for the purposes of inspection and testing of the Common Elements in connection with warranty claims under Section 718.203 of the Florida Statutes or otherwise. Association and each Unit Owner shall give Developer unfettered access, ingress and egress to the Common Elements and Limited Common Elements so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer in connection with warranty claims under Section 718.203 of the Florida Statutes or otherwise. Developer shall have the right to make all repairs and replacements deemed necessary by Developer in connection with warranty claims under Section 718.203 of the Florida Statutes or otherwise. At no time shall Association and/or a Unit Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Elements or Limited Common Elements in connection with warranty claims under Section 718.203 of the Florida Statutes or otherwise.

22.4. Telecommunications Services

22.4.1. Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for the Condominium. Prior to the Turnover Date, all contracts between a Telecommunications Provider and Association shall be subject to the prior written approval of Developer.

22.4.2. Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider that has entered into an agreement with Association respecting Telecommunications Services and/or Telecommunications Systems a perpetual right, privilege, easement and right-of-way across, over, under and upon the Condominium Property for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon the Condominium Property for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such Telecommunications Systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Providers are to serve all of the Condominium Property, then the amounts payable to such

Telecommunications Providers under their written agreements with Association shall be part of the Common Expenses of Association and shall be assessed as a part of the Assessments.

22.4.3. Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Elements and/or any Unit to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to commence such restoration within twenty (20) days after receiving written notice from Association of such failure or the Telecommunications Provider's failure to complete such restoration within ninety (90) days of commencement shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Common Elements and/or any Unit disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Elements and/or any Unit immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right to (i) select the contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within twenty (20) days of completion of restoration and delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of Wachovia National Bank on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as provided in an agreement between Association and a Telecommunications Provider.

22.4.4. Developer's Rights. Each Unit Owner understands that the expense of any Telecommunications Service may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual owners that are not subject to a homeowners association or condominium association in County. Each Unit Owner acknowledges that Developer may receive lump sum or monthly compensation from any Telecommunications Provider in connection with the supply of Telecommunications Services. Such compensation may be paid on a per Unit or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

22.5. Monitoring System

22.5.1. Right to Install. Association shall have the right, but not the obligation, to contract for the installation of a Monitoring System for each Unit within the Condominium. Prior to the Turnover Date, all contracts for Monitoring Systems shall be subject to the prior written approval of Developer. In the event the Monitoring System is installed by a party other than Developer, each Unit Owner acknowledges that Developer may receive lump sum or monthly compensation from such party in connection with the costs of operating and maintaining the Monitoring System. Such compensation may be paid on a per Unit or other basis. All such compensation shall be the sole property of Developer. Developer or its nominees, successors, assigns, affiliates, and licensees may install such a Monitoring System. Developer reserves the right, at any time and in its sole discretion, to discontinue or terminate any Monitoring System prior to the Turnover Date. In addition, all Unit Owners specifically acknowledge that the Condominium may, but is not obligated to, have a perimeter access control system, such as fences, walls, hedges, or the like on certain perimeter areas. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN.

22.5.2. Components. The Monitoring System, if installed, may include one or more manned gatehouses, one or more electronic gates, and roving attendants using vehicles. Association and Developer do not warrant or guaranty in any manner that the system will include these items, but reserve the right to install or provide the foregoing items, or any other items they deem appropriate in their sole and absolute discretion. After the Turnover Date, Association may expand the Monitoring System by a vote of the majority of the Board, without the joinder or consent of the Unit Owners or any third parties. Without limiting the foregoing, Developer and Association reserve the right to, at any time, increase, decrease, eliminate, or add manned or unmanned gate houses, information booths, sensors, gates and other access monitoring measures as they deem appropriate in their sole and absolute discretion; provided, however, no changes shall be made prior to the Turnover Date without the prior written consent of Developer.

22.5.3. Part of Common Expenses. If furnished and installed within any Unit, the cost of operating and monitoring any Monitoring System may be included in the Common Expenses of Association and may be payable as a portion of the Assessments against Unit Owners. The purpose of the Monitoring System will be to control access to the Condominium. Each Unit Owner understands that the expense of the Monitoring System may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual owners in County that are not subject to a homeowners association or condominium association.

22.5.4. Unit Owner's Responsibility. All Unit Owners and occupants of any Unit, and the tenants, guests and invitees of any Owner, as applicable, acknowledge that Association, its Board and officers, Developer, their nominees or assigns, or any successor Developer, do not represent or warrant that (a) any Monitoring System, designated by or installed according to guidelines established, will not be compromised or circumvented, (b) any Monitoring System will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and/or (c) the Monitoring System will in all cases provide the detection for which the system is designed or intended. In the event that Developer elects to provide a Monitoring System, Developer shall not be liable to the Unit Owners or Association with respect to such Monitoring System, and the Unit Owners and Association shall not

make any claim against Developer for any loss that a Unit Owner or Association may incur by reason of break-ins, burglaries, acts of vandalism, personal injury or death, which are not detected or prevented by the Monitoring System. Each Unit Owner and Association are responsible for protecting and insuring themselves in connection with such acts or incidents. The provision of a Monitoring System (including any type of gatehouse) shall in no manner constitute a warranty or representation as to the provision of or level of security within the Condominium. Developer and Association do not guaranty or warrant, expressly or by implication, the merchantability of fitness for use of any Monitoring System, or that any such system (or any of its components or related services) will prevent intrusions, fires, or other occurrences, regardless of whether or not the Monitoring Service is designed to monitor the same. Each and every Unit Owner and the occupant of each Unit acknowledges that Developer and Association, their employees, agents, managers, directors, and officers, are not insurers of Unit Owners or Units, or the personal property located within the Units. Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any such events. All Owners and occupants of any Unit, and the tenants, guests and invitees of any Owner, as applicable, acknowledge that Association, its Board and officers, Developer, their nominees or assigns, or any successor Developer, do not represent or warrant that (a) any Monitoring System, designated by or installed according to guidelines established, will not be compromised or circumvented, (b) any Monitoring System will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and/or (c) the Monitoring System will in all cases provide the detection for which the system is designed or intended. In the event that Developer elects to provide a Monitoring System, Developer shall not be liable to the Unit Owners or Association with respect to such Monitoring System, and the Unit Owners and Association shall not make any claim against Developer for any loss that a Unit Owner or Association may incur by reason of break-ins, burglaries, acts of vandalism, personal injury or death, which are not detected or prevented by the Monitoring System. Each Unit Owner and Association are responsible for protecting and insuring themselves in connection with such acts or incidents. The provision of a Monitoring System (including any type of gatehouse) shall in no manner constitute a warranty or representation as to the provision of or level of security within the Condominium. Developer and Association do not guaranty or warrant, expressly or by implication, the merchantability of fitness for use of any Monitoring System, or that any such system (or any of its components or related services) will prevent intrusions, fires, or other occurrences, regardless of whether or not the Monitoring Service is designed to monitor the same. Each and every Unit Owner and the occupant of each Unit acknowledges that Developer and Association, their employees, agents, managers, directors, and officers, are not insurers of Unit Owners or Units, or the personal property located within the Units. Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any such events.

23. Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONDOMINIUM DOCUMENTS, ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

23.1. IT IS THE EXPRESS INTENT OF THE CONDOMINIUM DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM AND THE VALUE THEREOF; AND

23.2. ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR COUNTY OR PREVENTS TORTIOUS ACTIVITIES; AND

23.3. THE PROVISIONS OF THE CONDOMINIUM DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF 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.

23.4. EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF THE CONDOMINIUM (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS). NOTHING IN THIS SECTION 23 SHALL LIMIT THE RIGHT OF ANY UNIT OWNER TO SUE ASSOCIATION FOR ITS OWN NEGLIGENCE OR ITS WILLFUL ACTS OR OMISSIONS OR FOR ANY LIABILITY PROVIDED IN THE ACT ON THE DAY THIS DECLARATION IS RECORDED AMONG THE PUBLIC RECORDS OF COUNTY.

24. Resolution of Disputes.

Mariner Village
Declaration

24.1. Resolution of Disputes. BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE CONDOMINIUM DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO CONDOMINIUM DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DEVELOPER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A UNIT.

24.2. Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (I) EXECUTED A PURCHASE AND SALE AGREEMENT, (II) RESIDES, (III) OBTAINS FINANCING OR (IV) CLOSED ON A UNIT, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN COUNTY. DEVELOPER HAS AN OFFICE IN COUNTY, AND EACH UNIT IS LOCATED IN COUNTY. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN COUNTY. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN COUNTY.

25. Reliance. BEFORE ACCEPTING A DEED TO A UNIT, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A UNIT, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH UNIT OWNER CONFIRMING IN ADVANCE OF ACQUIRING A UNIT THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT THE CONDOMINIUM PROPERTY TO THIS DECLARATION, EACH UNIT OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH A UNIT OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

26. Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF THE LAND ARE HEREBY PLACED ON NOTICE THAT (1) DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES, AND/OR (2) ANY OTHER PARTIES MAY BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE LAND. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE LAND, EACH SUCH UNIT OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES, OR ANY NOISES RESULTING THEREFROM, SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE LAND WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE LAND HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

27. Blocked View; Trees and Shrubbery. There is no guarantee that any Unit shall have any specific view. The (1) maturation of trees and shrubbery, (2) construction of other condominiums, or (3) construction of any other improvements may partially or entirely block the view of each Unit. Additionally, Developer shall not be responsible for any reduction in privacy caused by the removal or pruning of trees and shrubbery within the Common Elements or Limited Common Elements.

28. Notices. All notices to Association required or desired hereunder or under the By-Laws shall be sent by certified mail (return receipt requested) or by professional courier with receipt to Association at its office at the Condominium, or to such other address as 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 Condominium address of such Unit Owner, or such other address as may have been designated by him or her from time to time, in writing, to Association. 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 Association. All notices shall be deemed to have been given when mailed in a postage-prepaid, sealed wrapper, except notice of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.

29. Interpretation. The Board 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 counsel that any interpretation adopted by Association is not unreasonable shall conclusively establish the validity of such interpretation.

30. Mortgagees. 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 Association.

31. Exhibits. All Exhibits attached to this Declaration shall form a part of this Declaration as if set forth herein.

32. Signature of President and Secretary. Wherever the signature of the President of Association is required hereunder, the signature of a Vice-President may be substituted therefor, and wherever the signature of the Secretary of 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 Association in two separate capacities.

33. 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, said dispute or litigation shall be governed by the laws of the State of Florida.

34. Construction Matters. All Units and their appurtenant Common Elements have been or will be sold without any Developer's warranties whatsoever except as provided in the Act (to the extent such warranties are not effectively disclaimed and remain in effect, if at all). As to such warranties, if any, and as to any claim arising from or connected with the design or construction of any Unit(s), Limited Common Elements, or the Common Elements including, without limitation, failure to build in accordance with any particular plans or specifications or failure to comply with building or other codes, laws, ordinances or regulations (collectively, "Construction Matters"), it shall be a material condition precedent to the institution of any proceeding regarding Construction Matters that (i) the party or parties bringing same shall have first given notice to Developer or other party against whom which relief or recovery is sought (the "Defendant") of the specific Construction Matters complained of and what actions are necessary to cure or correct same and (ii) the Defendant shall have been given at least one hundred twenty (120) days (subject to extension by reason of matters beyond the control of the Defendant or because of the nature of the applicable Construction Matter(s) and the time necessary to cure or correct same) in which to cure or correct the applicable Construction Matter(s) and shall have materially failed to do so. If any Construction Matter is not cured or corrected as aforesaid, all applicable parties shall be bound to submit the disputes or claims regarding the Construction Matters at issue solely to binding arbitration in accordance with the Florida Arbitration Code and the rules of the American Arbitration Association and the parties and their successors and assigns shall be bound by the results of such arbitration. Without limiting the general binding effect of this Declaration, each Owner and other person acquiring any right, title or interest in or to any Unit shall be deemed, by virtue of the acceptance of the conveyance, grant, transfer or assignment thereof, to be fully bound by the provisions of this Section 34, as shall Association.

SECTION 34 REQUIRES YOU TO WAIVE YOUR RIGHT TO SUE THE DEVELOPER IN COURT AND, INSTEAD, ARBITRATE DISPUTES INCLUDING, BUT NOT LIMITED TO, DEVELOPER REPRESENTATIONS PERTAINING TO COMMONLY USED FACILITIES; AND WARRANTY RIGHTS ON YOUR UNIT AND IMPROVEMENTS. THE DIVISION HAS CONTESTED THE ENFORCEABILITY OF THESE PROVISIONS. UNTIL THERE IS AN ADMINISTRATIVE RULE, LEGISLATIVE CHANGE, OR OTHER DEFINITIVE RESOLUTION, YOU SHOULD CONSULT AN ATTORNEY REGARDING YOUR RIGHTS UNDER THESE PROVISIONS.

35. Eligibility Requirements for Board Membership. Any director designated or appointed by Developer need not be a Unit Owner or a resident of a Unit. All other directors must be Unit Owners. A person who has been convicted or a felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for membership on the Board.

36. 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 Unit Owner, by reason of the acceptance of a deed to such Unit Owner's Unit, hereby agrees to execute, at the request of Developer and its affiliates, in order to complete the plan of development, any and all amendments to the existing documents and as they may be hereafter amended; and each such Unit Owner further appoints hereby and thereby Developer as such Unit Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Unit Owner, any and all of such documents or consents that may be required from time to time by either the City or County where the Condominium is located or applicable governmental subdivisions or agencies. This power of attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of Developer.

37. 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.

38. 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.

39. 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, the Articles, By-Laws, and the Rules are fair and reasonable in all material respects.

40. 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.

41. 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.

42. Refund of Taxes, Fees and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event said refund is received by Association.

43. Title Documents. Each Unit Owner by acceptance of a deed to a Unit acknowledges that such Unit is subject to certain land use and title documents and all amendments thereto, which may include among other items, the following documents recorded in the Public Records of County (collectively, the "Title Documents"):

43.1. Resolution regarding Solid Waste recorded in Official Records Book 1685, Page 27, Public Records of Martin County, Florida.

43.2. Ordinance regarding Solid Waste recorded in Official Records Book 840, Page 1389, Public Records of Martin County, Florida.

43.3. Department of Transportation Eminent Domain Resolution for State Highway Systems Projects recorded in Official Records Book 1237, Page 260, Public Records of Martin County, Florida.

43.4. Easement in favor of Florida Power and Light Company recorded in Official Records Book 825, Page 125, Public Records of Martin County, Florida.

43.5. Easements in favor of Mariner Village Property Owners, Inc. recorded in Official Records Book 936, Page 1355 and 1363 respectively, Public Records of Martin County, Florida.

ALL TITLE DOCUMENTS WERE RECORDED IN THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

Developer's plan of development for the Condominium may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DEVELOPER RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Unit Owners other than Developer, Developer, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Unit Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Unit Owners, by virtue of their acceptance of deeds irrevocably nominate, constitute and appoint Developer, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such document executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Unit Owner agrees, by its acceptance of a deed to a Unit (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Unit Owner has waived its right to object to or comment on the form or substance of any amendment, modification, or termination of the Title Documents.

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON FOLLOWING PAGE]

Without limiting the foregoing, upon the Turnover Date, Association shall assume all of the obligations of Developer under the Title Documents which affect the Condominium unless otherwise provided in this Declaration by amendment to this Declaration recorded by Developer in the Public Records of County, from time to time, and in the sole and absolute discretion of Developer.

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 22 day of August, 2006.

WITNESSES:

MARINER VILLAGE TOWNHOMES, INC.,
a Florida corporation

Muissamartinez
Print Name: Muissamartinez
Kevin Hamilton
Print Name: Kevin Hamilton

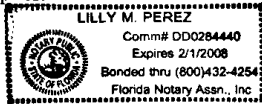
By: Robert Priole
Name: Robert Priole
Title: Vice President

{SEAL}

STATE OF FLORIDA)
COUNTY OF Miami Dade) SS.:

The foregoing instrument was acknowledged before me this 22 day of August, 2006 by Robert Priole, as Vice President of MARINER VILLAGE TOWNHOMES, INC., a Florida corporation, who is personally known to me or who has produced as identification, on behalf of the corporation.

My commission expires:



Lilly Perez
NOTARY PUBLIC, State of Florida at Large
Print Name _____

JOINDER

MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.

Mariner Village of Martin County Condominium Association, Inc. ("Association") does hereby join in the Declaration of Condominium for Mariner Village of Martin County Condominium (the "Declaration"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this Joinder is for convenience only and does not apply to the effectiveness of the Declaration as Association has no right to approve the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 16 day of August, 2006.

WITNESSES:

MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation

[Signature]
Print Name: MELISSA MARTINEZ
[Signature]
Print Name: CORRAE M. JARIS-PILA

By: *[Signature]*
Name: Robert Briel
Title: President

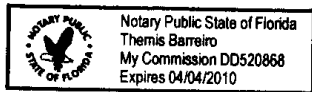
{SEAL}

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 16th day of August, 2006 by John C. Doering as President of The Hemingway at Victoria Park Condominium Association, Inc., a Florida not-for-profit corporation, who is personally known to me or who produced _____ as identification on behalf of the corporation.

My commission expires:

[Signature]
NOTARY PUBLIC, State of Florida at Large
Print Name Themis Barreiro



Mariner Village Declaration
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CONSENT TO DECLARATION FOR MARINER VILLAGE TOWNHOMES BY MORTGAGEE

The undersigned, BankUnited, FSB, a federal savings bank ("BankUnited"), the mortgagee under that certain Mortgage (the "Mortgage") dated as of June 28, 2005 executed by Mariner Village Townhomes, Inc., a Florida corporation, and recorded in Official Records Book 2034, Page 340 of the Public Records of Martin County, Florida (the "Recorder's Office"), covering all or a portion of the property described in Exhibit 1 does hereby Consent to the Declaration of Condominium for Mariner Village of Martin County Condominium (the "Declaration"), to which this Consent is attached, and acknowledges that the terms thereof are and shall be binding upon the undersigned and its successors in title.

BankUnited makes no warranty or any representation of any kind or nature concerning the Declaration, any of its terms or provisions, or the legal sufficiency thereof, and disavows any such warranty of representation as well as any participation in the development of the Condominium (as defined in the Declaration) and does not assume and shall not be responsible for any of the obligations or liabilities of the Developer (as defined in the Declaration) contained in the Declaration or other documents used in connection with the promotion of the Condominium. None of the representations contained in the Declaration or other documents shall be deemed to have been made by BankUnited, nor shall such documents be construed to create any obligations on BankUnited to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of BankUnited as set forth in the Mortgage or in the Declaration.

IN WITNESS WHEREOF, these presents have been executed this 18th day of August, 2006.

Witnesses:

BANKUNITED, FSB, a federal savings bank

Miguel Ortega
Name: Miguel Ortega
Grace Davila-Perez
Name: GRACE DAVILA-PEREZ

By: *[Signature]*
Name: Fernando X. Gomez
Title: Vice President

STATE OF Florida)
COUNTY OF Miami-Dade) ss:

The foregoing instrument was acknowledged before me this 18 day of August, 2006 by Fernando X. Gomez, as Vice President of BANKUNITED, FSB, a federal savings bank, who is personally known to me or who produced will know as identification, on behalf of such federal savings bank.

[Signature]
Notary Public
My commission expires
Marielena Alfonso
Printed or Typed Name of Notary

MARILENA ALFONSO
Notary Public - State of Florida
My Commission Expires Sep 28, 2008
Commission # DD 358799
Bonded by National Notary Assn.

Mariner Village
Declaration
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EXHIBIT 1

LEGAL DESCRIPTION OF LAND

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 38 SOUTH, RANGE 42 EAST, MARTIN COUNTY, FLORIDA SAID PARCEL BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE NORTH 00°04'36" EAST (BEARINGS ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NATIONAL AMERICAN DATUM 1983 EASTERN ZONE) ALONG THE WEST LINE OF SAID SECTION A DISTANCE OF 2,166.37 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 1 (STATE ROAD No. 5); THENCE SOUTH 58°20'17" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1,165.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE SOUTH 58°20'17" EAST, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 773.72 FEET, TO THE NORTHWESTERLY CORNER OF PLAT 1 OF MARINER VILLAGE SQUARE, P.U.D. (C), AS RECORDED IN PLAT BOOK 11, PAGE 71 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE ALONG SAID PLAT LINE SOUTH 31°39'43" WEST, A DISTANCE OF 600.00 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF PLAT 1 OF MARINER VILLAGE, P.U.D. (R) AS RECORDED IN PLAT BOOK 12, PAGE 95, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE ALONG SAID PLAT LINE NORTH 58°20'17" WEST, A DISTANCE OF 625.16 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF S.E. DEVENWOOD WAY, AS SHOWN ON SAID PLAT 1 OF MARINER VILLAGE, P.U.D. (R); THENCE ALONG SAID RIGHT-OF-WAY LINE THROUGH THE FOLLOWING FOUR (4) COURSES, NORTH 13°49'23" WEST, A DISTANCE OF 12.86 FEET TO THE BEGINNING OF A CURVE BEING CONCAVE TO THE EAST, HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 45°29'06"; THENCE NORTHERLY ALONG SAID CURVE A DISTANCE OF 436.62 FEET, THENCE NORTH 31°39'43" EAST, A DISTANCE OF 173.80 FEET; THENCE NORTH 76°39'43" EAST, A DISTANCE OF 35.36 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 10.500 ACRES MORE OR LESS.

Mariner Village
Declaration

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EXHIBIT 2

**ARTICLES OF INCORPORATION FOR
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.**

Mariner Village
Declaration

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State of Florida



Department of State

I certify from the records of this office that MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on November 12, 2004.

The document number of this corporation is N04000010631.

I further certify that said corporation has paid all fees due this office through December 31, 2005, that its most recent annual report/uniform business report was filed on April 25, 2005, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fourth day of August, 2005



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

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State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on August 23, 2005, to Articles of Incorporation for MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N04000010631.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-third day of August, 2005



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

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**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM
ASSOCIATION, INC.
(A CORPORATION NOT FOR PROFIT)**

Document Number: N04000010631

Pursuant to the provisions of section 617.1006, Florida Statutes, this Florida not-for-profit corporation adopts the following articles of amendment to its Articles of Incorporation:

FIRST: The following Sections 6.2.8 and 6.2.9 are hereby added to the Articles of Incorporation:

6.2.8 SFWMD. Operate and maintain common property, specifically the Surface Water Management System as permitted by the SFWMD including all lakes, retention areas, culverts, and related appurtenances, if any.

6.2.9 Legal Action. To sue and be sued.

SECOND: The date of the amendment's adoption is August 15, 2005.

THIRD: Adoption of Amendment (**CHECK ONE**)

- The amendment was adopted by the members and the number of votes cast for the amendment was sufficient for approval.
- There are no members or members entitled to vote on the amendment. The amendment was adopted by the board of directors.

Signed this 15th day of August, 2005.

Signature



(By the chairman or vice president of the board, president or other officer)

Robert T. Briele

(Typed or printed name of person signing)

President/Director

(Title of Person Signing)

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**ARTICLES OF INCORPORATION
OF
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM
ASSOCIATION, INC.
(A CORPORATION NOT FOR PROFIT)**

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Mariner Village of Martin County Condominium
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ARTICLES OF INCORPORATION FOR

MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.

The undersigned, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, does hereby adopt the following Articles of Incorporation (these "Articles").

- 1. **Name.** The name of the corporation shall be Mariner Village of Martin County Condominium Association, Inc. (the "Association").
- 2. **Principal Office.** The principal office of the Association is 7975 N.W. 154th Street, 400, Miami, Florida 33016.
- 3. **Registered Office - Registered Agent.** The street address of the Registered Office of the Association is c/o Duane Morris, LLP; 200 South Biscayne Boulevard; Suite 3400; Miami, Florida 33131. The name of the Registered Agent of the Association is:

PATRICIA KIMBALL FLETCHER, P.A.

4. **Definitions.** A declaration entitled Declaration of Condominium for Mariner Village of Martin County Condominium (the "Declaration") will be recorded in the Public Records of Martin County, Florida, and shall govern all of the operations of a Condominium to be known as Mariner Village of Martin County Condominium (the "Condominium"). All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.

5. **Purpose.** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (the "Act") for the operation of the Condominium to be developed on property located in Martin County, Florida. The Association is organized to provide a means of administering the Condominium. The Unit Owners of the Condominium shall automatically be members ("Members") of the Association.

6. **Powers and Duties.** The powers of the Association shall include and be governed by the following:

6.1 **General.** The Association shall have all of the common law and statutory powers of a corporation not for profit under the laws of Florida that are not in conflict with the provisions of these Articles, the Declaration, the By-Laws or the Act.

6.2 **Enumeration.** Without limiting the foregoing, the Association shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration and as more particularly described in the By-Laws including, but not limited to, the following:

6.2.1 **Assessments and Special Assessments.** To make and collect Assessments, Special Assessments and other charges from Unit Owners as provided in the Declaration, and to use the proceeds thereof in the exercise of its powers and duties.

6.2.2 **Real and Personal Property.** To buy, own, operate, lease, sell, trade and mortgage both real and personal property as may be necessary or convenient in the administration of the Condominium, and to maintain, repair, replace, reconstruct, add to and operate any Condominium Property, and other property acquired or leased by the Association for use by Unit Owners in the Condominium.

6.2.3 **Insurance.** To purchase insurance upon any Condominium Property and insurance for the protection of the Association, its officers, directors and Unit Owners of the Condominium. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of Article 12.

6.2.4 **Rules and Regulations.** To make and amend reasonable rules and regulations (the "Rules and Regulations") for the maintenance, conservation and use of any

Mariner Village of Martin County Condominium Articles 12/11/04

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Condominium Property and for the health, comfort, safety and welfare of the Unit Owners in the Condominium.

6.2.5 Enforcement. To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws, and the Rules and Regulations.

6.2.6 Management and Employees. To employ personnel, retain independent contractors, managers, and professional personnel; enter into any supply or service contracts; and contract for the management of the Condominium and, in connection therewith, to delegate powers and duties of the Association to the extent and in the manner permitted by the Declaration, the By-Laws, and the Act.

6.2.7 Approval of Transfers. Approve or disapprove the leasing, transfer, ownership, and possession of Units as may be provided by the Declaration.

7. Unit Owners and Membership.

7.1 Membership. The Members of the Association shall consist of all of the record owners of Units in the Condominium from time to time.

7.2 Assignment. 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 the Unit for which that share is held. The funds and assets of the Association shall be expended, held or used only for the benefit of the Unit Owners and for the purposes authorized herein, in the Declaration, and in the By-Laws.

7.3 Voting. On all matters upon which the Unit Owners shall be entitled to vote, there shall be only one (1) vote for each Unit, which vote shall be exercised or cast in the manner provided by the By-Laws. Any person or entity owning more than one (1) Unit shall be entitled to one (1) vote for each Unit owned.

7.4 Prior to Recordation of Declaration. Until such time as the real property comprising the Condominium, and the improvements now and/or to be constructed thereon, are submitted to the condominium form of ownership by recordation of the Declaration in the Public Records of Martin County, Florida, the membership of the Association (the "Membership") shall be comprised of the Directors of the Association, each of whom shall be entitled to cast a vote on all matters upon which the Membership would be entitled to vote.

8. Term of Existence. The Association shall have perpetual existence.

9. Directors.

9.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a Board of Directors (the "Board") consisting initially of three (3) directors, but subject to change as provided by the By-Laws. Directors appointed or designated by the Developer need not be Unit Owners of the Association or residents of Units in the Condominium. All other directors must be Unit Owners.

9.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles, and the By-Laws shall be exercised exclusively by the Board, its agents, contractors and/or employees, subject only to approval by Unit Owners when such approval is specifically required by the Declaration or the Act.

9.3 Election; Removal. Directors shall be appointed, elected, and removed as provided in the By-Laws.

9.4 Current Directors. The names and addresses of the members of the current Board of Directors who shall hold office until their successors are appointed and/or elected, are as follows:

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NAME	ADDRESS
Robert Briele	7975 N.W. 154 Street Suite 400 Miami Lakes, Florida 33016
Nicole Cardoso	7975 N.W. 154 Street Suite 400 Miami Lakes, Florida 33016
Yolanda Lam	7975 N.W. 154 Street Suite 400 Miami Lakes, Florida 33016

10. Officers. The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board and shall serve at the pleasure of the Board. The names and addresses of the current officers who shall serve until their successors are designated by the Board are as follows:

President:	Robert Briele 7975 N.W. 154 Street, Suite 400 Miami Lakes, Florida 33016
Vice President	Nicole Cardoso 7975 N.W. 154 Street, Suite 400 Miami Lakes, Florida 33016
Secretary/Treasurer:	Yolanda Lam 7975 N.W. 154 Street, Suite 400 Miami Lakes, Florida 33016

11. Incorporator. The name and address of the Incorporator is as follows:

Patricia Kimball Fletcher, Esq.
Patricia Kimball Fletcher, P.A.
Duane, Morris LLP
200 South Biscayne Boulevard, Suite 3400
Miami, Florida 33131

12. Indemnification.

12.1 Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, employee, officer, or agent of the Association, against expenses (including reasonable attorneys' fees and paraprofessional fees at trial and upon appeal), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceedings, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful.

12.2 Limitations on Indemnification. Notwithstanding the foregoing, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have adjudged to be liable for gross negligence or intentional misconduct in the performance of his duties to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

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12.3 Effect of Termination of Action. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

12.4 Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 12.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and paraprofessional fees at trial and upon appeal) actually and reasonably incurred by him in connection therewith.

12.5 Approval. Any indemnification under Section 12.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 12.1 above. Such determination shall be made (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by a majority of the voting interests of the Unit Owners.

12.6 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any specific case upon receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount until such time it shall ultimately be determined that he was not entitled to be indemnified by the Association as authorized in this Article 12.

12.7 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the By-Laws, agreement, vote of Unit Owners or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

13. By-Laws. The first By-Laws of the Association shall be adopted by the Board and may be altered, amended or rescinded by the Board, Unit Owners, and/or the Developer as provided in the By-Laws.

14. Amendments. Amendments to these Articles shall be proposed and adopted in the following manner:

14.1 Notice. 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.

14.2 Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or Unit Owners holding one-third (1/3) of the voting interests in the Association.

14.3 Approval. An amendment shall be approved once it is approved:

14.3.1 by Unit Owners holding a majority of the voting interests in the Association present in person or by proxy at a Members meeting at which a quorum thereof has been attained and by not less than sixty-six and two-thirds percent (66-2/3%) of the entire Board; or

14.3.2 by Unit Owners holding eighty percent (80%) of the voting interests in the Association present in person or by proxy at a Members meeting at which a quorum has been attained; or

14.3.3 prior to the date upon which Unit Owners other than Developer control the Board, by not less than one hundred percent (100%) of the entire Board.

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14.4 Attendance Not Required. Directors not present in person at the meeting considering the amendment may express their agreement or disagreement in writing, provided that the same is delivered to the Secretary at or prior to the meeting. Such agreement or disagreement may not be used as a vote for or against the action taken and may not be used as a vote for the purpose of creating a quorum.

14.5 Limitation. Notwithstanding the foregoing, no amendment shall be made that is in conflict with the Act, the Declaration, or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to the Developer herein or in the Declaration unless the Developer shall join in the execution of the amendment.

14.6 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the Public Records of Martin County, Florida.

14.7 Developer. The Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone. This paragraph may not be amended.

For the purpose of forming this association under the laws of the State of Florida, the undersigned, being the Incorporator of this Association, has executed these Articles of Incorporation to be effective as of the 12th day of November, 2004.

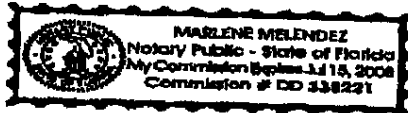
Patricia K Fletcher
Patricia Kimball Fletcher, Esq., Incorporator

STATE OF FLORIDA)
) SS.:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of November, 2004 by PATRICIA KIMBALL FLETCHER, ESQ. who is personally known to me.

My commission expires:

Marlene Melendez
NOTARY PUBLIC, State of Florida



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ACCEPTANCE BY REGISTERED AGENT

The undersigned, having been named to accept service of process for the above-stated corporation at the place designated in this certificate, hereby agrees to act in this capacity, and is familiar with, and accepts, the obligations of this position and further agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

Dated this 12th day of November, 2004.

PATRICIA KIMBALL FLETCHER, P.A.

By: Patricia K Fletcher
Patricia Kimball Fletcher, Esq., as President

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TALLAHASSEE, FLORIDA

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Mariner Village of Martin County Condominium
Articles
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EXHIBIT 3

**BY-LAWS OF
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.
AND RULES AND REGULATIONS**

Mariner Village
Declaration

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**BY-LAWS
OF
MARINER VILLAGE OF MARTIN COUNTY
CONDOMINIUM ASSOCIATION, INC.**

Mariner Village of Martin County Condominium
By-Laws

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BY-LAWS
OF
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.

1. **Identity.** These are the By-Laws of Mariner Village of Martin County Condominium Association, Inc. (the "**Association**"), a corporation not-for-profit, incorporated under the laws of the State of Florida and organized for the purpose of administering that certain condominium located in Martin County, Florida, and known as Mariner Village of Martin County Condominium (the "**Condominium**").

2. **Definitions.** All of the initially capitalized terms used herein shall have the meanings set forth in the Declaration of Mariner Village of Martin County Condominium (the "**Declaration**"), unless defined otherwise herein. In addition, the following terms shall have the following meanings:

"**Act**" shall mean the Florida Condominium Act as it is amended from time to time; provided, however, the Act shall not be incorporated in these By-Laws or in any other document governing the Condominium except as specifically set forth herein.

"**Articles**" shall mean the Articles of Incorporation for the Association, as the same may be amended from time to time.

"**Board**" shall mean the Board of Directors of the Association.

"**Committee**" shall mean any committee created by the Board.

"**Condominium Documents**" shall mean the Declaration, the Articles, these By-Laws, and the Rules, as the same may be amended from time to time.

"**Division**" shall mean the Division of Florida Land Sales, Condominiums, and Mobile Homes.

"**Members Meeting**" shall mean any meeting of the Unit Owners held in accordance with these By-Laws and the Condominium Act.

"**Turnover Date**" shall have the meaning set forth in Section 4.2.1 hereof.

3. **Members.**

3.1 **Annual Members Meeting.**

3.1.1 **Date.** The Annual Members Meeting shall be held on the date, at the place, and at the time determined by the Board from time to time.

3.1.2 **Purpose and Notice.** The purpose of the Annual Members Meeting shall be stated in the notice of the meeting, which shall include an agenda. Advance notice shall be mailed to Unit Owners at least fourteen (14) days prior to the Annual Members Meeting, and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days prior to the Annual Members Meeting, all as specifically provided in the Condominium Act.

3.1.3 **Agenda.** The Agenda for an Annual Members Meeting shall include each of the following items, if applicable, and any additional items deemed appropriate by the Board: call to order; collection of ballots not yet cast; appointment of a chairman of the Annual Members Meeting (who need not be a Member or a Director); proof of notice of the Members Meeting or waiver of notice; appointment of inspectors of election; election of Director(s); reports of committees, unfinished business, new business, and adjournment.

3.2 **Special Members Meetings.**

3.2.1 **How Called.** A Special Members Meeting may be called by the President or by a majority of the Board of the Association, and must be called by the President or Secretary upon receipt of a written request from Unit Owners holding a majority of all the Voting Interests of the Association. Additionally, a Special Members Meeting may be called by Unit Owners holding ten percent (10%) of the Voting Interests of the Association to recall a Director or Directors of the Board as permitted by the Act (currently Section 718.112(2)(j) of the Florida Statutes).

3.2.2 **Purpose and Notice.** Special Members Meetings may be called for any purpose permitted by law. The business conducted at a Special Members Meeting shall be limited to that stated in the notice of the Special Members Meeting, which shall include an agenda. Advance notice shall be mailed to Unit Owners at least fourteen (14) continuous days prior to the Special Members Meeting, and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days prior to the Special Members Meeting, all as specifically provided in the Act.

3.2.3 **Agenda.** The Agenda for a Special Members Meeting shall include each of the following items, if applicable, and any additional items deemed appropriate by the Board: call to order; appointment of a chairman of the Special Members Meeting (who need not be a Member or a Director); proof of notice of the Members Meeting or waiver of notice; special items of business, and adjournment.

3.3 Waiver of Notice. Notice of a Members Meeting may be waived by a Unit Owner unless prohibited by the Act.

3.4 Affidavit or Certificate of Mailing. The Association shall include in the official records of the Association an affidavit or certificate of mailing conforming with the requirements of the Act, which are incorporated herein by reference (currently Section 718.112(2)(d)2 of the Florida Statutes).

3.5 Quorum. A quorum at a Members Meeting shall be attained by the presence, either in person or by proxy, of Unit Owners entitled to cast thirty percent (30%) of the Voting Interests of the Unit Owners; provided, however, quorum requirements (or lack thereof) and requirements that a minimum number of ballots be cast for the election of Directors shall be as provided in the Act.

3.6 Voting by Members.

3.6.1 Majority Vote. The acts approved by Unit Owners holding a majority of the Voting Interests of the Association present in person or by proxy at a Members Meeting at which a quorum is present shall be binding upon all Unit Owners except where otherwise provided by law or in the Condominium Documents.

3.6.2 Voting Interests. Each Unit Owner shall be a Member of the Association. No person who holds an interest in a Unit only as security for the performance of an obligation shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Unit. There shall be one vote appurtenant to each Unit. For the purposes of determining who may exercise the Voting Interest associated with each Unit, the following rules shall govern:

3.6.2.1 Unit Owned By Husband and Wife. Either the husband or wife (but not both) may exercise the voting interest with respect to a Unit. In the event the husband and wife cannot agree, neither may exercise the voting interest.

3.6.2.2 Trusts. In the event that any trust owns a Unit, the Association shall have no obligation to review the trust agreement with respect to such trust. If the Unit is owned by Robert Smith, as Trustee, Robert Smith shall be deemed the Unit Owner of the Unit for all Association purposes. If the Unit is owned by Robert Smith as Trustee for the Laura Jones Trust, then Robert Smith shall be deemed the Member with respect to the Unit for all Association purposes. If the Unit is owned by the Laura Jones Trust, and the deed does not reference a trustee, then Laura Jones shall be deemed the Member with respect to the Unit for all Association purposes. If the Unit is owned by the Jones Family Trust, the Jones Family Trust may not exercise its voting interest unless it presents to the Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to the Association, the identification of the person who should be treated as the Member with respect to the Unit for all Association purposes. If Robert Smith and Laura Jones, as Trustees, hold title to a Unit, either trustee may exercise the voting interest associated with such Unit. In the event of a conflict between trustees, the voting interest for the Unit in question cannot be exercised. In the event that any other form of trust ownership is presented to the Association, the decision of the Board as to who may exercise the voting interest with respect to any Unit shall be final. The Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

3.6.2.3 Corporations. If a Unit is owned by a corporation, the corporation shall designate a person, an officer, employee, or agent who shall be treated as the Member who can exercise the voting interest associated with such Unit. If the corporation fails to designate a person to vote, then the President or Vice-President may exercise the voting interest associated with such Unit. In the event of a conflict among the officers entitled to exercise a voting interest, the voting interest for such Unit cannot be exercised.

3.6.2.4 Partnerships. If a Unit is owned by a limited partnership, any one of the general partners may exercise the voting interest associated with such Unit. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof governing corporations shall govern which person can act on behalf of the corporation as general partner of such limited partnership. If a Unit is owned by a general partnership, any one of the general partners may exercise the voting interest associated with such Unit. In the event of a conflict among general partners entitled to exercise a voting interest, the voting interest for such Unit cannot be exercised.

3.6.2.5 Multiple Individuals. If a Unit is owned by more than one individual, any one of such individuals may exercise the voting interest with respect to such Unit. In the event that there is a conflict among such individuals, the voting interest for such Unit cannot be exercised.

3.6.2.6 Voting Certificate. If a Unit is owned by more than one individual, a corporation, a partnership or a trust, the Board will require the use of a Voting Certificate identifying the Member with authority to vote on behalf of each such Unit.

3.6.3 Liability of the Association. The Association may act in reliance upon any writing or instrument or signature, whether original or facsimile, which the Association, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. So long as the Association acts in good faith, the Association shall have no liability or obligation with respect to the exercise of Voting Interests, and no election shall be invalidated (in the absence of fraud) on the basis that the Association permitted or denied any person the right to exercise a voting interest. In addition, the Board may impose additional requirements respecting the exercise of Voting Interests (e.g., the execution of a Voting Certificate).

3.7 Proxies. Votes may be cast in person or by use of a limited proxy complying with the requirements of the Act. All of the provisions of the Act regarding general and limited proxies are incorporated into these By-Laws by reference (currently Section 718.112(2)(b)2 of the Florida Statutes). A proxy holder need not be a Unit Owner; provided, however, no person other than a designee of the Developer may hold more than five (5) proxies until after the Turnover Date.

3.8 Adjourned Members Meetings. If any proposed Members Meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the Members Meeting from time to time until a quorum is present, provided notice of the newly scheduled Members Meeting is given in the manner required for the giving of notice of a Members Meeting.

3.9 Action Without a Members Meeting. Unless prohibited by law, any action required to be taken or which may be taken at any Members Meeting may be taken without a Members Meeting, without prior notice, and without a vote of the Members if a consent in writing, setting forth the action so taken shall be signed by the Members (or persons authorized to cast the vote of any such Member as elsewhere herein set forth) holding not less than the minimum number of Voting Interests that would be necessary to approve such action. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Unit Owners who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

4. Directors.

4.1 Membership. The affairs of the Association shall be governed by a Board with a minimum of three (3) Directors. Notwithstanding the foregoing, the number of Directors may be increased and decreased to any odd number (so long as there are at least three (3) Directors) from time to time by the Developer prior to the Turnover Date, and after the Turnover Date upon the vote of Unit Owners holding a majority of the Voting Interests of the Association present in person or proxy at a Members Meeting at which a quorum is obtained. Any change in the number of Directors shall not become effective until the next Annual Members Meeting (e.g., prior to the mailing of any notice required for an election of Directors). Any Director designated or appointed by Developer need not be a Unit Owner or a resident of a Unit. All other Directors must be Unit Owners.

4.2 Developer's Right to Appoint. The Developer shall have the right to appoint all of the Directors comprising the Board until Unit Owners other than the Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the Members of the Board. The Developer is entitled (but not obligated) to elect at least one (1) member of the Board as long as the Developer holds for sale in the ordinary course of business five percent (5%) of the Units that will be operated ultimately by the Association.

4.2.1 Turnover Date. Unit Owners other than the Developer are entitled and obligated to elect not less than a majority of the Directors comprising the Board no later than the earlier of (the "Turnover Date"):

4.2.1.1 three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to Unit Owners, or

4.2.1.2 three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to Unit Owners, or

4.2.1.3 when all of the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to Unit Owners and none of the others are being offered for sale by the Developer in the ordinary course of business, or

4.2.1.4 when some of the Units have been conveyed to Unit Owners and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, or

4.2.1.5 seven (7) years after recordation of the Declaration, or

4.2.1.6 such earlier date the Developer elects to turn over control of the Association to Unit Owners other than the Developer, in Developer's sole discretion, by causing all of Developer's appointed Directors to resign.

4.2.2 Turnover Meeting. Within seventy-five (75) days after the Unit Owners other than the Developer are entitled to elect one or more Directors to the Board, or if the Developer has elected to accelerate such events aforesaid, the Association shall call, and give not less than sixty (60) days notice of an election in the manner provided in Section 718.112(2)(d) of the Florida Statutes. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so. The election shall proceed as provided in Section 718.112(2)(d) of the Florida Statutes. At the time that Unit Owners other than the Developer elect a majority of the Directors comprising the Board (or not more than ninety(90) days after such election with respect to the audited financial records of the Association), the Developer shall relinquish control of the Association and, at the Developer's expense, deliver to the Association all property of the Association held by or controlled by the Developer, and all items required to be turned over by the Act.

4.3 Election of Directors. All of the provisions regarding the election of Directors in the Act and in the Florida Administrative Code are incorporated herein by reference. The Act contains detailed and specific provisions, which may be changed by the Florida legislature from time to time. In general, the Act requires the election of Directors shall be held on the same dates as the Annual Members Meeting. The regular annual elections,

as well as elections to fill vacancies, shall be by written ballot or voting machine, and by a plurality of the votes cast, each person voting shall be entitled to cast his vote for each of as many candidates as there are vacancies to be filled. There shall be no cumulative voting. There shall be no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election of Directors. Notwithstanding the provisions of this subsection, an election and balloting are not required unless more candidates file notices of intent to run than vacancies exist on the Board. The Act and the Florida Administrative Code contain detailed and specific provisions on the manner in which notices must be sent to Unit Owners and the manner in which the elections must actually be held.

4.4 Vacancies and Removal.

4.4.1 Vacancies Generally. Except as to vacancies resulting from removal of Directors by Members, vacancies in the Board occurring between Annual Members Meetings shall be filled by the remaining Directors even if less than a quorum (e.g., one Director remains), provided that all vacancies respecting Directors appointed by the Developer shall be filled by the Developer.

4.4.2 Recall of a Director. Directors may be removed from office in the manner provided for the removal of Directors in the Act. As stated in Section 718.112(2)(j) of the Florida Statutes, as it may be renumbered from time to time, a Director may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all Unit Owners. A Special Members Meeting for recall may be called by Unit Owners holding ten percent (10%) of the Voting Interests in the Association. Directors elected or appointed by Unit Owners other than the Developer shall be subject to recall only by the Unit Owners other than the Developer. Voting Interests owned or controlled by the Developer shall not vote in such recall, whether in person or by proxy. Directors appointed by the Developer shall not be subject to recall or removal by the Unit Owners.

4.5 Term. Except as provided herein to the contrary, the term of each Director's service shall extend until the next Annual Members Meeting when his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.

4.6 Regular Board Meetings. Regular Board Meetings may be held at such time and place as shall be determined, from time to time, by a majority of the Directors.

4.7 Special Board Meetings. Special Board Meetings may be called by the President and must be called by the President or Secretary at the written request of one-third (1/3) of the Directors.

4.8 Notice Requirements for Board Meetings.

4.8.1 Generally. Notice of Board Meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least two (2) days prior to the meeting. Notice of Board Meetings shall be posted conspicuously on the Condominium Property for at least forty-eight (48) continuous hours in advance for the attention of the Unit Owners except in the event of an emergency. Upon notice given by mail or personally to each Unit Owner, the Board shall adopt a rule designating a specific location on the Condominium Property upon which all notices of Board meetings, both regular and special, shall be posted.

4.8.2 Agenda. All notices for Board Meetings must specifically incorporate an agenda. Any item not included on the notice may be taken up on an emergency basis by a majority plus one of the Directors. Such emergency action shall be noticed and ratified at the next regular Board Meeting. Notice of Board Meetings at which Assessments shall be considered shall contain a statement that Assessments will be considered and describe the nature of such Assessments.

4.8.3 Additional Notice Requirements for Assessments and Other Special Items. Notwithstanding the above, at any Board Meeting at which there will be proposed, discussed or approved (i) non-emergency Special Assessments, or (ii) amendments to Rules regarding Unit use, additional notice must be mailed or hand delivered to each Unit Owner as well as posted conspicuously on the Condominium Property, not less than fourteen (14) days prior to the Board Meeting. Evidence of compliance with the fourteen (14) day notice requirement shall be in the form of an affidavit executed by the person providing notice, which shall be placed in the official records of the Association.

4.9 Waiver of Notice. Any Director may waive notice of a Board Meeting before or after the Board Meeting and that waiver shall be deemed equivalent to be due receipt by such Director of notice. Attendance by any Director at a Board Meeting shall constitute a waiver of notice of such Board Meeting, except when his attendance is for the express purpose of objecting at the beginning of the Board Meeting to the transaction of business because the Board Meeting is not lawfully called.

4.10 Quorum. A quorum at Board Meetings shall consist of a majority of the Board. The acts approved by a majority of those present at a Board Meeting at which a quorum is present shall constitute the acts of the Board except when approval by a greater number of Directors is specifically required by the Condominium Documents.

4.11 Adjourned Board Meetings. If at any proposed Board Meeting there is less than a quorum present, the majority of those present may adjourn the Board Meeting from time to time until a quorum is present, provided notice of such newly scheduled Board Meeting is given as required herein. At any newly scheduled Board Meeting, any business that might have been transacted at the Board Meeting as originally called may be transacted.

4.12 Joinder in Board Meeting by Approval of Minutes. The joinder of a Director in the action of a Board Meeting which such Director had attended by signing and concurring in the minutes of that Board Meeting shall constitute the approval of that Director of the business conducted at the Board Meeting.

4.13 Presiding Officer. The presiding officer at the Board Meetings shall be the President (who may, however, designate any other person to preside). In the absence of the presiding officer, the Directors present may designate any person to preside.

4.14 Committees. The Board may create one or more Committees, appoint Board Members and/or Unit Owners to such Committees, and invest in such Committees such powers and responsibilities as the Board shall deem advisable to make recommendations to the Board regarding the Association or the Condominium. To the extent required by the Condominium Act, notice of Committee Meetings shall be given in the same manner as for Board Meetings.

4.15 Attendance. A Director who is present at any Director's meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest.

4.16 Voting. A Director may not vote by proxy and there shall be no secret ballot voting by Directors at a Board meeting, except that officers may be elected by secret ballot. The minutes of the meeting must reflect each Director's vote or abstention.

4.17 Unanimous Written Consent. A unanimous written consent setting forth any action to be taken by the Board and signed by all Directors shall be sufficient to constitute the consent and approval to such action by the Board. Nothing in this Section 4.17 shall allow any such action to be taken by the Board without a meeting of the Board to the extent a meeting of the Board is required to be held to take such action under the Act.

5. Minutes of Board and Members Meetings. The minutes of all Board Meetings and Members Meetings shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

6. Unit Owners' Right to Participation at Members Meetings, Board Meetings, and Committee Meetings. All Members Meetings, Board Meetings, and Committee Meetings shall be open to Unit Owners. Unit Owners shall have a right to participate at all Members Meetings and Board Meetings as to all designated agenda items. The Board may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner participation. Unit Owners shall have the right to tape record or videotape Members Meetings and Board Meetings subject to the reasonable rules adopted by the Division.

7. Powers and Duties. All of the powers and duties of the Association shall be exercised by the Board, including those powers and duties existing under the laws of Florida and the Condominium Documents. Such powers and duties shall be exercised in accordance with the Condominium Documents and the Condominium Act, and shall include, without limitation, the right, power and authority to:

7.1 Operate and maintain all portions of the Condominium Property other than the Units.

7.2 Convey a portion of the Common Elements to a condemning authority, governmental entity, or a public utility for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

7.3 Employ and dismiss the personnel necessary for the maintenance and operation of the Common Elements.

7.4 Adopt and amend Rules concerning the details of the operation and use of the Condominium Property.

7.5 Maintain bank accounts on behalf of the Association and designate the signatories required therefor. The duty to maintain accounting records shall be according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times.

7.6 Purchase (at a foreclosure sale or otherwise), lease, hold, mortgage, or otherwise acquire Units or other property in the name of the Association or its designee for the use and benefit of the Unit Owners or for use by a resident manager or concierge. Without limiting the foregoing, the Association, when authorized by a majority of the Voting Interests of the Units represented at a meeting at which a quorum has been attained, shall have the power to acquire and enter into agreements for the acquisition of fee interests, leaseholds, memberships and other possessory or use interests in lands or facilities, including, but not limited to, country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Condominium intended to provide for the use or benefit of the Unit Owners (whether or not on an exclusive basis). The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses.

7.7 Obtain and maintain adequate insurance to protect the Association and the Condominium Property.

7.8 Make repairs, additions and improvements to, or alterations of, the Condominium Property, and repairs to and restoration of the Condominium Property in accordance with the provisions of the Declaration after

damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings or otherwise.

7.9 Enforce obligations of the Unit Owners.

7.10 Levy fines where appropriate against Units for the failure of the Unit Owner, or its occupant, licensee or invitee, to comply with any provision of the Declaration, these By-Laws or the reasonable rules of Association.

7.11 Borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep, and/or maintenance of the Condominium Property, and to execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, provided that such actions are approved by a majority of the entire membership of the Board and a majority of the Voting Interests of the Unit Owners represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Voting Interests of the Unit Owners as may be specified in these By-Laws with respect to certain borrowing.

7.12 Contract for the management and maintenance of the Condominium Property and authorize a management agent (which 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 and Special Assessments, preparation of records, enforcement of Rules and maintenance, repairs and replacement of the Common Elements with funds as shall be made available by the Association for such purposes. The Association shall, however, retain at all times the powers and duties granted by the Condominium Documents and the Act, including but not limited to the making of Assessments, Special Assessments, promulgation of Rules and execution of contracts on behalf of the Association.

7.13 At its discretion, authorize Unit Owners or other persons to use portions of the Common Elements for private parties, gatherings, and other purposes and impose reasonable charges for such private use.

7.14 Grant, modify or move any easement, subject to the provisions of the easement, without the joinder of any Unit Owners, if the easement constitutes part of or crosses the Common Elements.

7.15 Levy Assessments and Special Assessments against Unit Owners and perform all other fiscal obligations of the Association.

7.16 The irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair or replacement of any Common Elements or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit or Units.

7.17 Charge a Use Fee against a Unit Owner for the exclusive or non-exclusive use of all or a portion of the Common Elements or Condominium Property or as otherwise provided by the Declaration.

7.18 Enter into binding agreements with the South Florida Water Management District.

8. Officers. Officers elected by the Directors appointed by the Developer need not be Unit Owners. All other officers must be Unit Owners. The Board shall elect the officers listed below. Prior to the Turnover Date, any person may hold two (2) or more offices except that the President shall not also serve as the Secretary of the Association at the same time. Prior to the Turnover Date, the Board may, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to properly manage the affairs of the Association.

8.1 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.

8.2 Vice President. The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the Vice President of an association and as shall otherwise be prescribed by the Directors.

8.3 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.

8.4 Assistant Secretary. The Assistant Secretary shall exercise the powers and perform the duties of the Secretary in the absence or disability of the Secretary.

8.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall perform all other duties incident to the office of the treasurer of an association and as may be required by the Directors or the President.

9. Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for any service or item to be supplied by such Director or officer; provided, however, management of the Condominium shall be through a company in the business of providing professional management services to associations. Directors and officers shall

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be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties. This provision may only be amended by Unit Owners holding a majority of the Voting Interests in the Association.

10. Resignations. Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective.

11. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

11.1 Fiscal Year. The fiscal year of the Association shall be the calendar year.

11.2 Adoption of Budget by Board; Items. The Board shall from time to time, and at least annually, prepare a budget for the Condominium complying with Section 718.112(2)(f) of the Florida Statutes, which is incorporated herein by reference.

11.3 Notice of Budget Meeting. A copy of the proposed budget shall be mailed to each Unit Owner not less than fourteen (14) days prior to the Board Meeting at which the budget will be considered, together with a notice of that Board Meeting indicating the time and place of such meeting.

11.4 Special Membership Meeting on Budget. If a budget is adopted by the Board which requires Assessments against the Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments (as determined by the Act) for the preceding year, as hereinafter defined, upon written application of Unit Owners holding ten percent (10%) of the Voting Interests to the Board, a Special Members Meeting shall be held as provided in the Act (currently Section 718.112(2)(e) of the Florida Statutes, which is incorporated herein by reference).

11.5 Limitation on Developer Approved Budget Increases. As long as the Developer is in control of the Board, the Board shall not impose an Assessment for a year greater than one hundred fifteen percent (115%) of the prior year's Assessment (as determined pursuant to the Act), without the approval of Unit Owners owning a majority of the Voting Interests (including the Voting Interests of the Developer).

11.6 Collection of Assessments. Assessments shall be collected monthly from the Unit Owners. Assessments may be accelerated as provided in the Declaration and as permitted by the Act. In the event the annual Assessments prove to be insufficient, the budget and Assessments may be amended and increased at any time by the Board upon compliance with the notice and other requirements of the Act.

11.7 Depository. The depository of the Association shall be such bank or banks in the County as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from these accounts shall be made only by checks signed by such person or persons as are authorized by the Directors.

11.8 Reserve Funds. The provision of the Act respecting reserve funds are incorporated herein.

11.9 Acceleration of Assessment. If a Unit Owner shall be delinquent in the payment of an Assessment, the Board may accelerate the remaining installments of the Assessment as permitted by the Declaration and the Act.

11.10 Fidelity Bonds. To the extent required by law, fidelity bonds shall be required for those persons who control or disburse funds of the Association in the amount(s) required by the Act. The premiums on such bonds shall be paid by the Association as a Common Expense.

11.11 Financial Reports. Within ninety (90) days (or as otherwise provided in the Act from time to time) following the end of the fiscal year, or annually on such date as is otherwise provided herein, the Board shall mail, or furnish by personal delivery, to each Unit Owner financial reports complying with the requirements of the Act.

12. Roster of Unit Owners. Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all notice purposes until notified in writing of changes therein as provided above.

13. Amendments. Amendments to these By-Laws shall be proposed and adopted in the following manner:

13.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

13.2 Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by Unit Owners holding not less than one-third (1/3) of the Voting Interests of the Association.

13.3 Approval. An amendment shall be approved as follows:

13.3.1 by Unit Owners holding not less than a majority of the Voting Interests in the Association in person or by proxy at a Members Meeting at which a quorum has been attained and by not less than sixty-six and two-thirds percent (66-2/3%) of the entire Board; or

13.3.2 by Unit Owners holding eighty percent (80%) of the Voting Interests of the Association in person or by proxy at a Members Meeting at which a quorum has been attained; or

13.3.3 prior to the date that Unit Owners other than Developer control the Board, by not less than one hundred percent (100%) of the entire Board.

13.4 Developer's Consent. Notwithstanding Section 13.3, so long as Developer is offering Units in the Condominium for sale in the ordinary course of business, an amendment of these By-Laws which may be detrimental to the sale of Units by the Developer shall not be effective without the written consent of Developer. Developer shall have an absolute right to consent or withhold consent for any reason or no reason whatsoever.

13.5 Attendance Not Required. Directors not present in person at the meeting considering the amendment may express their agreement or disagreement in writing, provided that the same is delivered to the Secretary at or prior to the meeting. Such agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purpose of creating a quorum.

13.6 No Amendments Adverse to the Developer. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer without the consent of the Developer. No Amendment shall be made that is in conflict with the Articles or Declaration.

13.7 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these By-Laws, which certificate shall be executed by the President or Vice President with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of Martin County.

13.8 Procedure. The Act contains certain procedural requirements for amendments to By-Laws, all of which are incorporated herein by reference.

14. Rules and Regulations. The Board may, from time to time, adopt, modify, amend or add to the Rules. Copies of such modified, amended or additional Rules shall be furnished by the Board to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. At no time may any Rules be adopted which would prejudice the rights reserved to the Developer. The initial Rules adopted by the Board together with these Bylaws, are attached hereto as Schedule A.

15. Mandatory Nonbinding Arbitration. The provisions of the Section 718.1255 of the Florida Statutes (as it may be renumbered or amended) respecting mandatory nonbinding arbitration are incorporated into and made part of these By-Laws.

16. Certificate of Compliance. A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Board as evidence of compliance of the Units with applicable fire and life safety codes.

17. Transfer Fees. The Association may charge up to the maximum transfer fees permitted by the Act. The Association may require that a prospective lessee place a security deposit in the amount permitted by the Act into an escrow account with the Association, subject to the requirements of the Act.

18. Construction and Conflicts. 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 genders. In the event that these By-Laws conflict with the Articles, the Articles shall control. In the event that the Articles and the Declaration shall conflict, the Declaration shall control. This provision may not be amended.

19. Written Inquiries from Unit Owners. When a Unit Owner files a written inquiry by certified mail with the Board, 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. 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 inquiry.

20. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define or limit the scope of these By-Laws of the intent of any provision hereof.

SCHEDULE A
RULES AND REGULATIONS FOR
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM

Schedule A
Rules and Regulations for
Mariner Village of Martin County Condominium

62 of 116

**RULES AND REGULATIONS FOR
MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM**

The following Rules and Regulations govern Mariner Village of Martin County Condominium. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration of Condominium for Mariner Village of Martin County Condominium. These Rules and Regulations have been promulgated by the Board, and are subject to change from time to time.

1. The entrances, and like portions of the Common Elements shall not be obstructed nor used for any purpose other than for ingress and egress to and from the Condominium Property; nor shall any carts, bicycles, carriages, chairs, tables or any other similar objects be stored therein.
2. The personal property of Unit Owners must be stored in their respective Units.
3. No garbage cans, supplies, milk bottles or other articles shall be placed on the balconies, or on any Common Elements except for designated trash areas, if any. No linens, cloths, clothing, curtains, rugs, mops or laundry of any kind, or other articles, shall be shaken or hung from any of the windows, doors, balconies, or other portions of the Condominium Property.
4. No Unit Owner shall permit anything to fall from a window or door of the Condominium Property, nor sweep or throw from the Condominium Property any dirt or other substance into any of the balconies or upon the Common Elements.
5. All refuse must be deposited and placed in areas designated for refuse disposal.
6. Unit Owners, tenants, visitors, licensees and invitees shall park motor vehicles only in marked parking spaces.
7. Unit Owner shall not make or permit any disturbing noises in the Unit by Unit Owner or Unit Owner's family, servants, employees, agents, visitors or licensees, nor permit any conduct by such persons that will interfere with the rights, comforts or conveniences of other residents. No Unit Owner shall play or permit to be played any musical instrument, nor operate or permit to be operated a phonograph, television, radio or sound amplifier in his Unit in such a manner as to disturb or annoy other residents. No Unit Owner shall conduct, nor permit to be conducted, vocal or instrumental instruction at any time which disturbs other residents.
8. No radio or television installation may be permitted in any Unit which interferes with the television or radio reception of another Unit.
9. No sign, advertisement, notice, lettering or descriptive design shall be exhibited, posted, displayed, inscribed or affixed to the exterior of a Unit or in, on or upon any part of the Condominium Property, except in a place, style and manner approved by the Board.
10. Association shall have the right to retain a pass key to all Units for the purpose of access to such Units during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units. If a lock is altered or a new lock installed, Unit Owner shall provide Association with an additional key and security code, if applicable.
11. No flammable, combustible or explosive fluids, chemicals or substances shall be kept in any Unit or on the Common Elements.
12. Employees of Association are not to be sent out by Unit Owners for personal errands. The Board shall be solely responsible for directing and supervising employees of Association.
13. A Unit Owner who plans to be absent during the hurricane season must prepare his Unit prior to his departure by designating a responsible firm or individual to care for his Unit should the Unit suffer hurricane damage, and furnish Association with the name(s) of such firm or individual. Such firm or individual shall be subject to the approval of Association.

14. Food and beverages may not be consumed outside of a Unit except on the balconies which are Limited Common Elements appurtenant to the Unit.

15. A Unit Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies, or windows of the Building. Curtains and drapes (or linings thereof) which face on exterior windows or glass doors of Units shall be subject to disapproval by the Board, in which case they shall be removed and replaced with acceptable items.

16. Unit Owners and occupants of Units shall park their bicycles and tricycles only within the Unit.

17. If a Unit Owner wishes to install hurricane shutters, Unit Owner shall seek the approval of the Board for the installation of hurricane shutters. At such time, the Board will provide Unit Owner with hurricane shutter specifications.

18. These Rules and Regulations shall not apply to the Developer, nor its agents or employees, and contractors, nor to Institutional First Mortgagees, nor to the Units owned by either the Developer or such Institutional First Mortgagees, unless the Rules of the Florida Department of Business and Professional Regulation or the Act require otherwise. All of these Rules and Regulations shall apply, however, to all other Unit Owners and occupants even if not specifically so stated in portions hereof. The Board shall be permitted (but not required) to grant relief to one or more Unit Owners from specific Rules and Regulations upon written request therefore and good cause shown in the sole opinion of the Board.

EXHIBIT 4
SITE PLAN AND SURVEY

Mariner Village
Declaration
65 of 116

**MARINER VILLAGE OF MARTIN COUNTY
CONDOMINIUM**

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 38 SOUTH, RANGE 42 EAST, MARTIN COUNTY, FLORIDA SAID PARCEL BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE NORTH 00°04'36" EAST (BEARINGS ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NATIONAL AMERICAN DATUM 1983 EASTERN ZONE) ALONG THE WEST LINE OF SAID SECTION A DISTANCE OF 2,166.37 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 1 (STATE ROAD No. 5); THENCE SOUTH 58°20'17" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1,165.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE SOUTH 58°20'17" EAST, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 773.72 FEET, TO THE NORTHWESTERLY CORNER OF PLAT 1 OF MARINER VILLAGE SQUARE, P.U.D. (C), AS RECORDED IN PLAT BOOK 11, PAGE 71 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE ALONG SAID PLAT LINE SOUTH 31°39'43" WEST, A DISTANCE OF 600.00 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF PLAT 1 OF MARINER VILLAGE, P.U.D. (R) AS RECORDED IN PLAT BOOK 12, PAGE 95, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE ALONG SAID PLAT LINE NORTH 58°20'17" WEST, A DISTANCE OF 625.16 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF S.E. DEVENWOOD WAY, AS SHOWN ON SAID PLAT 1 OF MARINER VILLAGE, P.U.D. (R); THENCE ALONG SAID RIGHT-OF-WAY LINE THROUGH THE FOLLOWING FOUR (4) COURSES, NORTH 13°49'23" WEST, A DISTANCE OF 12.86 FEET TO THE BEGINNING OF A CURVE BEING CONCAVE TO THE EAST, HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 45°29'06"; THENCE NORTHERLY ALONG SAID CURVE A DISTANCE OF 436.62 FEET, THENCE NORTH 31°39'43" EAST, A DISTANCE OF 173.80 FEET; THENCE NORTH 76°39'43" EAST, A DISTANCE OF 35.36 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 10.500 ACRES MORE OR LESS,

TOGETHER WITH THREE EASEMENTS BENEFITING THE INSURED PROPERTY GRANTED BY CENTEX REAL ESTATE CORPORATION DATED 11-1-91 FILED IN O.R.B. 936 PG. 1344, PG. 1347, PG. 1351 RESPECTIVELY, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, ALSO TOGETHER WITH LIFT STATION EASEMENT APPARENTLY BENEFITING THE INSURED PROPERTY IN O.R.B. 832 PG. 2322 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA. SUBJECT TO EXISTING EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

SURVEYORS CERTIFICATION

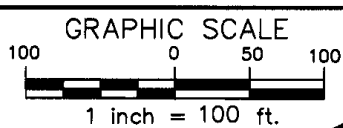
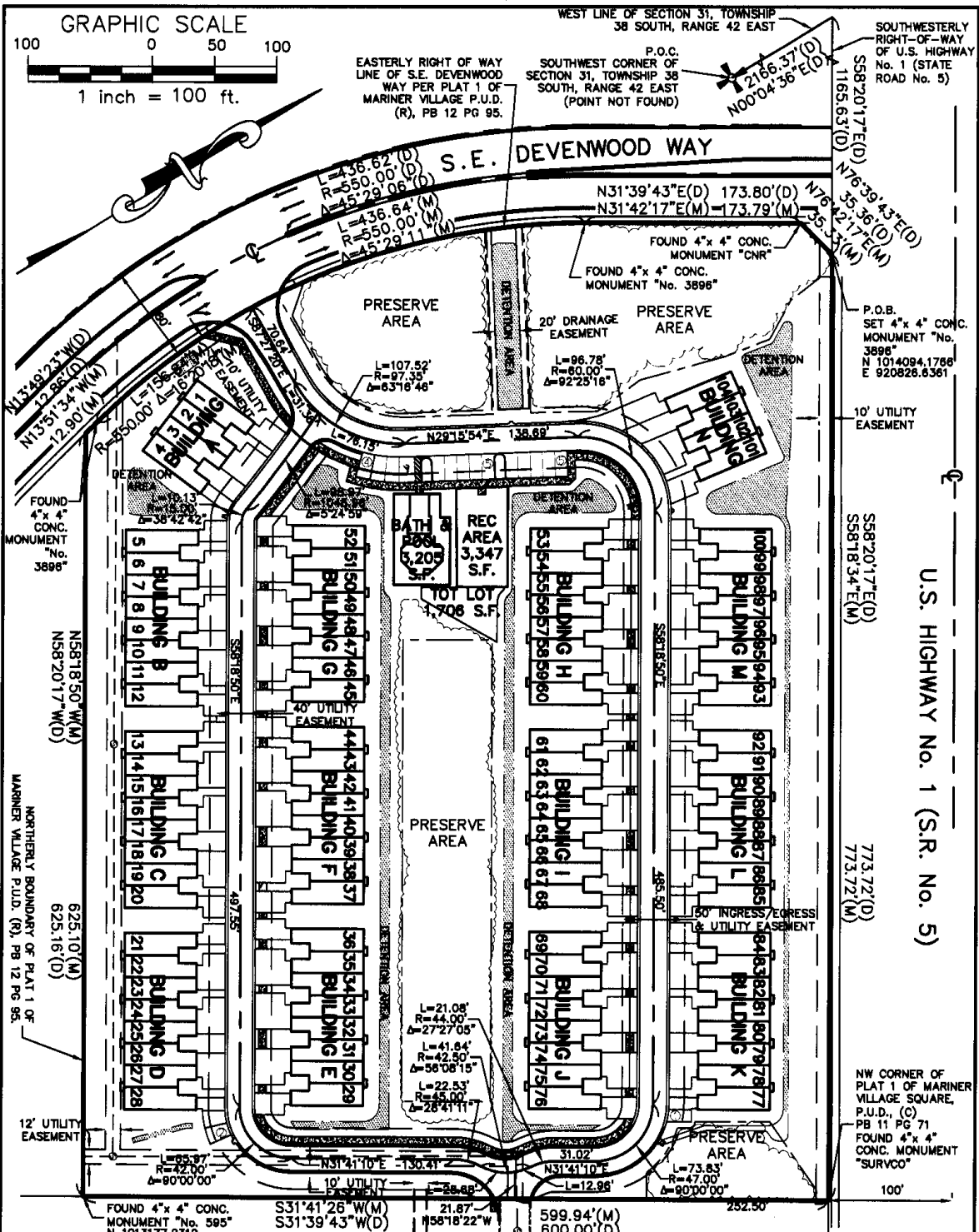
THE UNDERSIGNED, A PROFESSIONAL SURVEYOR AND MAPPER DULY AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA, HEREBY CERTIFY THAT:

ALL THE IMPROVEMENTS WHICH COMPRISE MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM, ARE AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE PROPOSED UNITS AND IMPROVEMENTS AS SHOWN ON THE ATTACHED EXHIBIT AND THAT THE IDENTIFICATION AND LOCATION OF EACH UNIT AND THE COMMON ELEMENTS CAN BE DETERMINED THEREON TOGETHER WITH THE PROVISIONS OF SAID MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM DESCRIBING THE PROPERTY. THE UNDERSIGNED ALSO CERTIFIES THAT ALL PROPOSED IMPROVEMENTS MUST BE INSPECTED AND RECTIFIED UPON COMPLETION IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 718 OF THE FLORIDA STATUTES.

[Signature]
STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No. 3896
DATE: 8/22/04

	CUNNINGHAM & DURRANCE CONSULTING ENGINEERS INC. 400 EXECUTIVE CTR. DR., # 108 WEST PALM BEACH, FLORIDA PHONE (561) 689-5455 FAX (561) 640-7815	LEGAL DESCRIPTION	CLIENT: UNITED HOMES INTERNATIONAL, INC. PROJECT: MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM
	DATE: 2-25-04 DRAWN: 8-1-04 REVIEW: 8-20-06		SCALE: NONE JOB No. Q2-083 PAGE: 1 OF 2

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SURVEYOR'S NOTES:

1. SURVEY IS NOT VALID WITHOUT EMBOSSED SURVEYOR'S SEAL
2. NO UNDERGROUND IMPROVEMENTS OR ENCROACHMENTS HAVE BEEN LOCATED UNLESS OTHERWISE NOTED.
3. MEASURED BEARINGS SHOWN HEREON BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EASTERN ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83), WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE FOR U.S. HIGHWAY No. 1 (S.R. No. 5) BEARING NORTH 58°18'34" WEST.
4. DEED BEARINGS SHOWN HERE ON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EASTERN ZONE, HORIZONTAL DATUM IS BASED UPON A THIRD ORDER CONTROL NETWORK ESTABLISHED FOR THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT IN OCTOBER 1983.
5. MEASURED BEARINGS AND COORDINATES ARE BASED ON MARTIN COUNTY CONTROL POINTS. F019 (NORTHING 985999.327, EASTING 928604.384) AND D15 (NORTHING 1023556.801, EASTING 911406.678) AND, GS43 (NORTHING 1009479.076, EASTING 932350.754).

LEGEND

⊕	CENTERLINE
P.B.	PLAT BOOK
P.G.	PAGE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
O.R.B.	OFFICIAL RECORD BOOK
S.F.	SQUARE FEET
AC.	ACRES
L	LENGTH OF CURVE
R	RADIUS
Δ	DELTA
TYP	TYPICAL
(D)	DEED
(M)	MEASURED

STUART H. CUNNINGHAM, PSM
 FLORIDA REGISTRATION No. 3896
 DATE: 8/28/06



CUNNINGHAM & DURRANCE
 CONSULTING ENGINEERS INC.
 400 EXECUTIVE CTR. DR., # 108
 WEST PALM BEACH, FLORIDA
 PHONE (561) 689-5455
 FAX (561) 640-7815

SITE PLAN

CLIENT:	UNITED HOMES INTERNATIONAL, INC.
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM
DATE:	8-28-06
REVISION:	8-1-06
SCALE:	1"=100'
JOB No.:	02-083
PAGE:	2 OF 2

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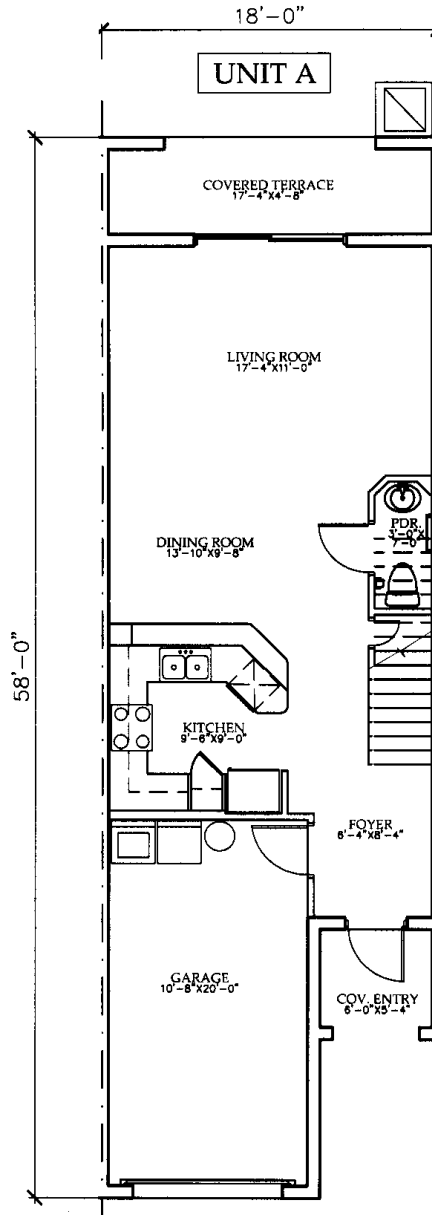
EXHIBIT 5

GRAPHIC DEPICTION OF IMPROVEMENTS

Mariner Village
Declaration

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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



FLOOR PLAN
1/8" = 1'

STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No. 3896
DATE: 8/28/04



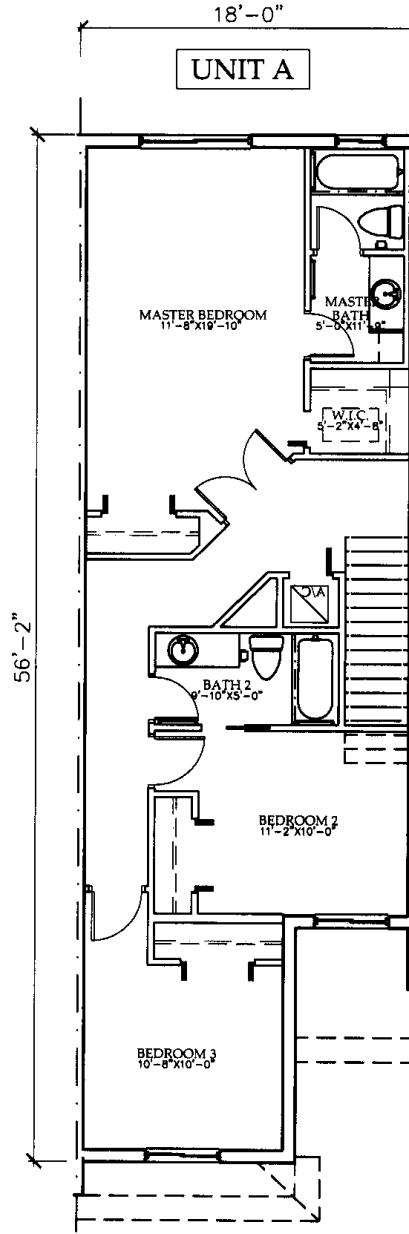
CUNNINGHAM & DURRANCE
CONSULTING ENGINEERS INC.
400 EXECUTIVE CTR. DR., # 108
WEST PALM BEACH, FLORIDA
PHONE (561) 689-5455
FAX (561) 640-7815

LOWER LEVEL
UNIT A

CLIENT:	UNITED HOMES INTERNATIONAL, INC.		
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE:	SCALE:	JOB No.	PAGE:
6-01-05	1/8" = 1'	02-083	1 OF 9

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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



FLOOR PLAN
1/8" = 1'

Stuart H. Cunningham
 STUART H. CUNNINGHAM, PSM
 FLORIDA REGISTRATION No. 3896
 DATE: 8/28/06



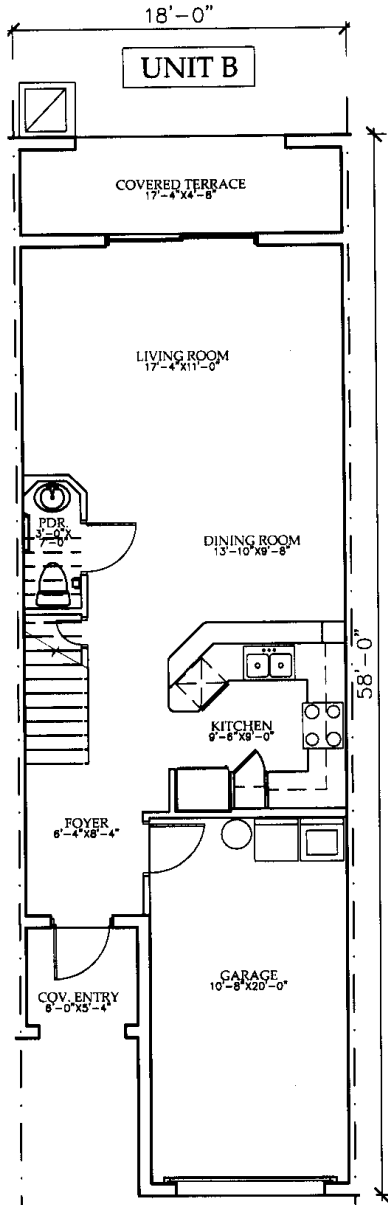
CUNNINGHAM & DURRANCE
 CONSULTING ENGINEERS INC.
 400 EXECUTIVE CTR. DR., # 108
 WEST PALM BEACH, FLORIDA
 PHONE (561) 689-5455
 FAX (561) 640-7815

UPPER LEVEL
 UNIT A

CLIENT:	UNITED HOMES INTERNATIONAL, INC.		
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE:	SCALE:	JOB No.	PAGE:
6-01-05	1/8" = 1'	02-083	2 OF 9

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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



FLOOR PLAN
1/8"=1'

Stuart H. Cunningham
 STUART H. CUNNINGHAM, PSM
 FLORIDA REGISTRATION No. 3896
 DATE: 6/28/01

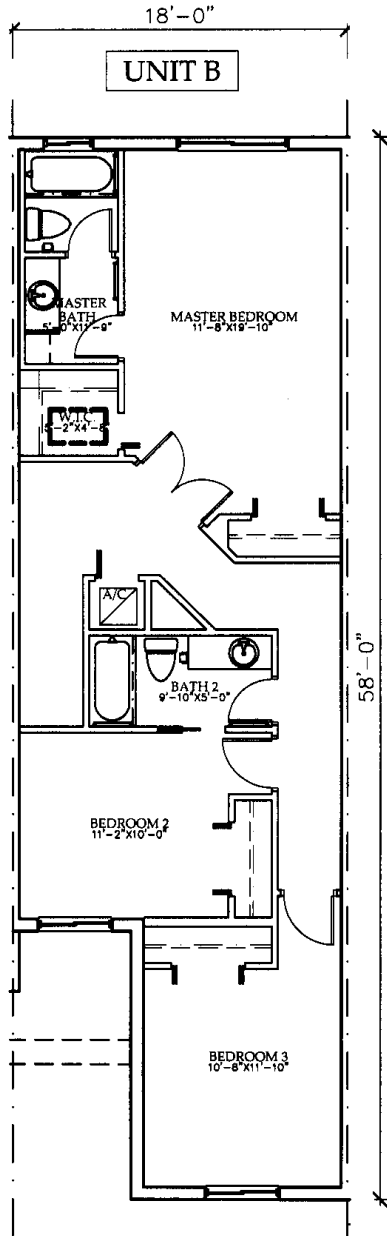
 **CUNNINGHAM & DURRANCE**
 CONSULTING ENGINEERS INC.
 400 EXECUTIVE CTR. DR., # 108
 WEST PALM BEACH, FLORIDA
 PHONE (561) 689-5455
 FAX (561) 640-7815

**LOWER LEVEL
 UNIT B**

CLIENT: UNITED HOMES INTERNATIONAL, INC.			
PROJECT: MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM			
DATE: 6-01-05	SCALE: 1/8"=1'	JOB No. 02-083	PAGE: 5 OF 9

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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



FLOOR PLAN
1/8" = 1'

STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No. 3896
DATE: 6/29/02



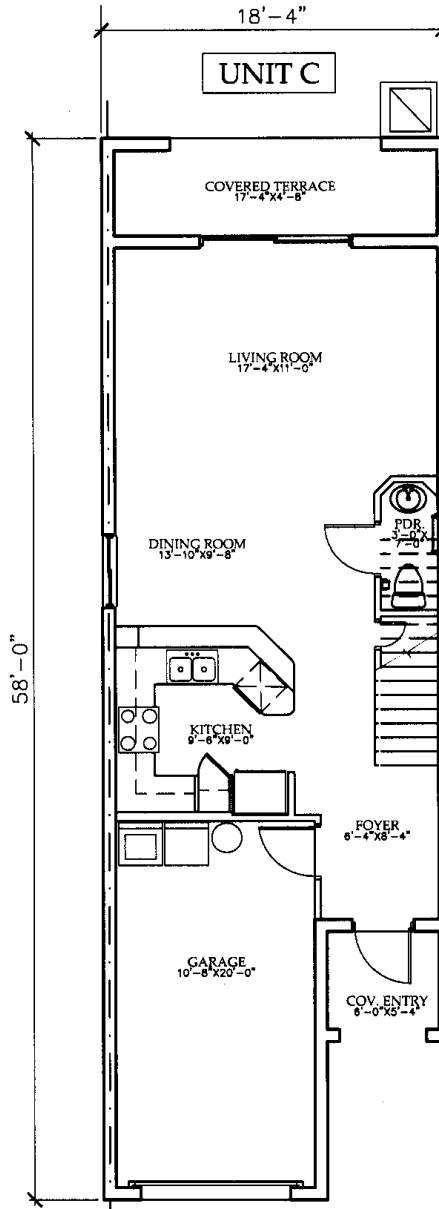
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WEST PALM BEACH, FLORIDA
PHONE (561) 689-5455
FAX (561) 640-7815

UPPER LEVEL
UNIT B

CLIENT:	UNITED HOMES INTERNATIONAL, INC.		
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE:	SCALE:	JOB No.	PAGE:
6-01-05	1/8" = 1'	02-083	4 OF 9

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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



FLOOR PLAN
1/8" = 1'

STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No. 3896

DATE: 8/2/00

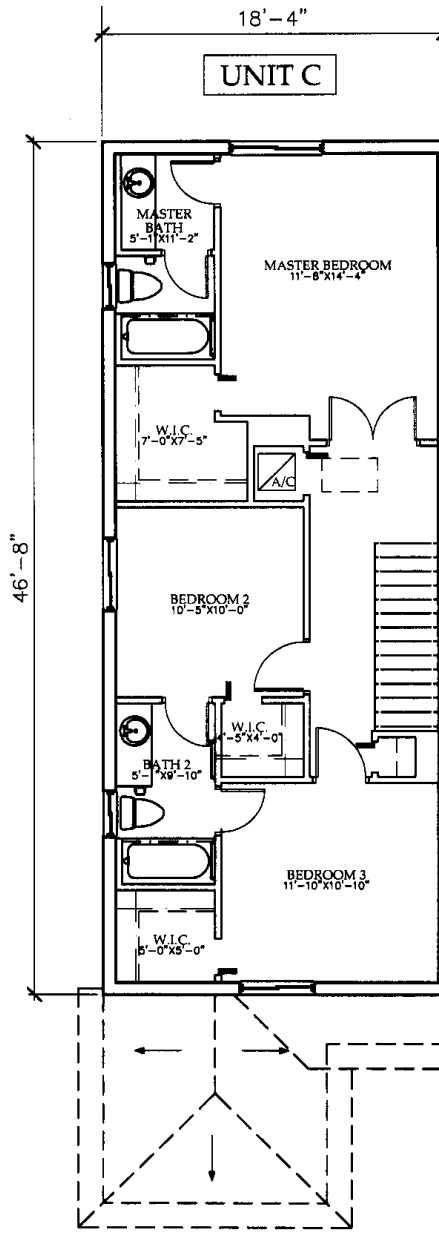
CUNNINGHAM & DURRANCE
CONSULTING ENGINEERS INC.
400 EXECUTIVE CTR. DR., # 108
WEST PALM BEACH, FLORIDA
PHONE (561) 689-5455
FAX (561) 640-7815

LOWER LEVEL
UNIT C

CLIENT: UNITED HOMES
INTERNATIONAL, INC.
PROJECT: MARINER VILLAGE OF MARTIN
COUNTY CONDOMINIUM
DATE: 6-01-05 SCALE: 1/8" = 1' JOB No. 02-083 PAGE: 5 OF 9

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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



FLOOR PLAN
1/8" = 1'

STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No: 3896
DATE: 8/28/04

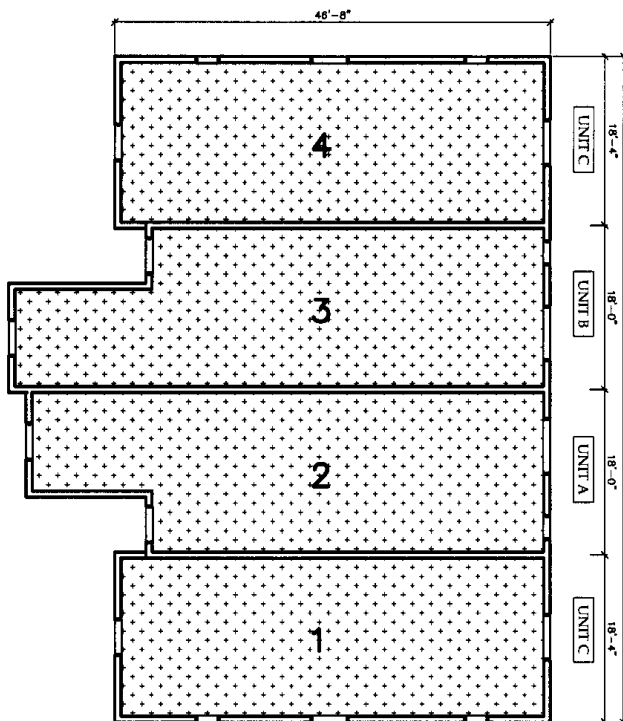
CUNNINGHAM & DURRANCE
CONSULTING ENGINEERS INC.
400 EXECUTIVE CTR. DR., # 108
WEST PALM BEACH, FLORIDA
PHONE (561) 689-5455
FAX (561) 640-7815

UPPER LEVEL
UNIT C

CLIENT:	UNITED HOMES INTERNATIONAL, INC.		
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE:	SCALE:	JOB No.	PAGE:
6-01-05	1/8" = 1'	02-083	6 OF 9

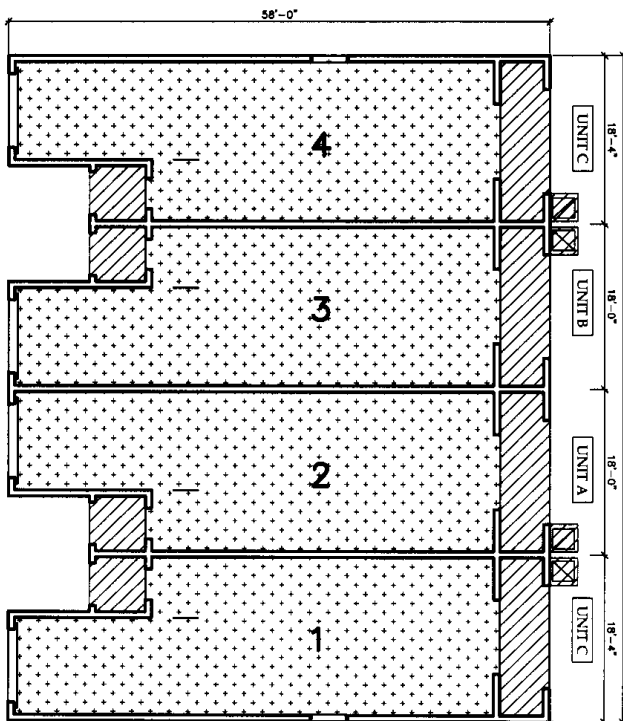
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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



UPPER LEVEL




1/16" = 1'



LOWER LEVEL

1/16" = 1'

LEGEND

-  COMMON ELEMENTS
-  LIMITED COMMON ELEMENTS
-  CONDOMINIUM UNITS

Stuart H. Cunningham
 STUART H. CUNNINGHAM, PSM
 FLORIDA REGISTRATION NO. 3896
 DATE: 8/28/02

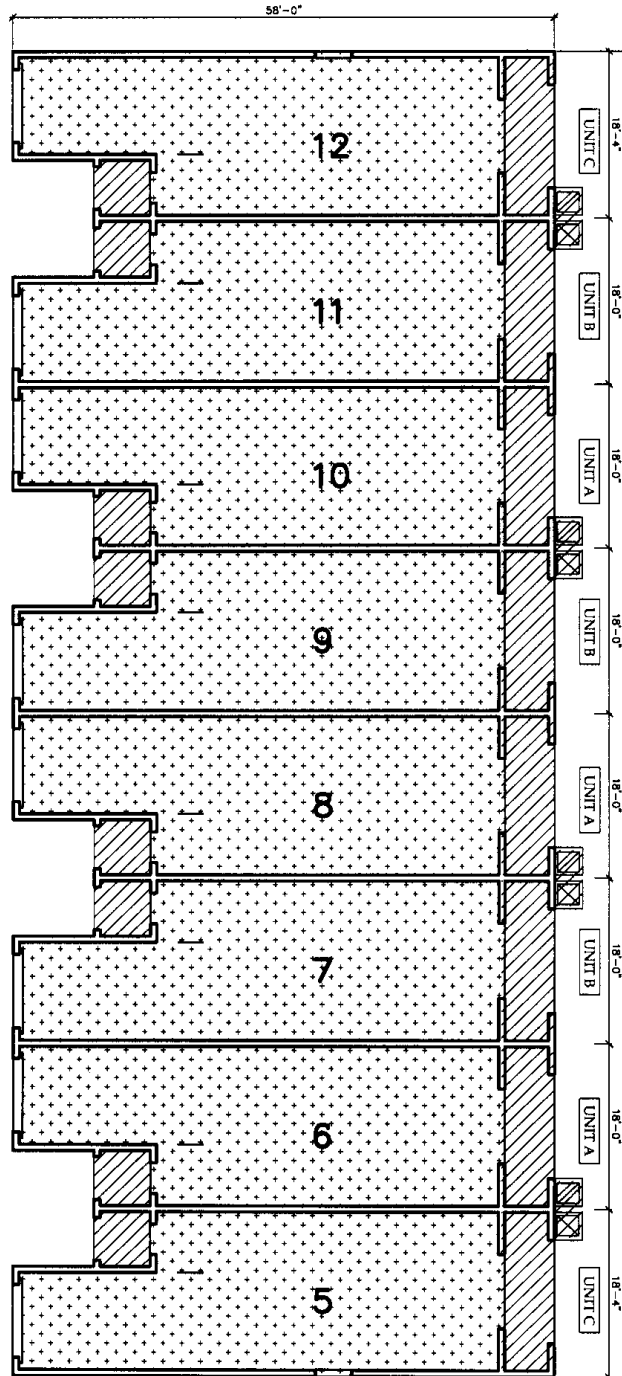
 **CUNNINGHAM & DURRANCE**
 CONSULTING ENGINEERS INC.
 400 EXECUTIVE CTR. DR., # 108
 WEST PALM BEACH, FLORIDA
 PHONE (561) 689-5455
 FAX (561) 640-7815

**4 UNIT BUILDINGS
 A & N**

CLIENT:	UNITED HOMES INTERNATIONAL, INC.		
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE:	SCALE:	JOB No.	PAGE:
6-01-05	1/16" = 1'	02-083	7 OF 9




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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM




LOWER LEVEL
1/8" = 1'

LEGEND

-  COMMON ELEMENTS
-  LIMITED COMMON ELEMENTS
-  CONDOMINIUM UNITS

STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No. 3896
DATE: 8/22/02



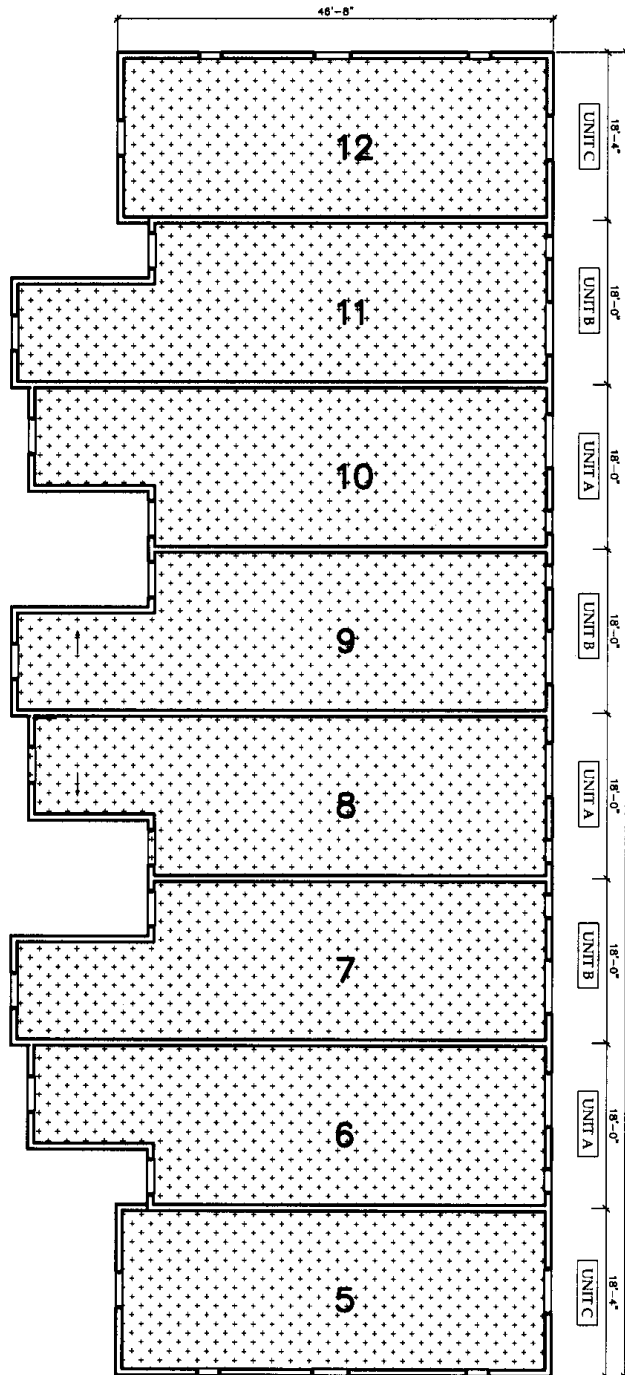
CUNNINGHAM & DURRANCE
CONSULTING ENGINEERS INC.
400 EXECUTIVE CTR. DR., # 108
WEST PALM BEACH, FLORIDA
PHONE (561) 689-5455
FAX (561) 640-7815

**8 UNIT BUILDINGS
B THRU M**

CLIENT: UNITED HOMES INTERNATIONAL, INC.		
PROJECT: MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE: 6-01-05	SCALE: 1/8" = 1'	JOB No. 02-083 PAGE: 8 OF 9




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MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM



UPPER LEVEL
1/8"=1'

LEGEND

-  COMMON ELEMENTS
-  LIMITED COMMON ELEMENTS
-  CONDOMINIUM UNITS

STUART H. CUNNINGHAM, PSM
FLORIDA REGISTRATION No. 3896

DATE: 8/20/02

 **CUNNINGHAM & DURRANCE**
CONSULTING ENGINEERS INC.
400 EXECUTIVE CTR. DR., # 108
WEST PALM BEACH, FLORIDA
PHONE (561) 689-5455
FAX (561) 640-7815

**8 UNIT BUILDINGS
B THRU M**

CLIENT:	UNITED HOMES INTERNATIONAL, INC.		
PROJECT:	MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM		
DATE:	SCALE:	JOB No.	PAGE:
6-01-05	1/8"=1'	02-083	9 OF 9

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EXHIBIT 6

PERMIT

Mariner Village
Declaration

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**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
SURFACE WATER MANAGEMENT
GENERAL PERMIT NO. 43-00660-S-02
DATE ISSUED: May 6, 2005**

Form #0942
08/95

PERMITTEE: MARTIN A TABOR TRUSTEE
7301 SE LOST RIVER RD
STUART, FL 33496

PROJECT DESCRIPTION: Construction and operation of a surface water management system to serve a 10.5 acre project known as Mariner Village Townhomes.

PROJECT LOCATION: MARTIN COUNTY, SEC 31 TWP 38S RGE 42E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Permit Application No. 040813-22, dated August 13, 2004. This action is taken pursuant to Rule 40E-1.606 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

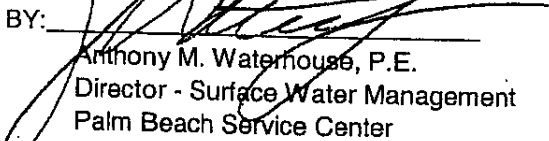
Based on the information provided, District rules have been adhered to and a Surface Water Management General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 Standard Limiting Conditions (See Pages : 2 - 3 of 4),
3. the attached 13 Special Conditions (See Pages : 4 - 4 of 4) and
4. the attached 2 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 6th day of May, 2005, in accordance with Section 120.60(3), Florida Statutes.

BY: 
Anthony M. Waterhouse, P.E.
Director - Surface Water Management
Palm Beach Service Center

Certified mail number 7003 3110 0004 9939 6472

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STANDARD LIMITING CONDITIONS

1. The permittee shall implement the work authorized in a manner so as to minimize any adverse impact of the works on fish, wildlife, natural environmental values, and water quality. The permittee shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.
2. Water quality data for the water discharged from the permittee's property or into surface waters of the State will be submitted to the District as required by Section 5.9, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District". Parameters to be monitored may include those listed in Chapter 62-302, F.A.C.. If water quality data is required, the permittee shall provide data on volumes of water discharged, including total volume discharged during the days of sampling and total monthly discharges from the property or into surface waters of the State.
3. This permit shall not relieve the permittee of any obligation to obtain necessary federal, State, local or special district approvals.
4. The operation phase of this permit will not become effective until the District's acceptance of certification of the completed surface water management system. The permittee shall request transfer of the permit to the responsible operation entity accepted by the District, if different from the permittee. The transfer request can be submitted concurrently with the construction completion certification.
5. All road elevations shall be set in accordance with the criteria set forth in Section 6.5, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
6. All building floor elevations shall be set in accordance with the criteria set forth in Section 6.4, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
7. Off-site discharges during construction and development will be made only through the facilities authorized by this permit.
8. A permit transfer to the operation phase shall not occur until a responsible entity meeting the requirement in Section 9.0, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District" has been established to operate and maintain the system. The entity must be provided with sufficient ownership or legal interest so that it has control over all water management facilities authorized herein.
9. The permit does not convey to the permittee any property rights or privileges other than those specified in the permit and Chapter 40E-4, F.A.C..
10. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance or use of any facility authorized by the permit.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Within 30 days of issuance of this permit, the permittee or authorized agent shall notify the District (via the supplied construction commencement notice or equivalent) of the actual or anticipated construction start date and the expected completion date.
13. When the duration of construction exceeds one year, the permittee or authorized agent shall submit

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STANDARD LIMITING CONDITIONS

- construction status reports on an annual basis (via the supplied annual status report or equivalent) beginning one year after the initial commencement of construction.
14. Within 30 days after completion of construction of the surface water management system, the permittee or authorized agent shall file a written statement of completion and certification by a Florida registered professional engineer. These statements must specify the actual date of construction completion and must certify that all facilities have been constructed in substantial conformance with the plans and specifications approved by the District (via the supplied construction completion/certification or equivalent). The construction completion certification must include, at a minimum, existing elevations, locations and dimensions of the components of the water management facilities. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted.
 15. Within 30 days of any sale, conveyance or other transfer of any of the land which is proposed for development under the authorization of this permit, the permittee shall notify the District of such transfer in writing via either Form 0483, Request for Permit Transfer; or Form 0920, Request for Transfer of Surface Water Management Construction Phase to Operation Phase (to be completed and submitted by the operating entity), in accordance with Sections 40E-1.6105 AND 40E-4.351, F.A.C..
 16. A prorated share of surface water management retention/detention areas, sufficient to provide the required flood protection and water quality treatment, must be provided prior to occupancy of any building or residence.
 17. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
 18. It is the responsibility of the permittee to insure that adverse off-site water resource related impacts do not occur during construction.
 19. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(4), F.A.C..

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40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified pursuant to Rules 40E-4.331 and 40E-4.441, F.A.C., the duration of a surface water management permit issued under this chapter is as follows:

(a) Two years from the date of issuance for Conceptual Approval, unless within that period an application for a construction and operation permit is filed for any portion of the project. If an application for a construction and operation permit is filed, then the Conceptual Approval remains valid until final action is taken on the application. If the application is granted, then the Conceptual Approval is valid for an additional two years from the date of issuance of the construction and operation permit. Conceptual Approvals which have no applications for construction and operation filed for a period of two years will expire automatically.

(b) Five years from the date of issuance for a construction permit.

(c) Perpetual for an operation permit.

(2) The Governing Board shall issue permit extensions provided that a permittee files a written request with the District showing good cause. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(3) For a Conceptual Approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive amendment, the duration of the Conceptual Approval shall be two years from whichever one of the following occurs at the latest date:

(a) the effective date of the local government's comprehensive plan amendment,

(b) the effective date of the local government development order, or

(c) the date on which the District issues the Conceptual Approval, or

(d) the latest date of the resolution of any Chapter 120 or other legal appeals.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Modifications to construction permits issued pursuant to a formal permit application extend the duration of the permit for three years from the date of issuance of the modification. Construction permit modifications do not extend the duration of a Conceptual Approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416(1) F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on May 6, 2010.
2. Operation of the surface water management system shall be the responsibility of MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:
 - Structure: S-2.2
 1-3" dia. CIRCULAR ORIFICE with invert at elev. 14' NGVD.
 1-drop inlet with crest at elev. 16' NGVD.
 Receiving body : Mariner Village Master System
 Control elev : 14 feet NGVD.
 - Structure: S-4
 1-3" dia. CIRCULAR ORIFICE with invert at elev. 14' NGVD.
 1-drop inlet with crest at elev. 16' NGVD.
 Receiving body : Mariner Village Master System
 Control elev : 14 feet NGVD.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
10. Minimum building floor elevation: BASIN: Site - 18.00 feet NGVD.
11. Minimum road crown elevation: Basin: Site - 16.20 feet NGVD.
12. Minimum parking lot elevation: Basin: Site - 16.20 feet NGVD.
13. All special conditions and exhibits previously stipulated by permit number 43-00660-S remain in effect unless otherwise revised and shall apply to this modification.

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NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

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any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

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publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

- (a) the caption shall read:
Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;

- (c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

- (d) the applicable rule or portion of the rule;

- (e) the citation to the statute the rule is implementing;

- (f) the type of action requested;

- (g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;

- (h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

- (i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

- a) the specific facts that make the situation an emergency; and

- b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;

- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

- (c) A statement of when and how the petitioner received notice of the agency decision;

- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

- (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

- (f) A demand for relief.

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28-106.301 INITIATION OF PROCEEDINGS
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
 - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

- (1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.
- (2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

- (b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

- (c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

- (d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

- (e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

- (1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.
- (2) the 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

- (3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

- (1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.
- (2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

87 2 116
Revised August, 2000

Last Date For Agency Action: 16-MAY-2005

GENERAL SURFACE WATER MANAGEMENT STAFF REPORT

Project Name: Mariner Village Town Homes
Permit No.: 43-00660-S-02
Application No.: 040813-22
Application Type: Surface Water Management (General Permit Modification)
Location: Martin County, S31/T38S/R42E
Permittee : Martin A Tabor Trustee
Operating Entity : Mariner Village Of Martin County Condominium Assoc.
Project Area: 10.5 acres
Project Land Use: Residential
Commercial
Drainage Basin: BASIN 2
Receiving Body: Mariner Village Master System
Special Drainage District: NA
Conservation Easement To District : No
Sovereign Submerged Lands: No

Class: N/A

PROJECT PURPOSE:

This application is a request for a modification of a Surface Water Management Permit to authorize construction and operation of a surface water management system to serve a 10.5-acre residential project known as Mariner Village Town Homes. Staff recommends approval with conditions.

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The site is located in Martin County, west of U.S. 1 within Basin 1B of the Mariner Village PUD (43-00660-S). Other than an existing graded road, the site is currently undeveloped. There are no wetlands or other surface waters located within or affected by the proposed project.

PROPOSED PROJECT:

Authorization for construction and operation has been requested for a Surface Water Management (SWM) system to serve a 10.5 acre residential development known as Mariner Village Town Homes. The property was originally included in the design of the Mariner Village PUD (43-00660-S) as a future commercial parcel with a maximum impervious area of 70% and dry detention equivalent to 1/2-inch over the parcel. This project has been designed with 42% impervious area and provides dry detention equivalent of 0.59 inches over the project area. The applicant's engineer has submitted calculations demonstrating that the proposed project will not significantly alter the design stages in the remainder of Mariner Village.

LAND USE:

**Construction:
Project:**

This Phase

Building Coverage	2.22	acres
Natural Areas	1.74	acres
Open Space	6.01	acres
Water Mgmt Acreage	.53	acres
Total:	10.50	

WATER QUANTITY:

Discharge Rate :

The proposed project is consistent with the design assumptions for the master surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 12.2 inches

Finished Floors :

As shown in the following table and the attached exhibits, minimum finished floor elevations have been set at or above the calculated design storm flood elevation.

Building Storm Frequency : 100 YEAR-3 DAY

Design Rainfall : 14.9 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Finished Floors (ft, NGVD)	FEMA Elevation (ft, NGVD)
Site	17.61	18	N/A

Road Design :

As shown in the following table and the attached exhibits, minimum road center lines have been set at or above the calculated design storm flood elevation.

Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 7 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Road Crown (ft, NGVD)
Site	16.18	16.2

Parking Lot Design :

As shown in the following table and the attached exhibits, minimum parking lot elevations have been set at or above the calculated design storm flood elevation.

Parking Lot Storm Frequency : 10 YEAR-1 DAY

Design Rainfall 7 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Parking Elev. (ft, NGVD)
Site	16.18	16.2

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD)	WSWT Ctrl Elev (ft, NGVD)	Method Of Determination
Site	10.50	14	14.00	Previously Permitted

Receiving Body :

Basin	Str.#	Receiving Body
Site	S-2.2	Mariner Village Master System
Site	S-4	Mariner Village Master System

Water Quality Structures: Note: The units for all the elevation values of structures are (ft, NGVD)

Bleeders:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
Site	S-2.2	1	Circular Orifice				3"		14
Site	S-4	1	Circular Orifice				3"		14

Inlets:

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
Site	S-2.2	1	Inlet				16
Site	S-4	1	Inlet				16

WATER QUALITY :

No adverse water quality impacts are anticipated as a result of the proposed project. Water quality treatment volume in excess of the required 2.5 inches over the total impervious area is provided in the existing master system lakes and the proposed dry detention area.

Basin	Treatment Method		Vol Req.d (ac-ft)	Vol Prov'd (ac-ft)
Site	Treatment	Dry Detention	.44	.52

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that groundwater wells will be used as a source for irrigation water for the project. Water Use application number 040813-10 is being processed concurrently for this project.

The applicant has indicated that dewatering is required for construction of this project. Water Use application number 040813-5 is being processed concurrently for this project.

Historical/Archeological Resources:

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

DIVISION APPROVAL:

SURFACE WATER MANAGEMENT:


Benita M. Wheeler, P.E.

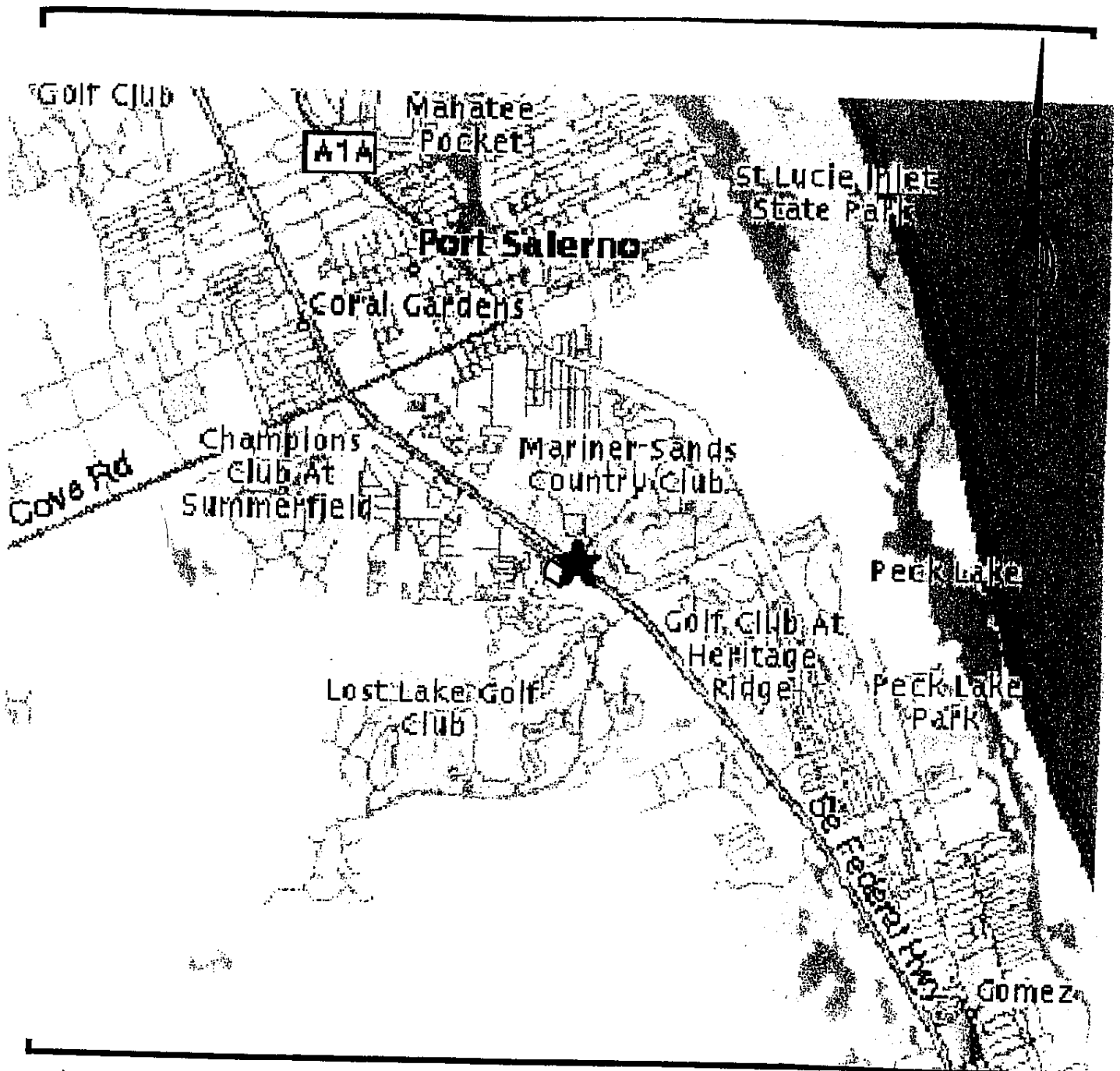
Hugo A. Carter, P.E.

NATURAL RESOURCE MANAGEMENT:


Donald L. Medellin

DATE: 5 May 05

DATE: 5 May 05



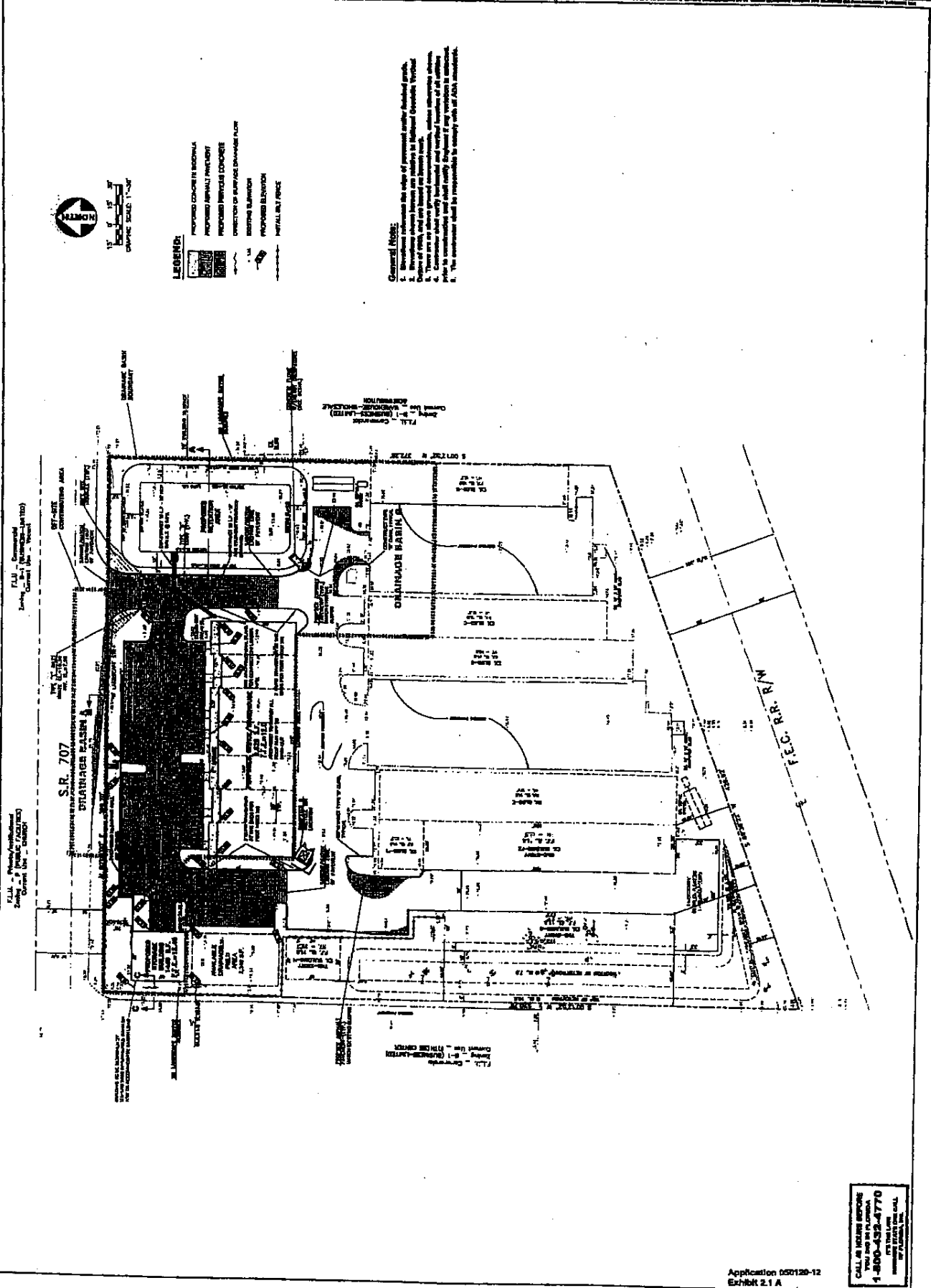
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**Mariner Village Town Homes
LOCATION MAP**

Application 040813-22

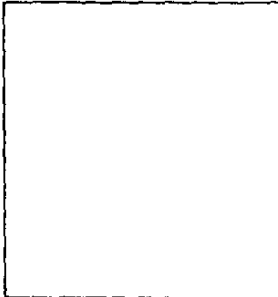
Exhibit 1

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CALL OR FAX FOR MORE INFORMATION
 VISIT OUR WEBSITE
1-800-432-4770
 WWW.RJEA.COM

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SECTION A-A - RETENTION AREA

SECTION B-B

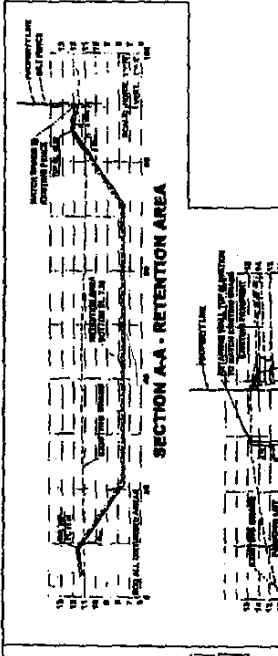
SECTION C-C

NEW PAVEMENT SECTION WITHIN FOOT ROW

TYPICAL TRENCH DETAIL

TYPICAL SIDEWALK

STOP SIGN DETAILS



SECTION A-A - RETENTION AREA

SECTION B-B

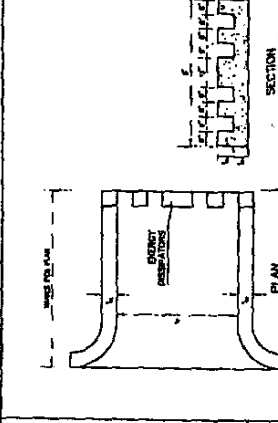
SECTION C-C

NEW PAVEMENT SECTION WITHIN FOOT ROW

TYPICAL TRENCH DETAIL

TYPICAL SIDEWALK

STOP SIGN DETAILS

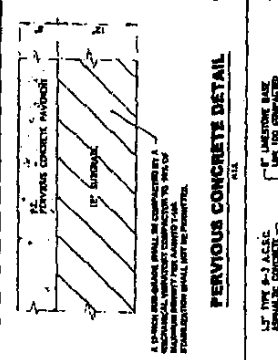


CONCRETE FLUME DETAIL WITH ENERGY DISSIPATORS

TYPICAL WHEEL-STOP DETAIL

SAW CUT DETAIL

STOP SIGN DETAILS



PERVIOUS CONCRETE DETAIL

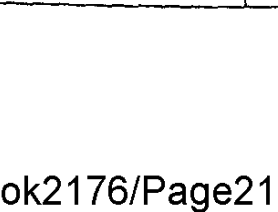
ASPHALT PAVEMENT SECTION

FOOT INDEX 300 TYPE 'D' CURB

TYPICAL WHEEL-STOP DETAIL

SAW CUT DETAIL

STOP SIGN DETAILS



PERVIOUS CONCRETE DETAIL

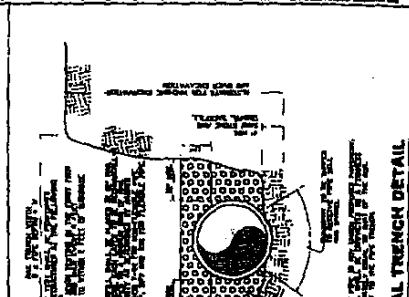
ASPHALT PAVEMENT SECTION

FOOT INDEX 300 TYPE 'D' CURB

TYPICAL WHEEL-STOP DETAIL

SAW CUT DETAIL

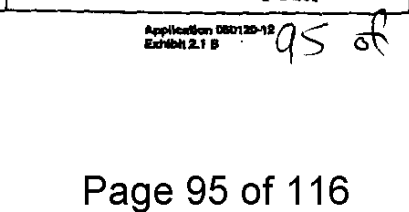
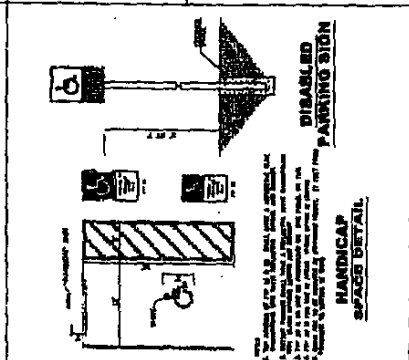
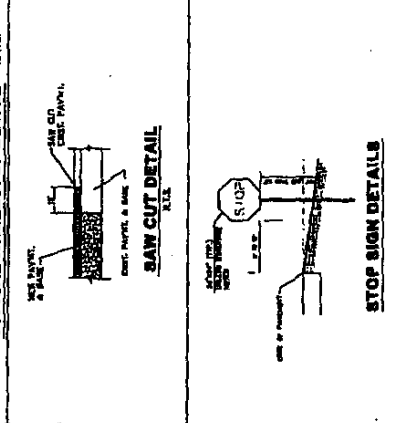
STOP SIGN DETAILS



TYPICAL TRENCH DETAIL

TYPICAL SIDEWALK

STOP SIGN DETAILS



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STAFF REPORT DISTRIBUTION LIST

MARINER VILLAGE TOWN HOMES

Application No: 040813-22

Permit No: 43-00660-S-02

INTERNAL DISTRIBUTION

- X Kelly Cranford, P.E. - 4220
- X Robin Burgess - 4250
- X Benita M. Whalen, P.E. - 2270
- X Donald L. Medellin - 4250
- X ERC Martin/St. Lucie - 2280
- X Permit File

EXTERNAL DISTRIBUTION

- X Permittee - Martin A Tabor Trustee
- X Engr Consultant - Cunningham & Durrance Consulting Engineers Inc

GOVERNMENT AGENCIES

- X Div of Recreation and Park - District 7 - FDEP
- X Florida Fish & Wildlife Conservation Commission - Imperiled Species Mgmt Section
- X Martin County - Community Development Director
- X Martin County - County Administrator
- X Martin County Board of County Commissioners
- X Martin County Engineer

OTHER INTERESTED PARTIES

- X Water Management Institute - Michael N. Vanatta

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**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
SURFACE WATER MANAGEMENT
GENERAL PERMIT NO. 43-00660-S-02
DATE ISSUED: May 6, 2005**

Form #0942
08/95

PERMITTEE: MARTIN A TABOR TRUSTEE
7301 SE LOST RIVER RD
STUART, FL 33496

PROJECT DESCRIPTION: Construction and operation of a surface water management system to serve a 10.5 acre project known as Mariner Village Townhomes.

PROJECT LOCATION: MARTIN COUNTY, SEC 31 TWP 38S RGE 42E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Permit Application No. 040813-22, dated August 13, 2004. This action is taken pursuant to Rule 40E-1.606 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

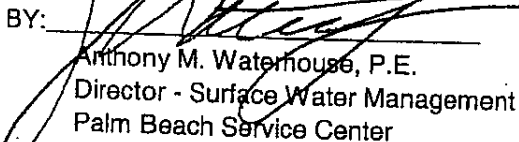
Based on the information provided, District rules have been adhered to and a Surface Water Management General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 Standard Limiting Conditions (See Pages : 2 - 3 of 4),
3. the attached 13 Special Conditions (See Pages : 4 - 4 of 4) and
4. the attached 2 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 6th day of May, 2005, in accordance with Section 120.60(3), Florida Statutes.

BY: 
Anthony M. Waterhouse, P.E.
Director - Surface Water Management
Palm Beach Service Center

Certified mail number 7003 3110 0004 9939 6472

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STANDARD LIMITING CONDITIONS

1. The permittee shall implement the work authorized in a manner so as to minimize any adverse impact of the works on fish, wildlife, natural environmental values, and water quality. The permittee shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.
2. Water quality data for the water discharged from the permittee's property or into surface waters of the State will be submitted to the District as required by Section 5.9, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District". Parameters to be monitored may include those listed in Chapter 62-302, F.A.C.. If water quality data is required, the permittee shall provide data on volumes of water discharged, including total volume discharged during the days of sampling and total monthly discharges from the property or into surface waters of the State.
3. This permit shall not relieve the permittee of any obligation to obtain necessary federal, State, local or special district approvals.
4. The operation phase of this permit will not become effective until the District's acceptance of certification of the completed surface water management system. The permittee shall request transfer of the permit to the responsible operation entity accepted by the District, if different from the permittee. The transfer request can be submitted concurrently with the construction completion certification.
5. All road elevations shall be set in accordance with the criteria set forth in Section 6.5, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
6. All building floor elevations shall be set in accordance with the criteria set forth in Section 6.4, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
7. Off-site discharges during construction and development will be made only through the facilities authorized by this permit.
8. A permit transfer to the operation phase shall not occur until a responsible entity meeting the requirement in Section 9.0, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District" has been established to operate and maintain the system. The entity must be provided with sufficient ownership or legal interest so that it has control over all water management facilities authorized herein.
9. The permit does not convey to the permittee any property rights or privileges other than those specified in the permit and Chapter 40E-4, F.A.C..
10. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance or use of any facility authorized by the permit.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Within 30 days of issuance of this permit, the permittee or authorized agent shall notify the District (via the supplied construction commencement notice or equivalent) of the actual or anticipated construction start date and the expected completion date.
13. When the duration of construction exceeds one year, the permittee or authorized agent shall submit

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STANDARD LIMITING CONDITIONS

construction status reports on an annual basis (via the supplied annual status report or equivalent) beginning one year after the initial commencement of construction.

14. Within 30 days after completion of construction of the surface water management system, the permittee or authorized agent shall file a written statement of completion and certification by a Florida registered professional engineer. These statements must specify the actual date of construction completion and must certify that all facilities have been constructed in substantial conformance with the plans and specifications approved by the District (via the supplied construction completion/certification or equivalent). The construction completion certification must include, at a minimum, existing elevations, locations and dimensions of the components of the water management facilities. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted.
15. Within 30 days of any sale, conveyance or other transfer of any of the land which is proposed for development under the authorization of this permit, the permittee shall notify the District of such transfer in writing via either Form 0483, Request for Permit Transfer; or Form 0920, Request for Transfer of Surface Water Management Construction Phase to Operation Phase (to be completed and submitted by the operating entity), in accordance with Sections 40E-1.6105 AND 40E-4.351, F.A.C..
16. A prorated share of surface water management retention/detention areas, sufficient to provide the required flood protection and water quality treatment, must be provided prior to occupancy of any building or residence.
17. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
18. It is the responsibility of the permittee to insure that adverse off-site water resource related impacts do not occur during construction.
19. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(4), F.A.C..

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40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified pursuant to Rules 40E-4.331 and 40E-4.441, F.A.C., the duration of a surface water management permit issued under this chapter is as follows:

(a) Two years from the date of issuance for Conceptual Approval, unless within that period an application for a construction and operation permit is filed for any portion of the project. If an application for a construction and operation permit is filed, then the Conceptual Approval remains valid until final action is taken on the application. If the application is granted, then the Conceptual Approval is valid for an additional two years from the date of issuance of the construction and operation permit. Conceptual Approvals which have no applications for construction and operation filed for a period of two years will expire automatically.

(b) Five years from the date of issuance for a construction permit.

(c) Perpetual for an operation permit.

(2) The Governing Board shall issue permit extensions provided that a permittee files a written request with the District showing good cause. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(3) For a Conceptual Approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive amendment, the duration of the Conceptual Approval shall be two years from whichever one of the following occurs at the latest date:

(a) the effective date of the local government's comprehensive plan amendment,

(b) the effective date of the local government development order, or

(c) the date on which the District issues the Conceptual Approval, or

(d) the latest date of the resolution of any Chapter 120 or other legal appeals.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Modifications to construction permits issued pursuant to a formal permit application extend the duration of the permit for three years from the date of issuance of the modification. Construction permit modifications do not extend the duration of a Conceptual Approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416(1) F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94.

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SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on May 6, 2010.
2. Operation of the surface water management system shall be the responsibility of MARINER VILLAGE OF MARTIN COUNTY CONDOMINIUM ASSOCIATION, INC.. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

Structure: S-2.2
1-3" dia. CIRCULAR ORIFICE with invert at elev. 14' NGVD.
1-drop inlet with crest at elev. 16' NGVD.
Receiving body : Mariner Village Master System
Control elev : 14 feet NGVD.

Structure: S-4
1-3" dia. CIRCULAR ORIFICE with invert at elev. 14' NGVD.
1-drop inlet with crest at elev. 16' NGVD.
Receiving body : Mariner Village Master System
Control elev : 14 feet NGVD.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
10. Minimum building floor elevation: BASIN: Site - 18.00 feet NGVD.
11. Minimum road crown elevation: Basin: Site - 16.20 feet NGVD.
12. Minimum parking lot elevation: Basin: Site - 16.20 feet NGVD.
13. All special conditions and exhibits previously stipulated by permit number 43-00660-S remain in effect unless otherwise revised and shall apply to this modification.

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NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

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any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

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publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

- (a) the caption shall read:
Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;

- (c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

- (d) the applicable rule or portion of the rule;

- (e) the citation to the statute the rule is implementing;

- (f) the type of action requested;

- (g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;

- (h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

- (i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

- a) the specific facts that make the situation an emergency; and

- b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;

- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

- (c) A statement of when and how the petitioner received notice of the agency decision;

- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

- (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

- (f) A demand for relief.

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28-106.301 INITIATION OF PROCEEDINGS
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
 - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

- (1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.
- (2) The 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

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Revised August, 2000

Last Date For Agency Action: 16-MAY-2005

GENERAL SURFACE WATER MANAGEMENT STAFF REPORT

Project Name: Mariner Village Town Homes
Permit No.: 43-00660-S-02
Application No.: 040813-22
Application Type: Surface Water Management (General Permit Modification)
Location: Martin County, S31/T38S/R42E
Permittee : Martin A Tabor Trustee
Operating Entity : Mariner Village Of Martin County Condominium Assoc.
Project Area: 10.5 acres
Project Land Use: Residential
Commercial
Drainage Basin: BASIN 2
Receiving Body: Mariner Village Master System
Special Drainage District: NA
Conservation Easement To District : No
Sovereign Submerged Lands: No

Class: N/A

PROJECT PURPOSE:

This application is a request for a modification of a Surface Water Management Permit to authorize construction and operation of a surface water management system to serve a 10.5-acre residential project known as Mariner Village Town Homes. Staff recommends approval with conditions.

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The site is located in Martin County, west of U.S. 1 within Basin 1B of the Mariner Village PUD (43-00660-S). Other than an existing graded road, the site is currently undeveloped. There are no wetlands or other surface waters located within or affected by the proposed project.

PROPOSED PROJECT:

Authorization for construction and operation has been requested for a Surface Water Management (SWM) system to serve a 10.5 acre residential development known as Mariner Village Town Homes. The property was originally included in the design of the Mariner Village PUD (43-00660-S) as a future commercial parcel with a maximum impervious area of 70% and dry detention equivalent to 1/2-inch over the parcel. This project has been designed with 42% impervious area and provides dry detention equivalent of 0.59 inches over the project area. The applicant's engineer has submitted calculations demonstrating that the proposed project will not significantly alter the design stages in the remainder of Mariner Village.

LAND USE:

**Construction:
Project:**

	This Phase	
Building Coverage	2.22	acres
Natural Areas	1.74	acres
Open Space	6.01	acres
Water Mgmt Acreage	.53	acres
Total:	10.50	

WATER QUANTITY:

Discharge Rate :

The proposed project is consistent with the design assumptions for the master surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 12.2 inches

Finished Floors :

As shown in the following table and the attached exhibits, minimum finished floor elevations have been set at or above the calculated design storm flood elevation.

Building Storm Frequency : 100 YEAR-3 DAY

Design Rainfall : 14.9 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Finished Floors (ft, NGVD)	FEMA Elevation (ft, NGVD)
Site	17.61	18	N/A

Road Design :

As shown in the following table and the attached exhibits, minimum road center lines have been set at or above the calculated design storm flood elevation.

Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 7 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Road Crown (ft, NGVD)
Site	16.18	16.2

Parking Lot Design :

As shown in the following table and the attached exhibits, minimum parking lot elevations have been set at or above the calculated design storm flood elevation.

Parking Lot Storm Frequency : 10 YEAR-1 DAY

Design Rainfall 7 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Parking Elev. (ft, NGVD)
Site	16.18	16.2

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD)	WSWT Ctrl Elev (ft, NGVD)	Method Of Determination
Site	10.50	14	14.00	Previously Permitted

Receiving Body :

Basin	Str.#	Receiving Body
Site	S-2.2	Mariner Village Master System
Site	S-4	Mariner Village Master System

Water Quality Structures: Note: The units for all the elevation values of structures are (ft, NGVD)

Bleeders:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
Site	S-2.2	1	Circular Orifice				3"		14
Site	S-4	1	Circular Orifice				3"		14

Inlets:

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
Site	S-2.2	1	Inlet				16
Site	S-4	1	Inlet				16

WATER QUALITY :

No adverse water quality impacts are anticipated as a result of the proposed project. Water quality treatment volume in excess of the required 2.5 inches over the total impervious area is provided in the existing master system lakes and the proposed dry detention area.

Basin	Treatment Method	Vol Req'd (ac-ft)	Vol Prov'd (ac-ft)
Site	Treatment Dry Detention	.44	.52

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that groundwater wells will be used as a source for irrigation water for the project. Water Use application number 040813-10 is being processed concurrently for this project.

The applicant has indicated that dewatering is required for construction of this project. Water Use application number 040813-5 is being processed concurrently for this project.

Historical/Archeological Resources:

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

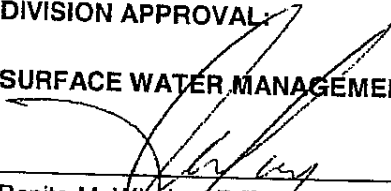
Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

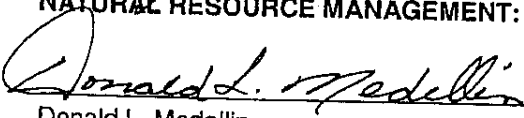
DIVISION APPROVAL:

SURFACE WATER MANAGEMENT:


Benita M. Whalen, P.E.

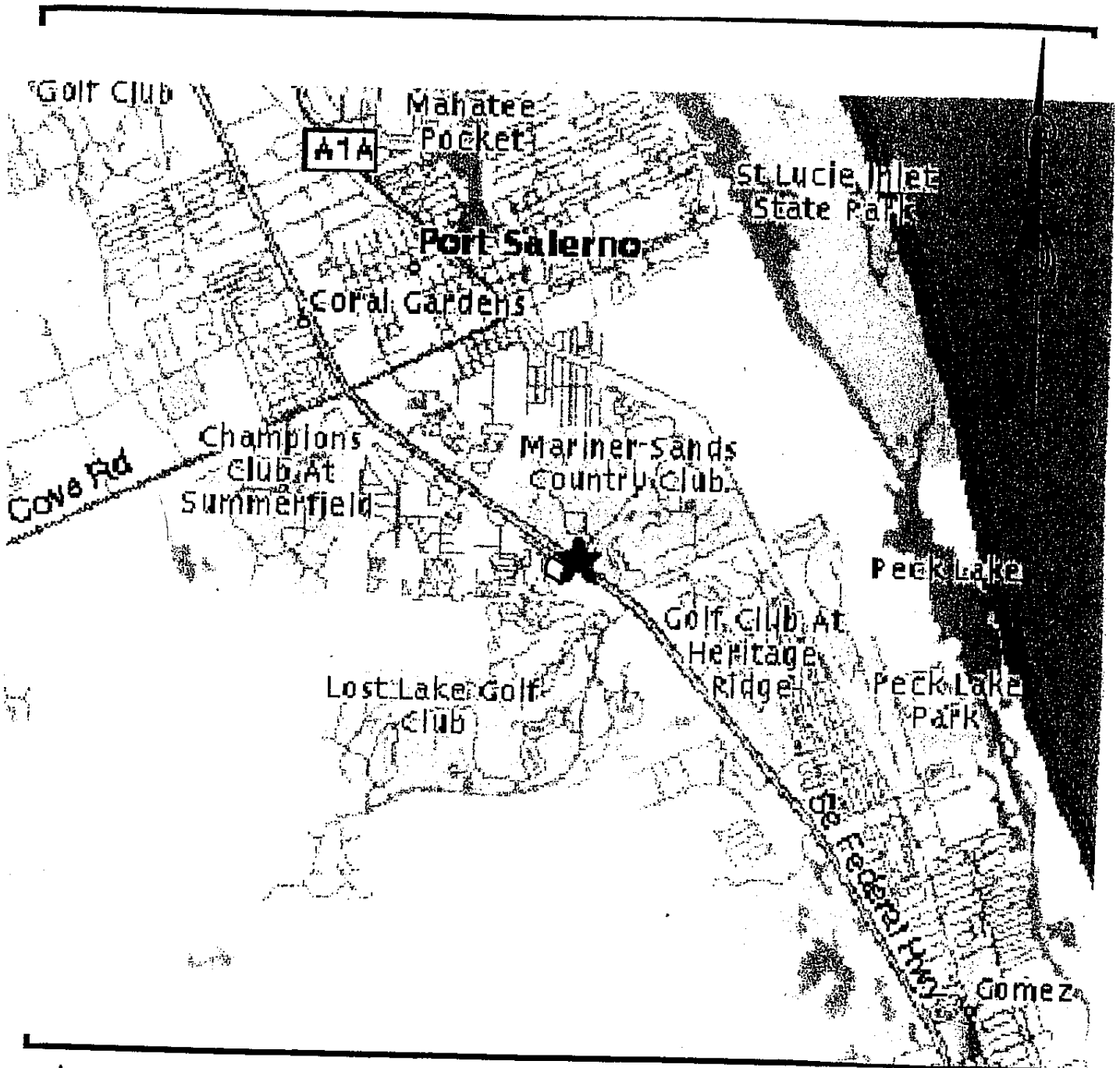
Hugo A. Cantu, P.E.

NATURAL RESOURCE MANAGEMENT:


Donald L. Medellin

DATE: 5 May 05

DATE: 5 May 05



↑
N
(no scale)

**Mariner Village Town Homes
LOCATION MAP**

Application 040813-22

Exhibit 1

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Rudd Jones, P.E.
Associates, P.A.
Consulting Engineers
1001 S.E. Owen Blvd., Suite 208
Maitland, Florida 32751



PROJECT NO.	NO. 40314
DATE	JAN 1 2008
SCALE	AS SHOWN
DESCRIPTION	STATION SQUARE
DRAWN BY	...
CHECKED BY	...
DATE	...
PROJECT	...
OWNER	...
LOCATION	...
DATE	...
PROJECT	...
OWNER	...

NO. 40314
JAN 1 2008
Rudd Jones, P.E.
Associates, P.A.

SCALE
VERIFICATION
DATE AND LOCATION
GENERAL NOTES

Station Square
Located in the City of Saint, Florida
Grading, Paving and

DATE: 01/01/2008
SCALE: AS SHOWN

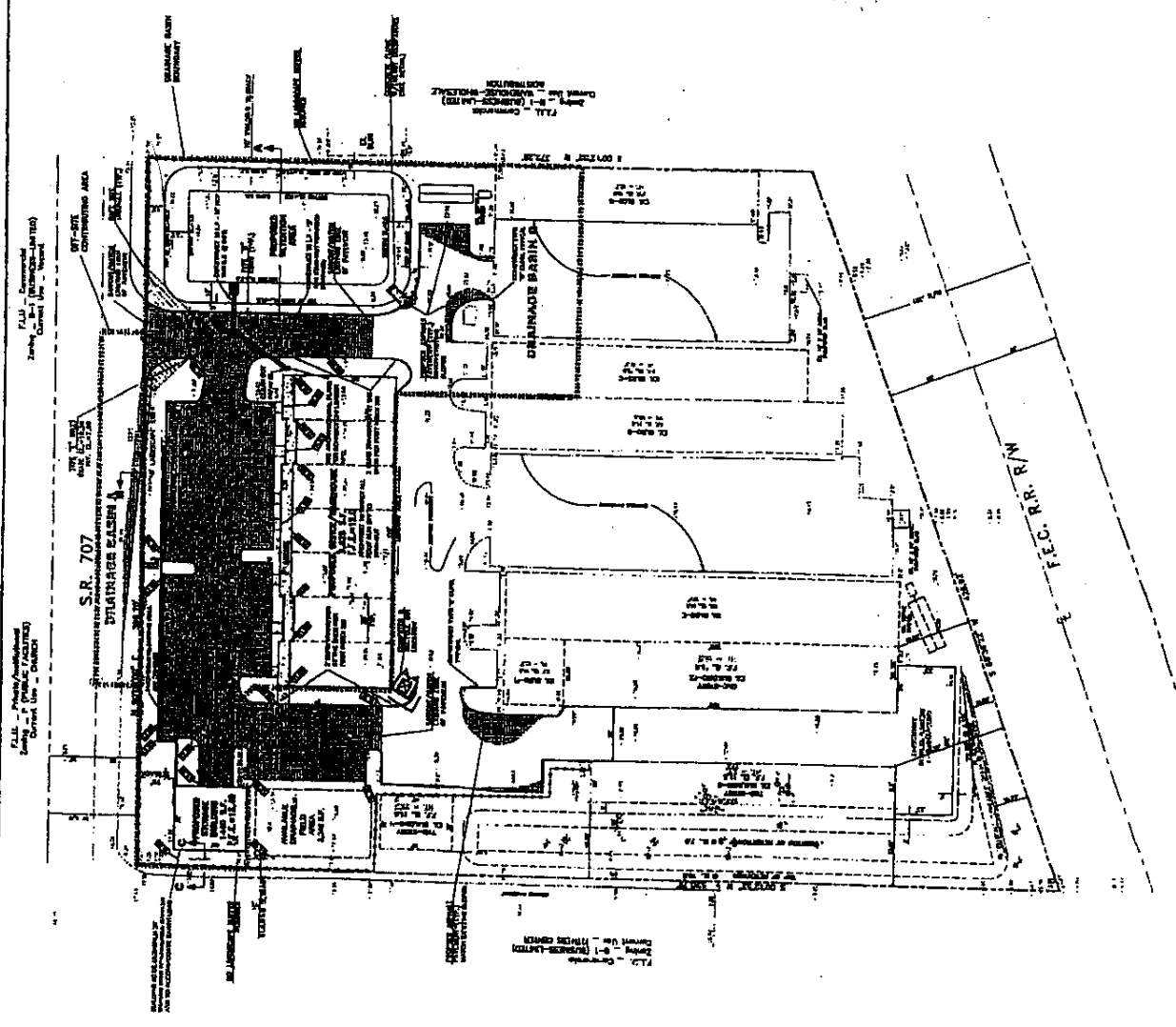


LEGEND

PROPOSED CONCRETE FOOTING
 PROPOSED ASPHALT FINISH
 PROPOSED IMPROVED DRAINAGE
 DIRECTION OF SURFACE DRAINAGE FLOW
 EXISTING ELEVATION
 PROPOSED ELEVATION
 INSTALL POINT

General Notes:

1. Elevation references the edge of proposed grade including grade.
2. Existing elevations are shown as indicated by National Gridlines. Vertical curve data is shown as indicated by National Gridlines.
3. There are no other proposed structures shown other than what is shown.
4. Check for utility lines and other structures of all utilities prior to construction and adjust accordingly if any conflicts in construction.
5. The contractor shall be responsible to verify all field conditions.



PLA - Commercial
Zone - General (Manufacturing)

PLA - Residential
Zone - Single-Family
District Use - Single-Family

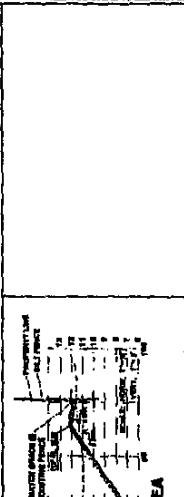
S.R. 707
DRAINAGE BASIN

F.C. R.R./N

CALL OR ASK FOR SERVICE
 YOU AND IN FLORIDA
 1-800-433-4770
 17500 W. BOCA RATON BLVD.
 BOCA RATON, FL 33433

Application 080120-12
Exhibit 2.1 A

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SPECIFICATIONS FOR ALL WORK WITHIN RIGHT OF WAY

ALL work shall be done in accordance with the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction, 2004 Edition, and the City of Stuart, Florida, Specifications for Road and Bridge Construction, 2004 Edition.

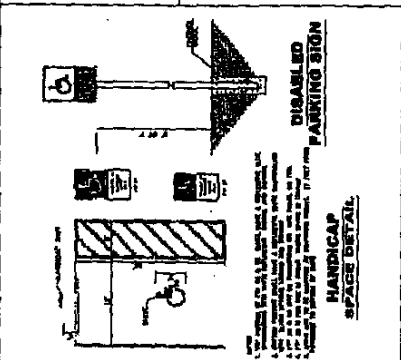
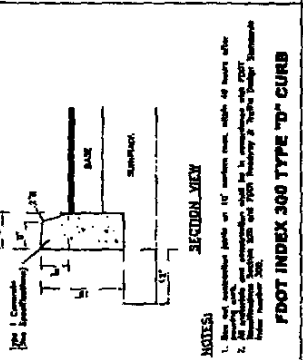
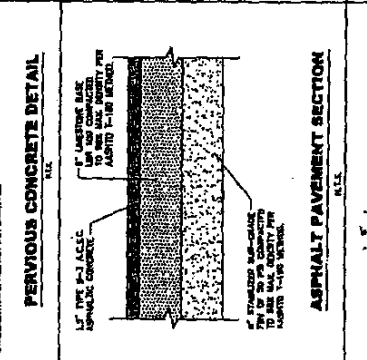
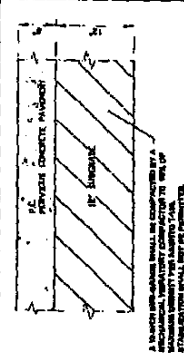
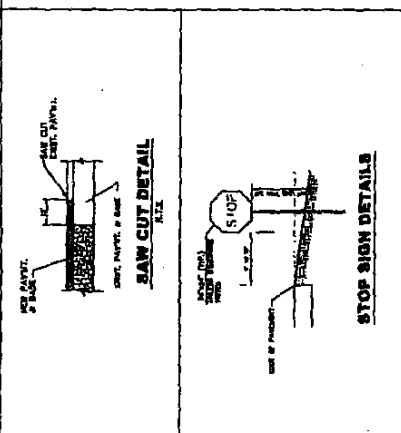
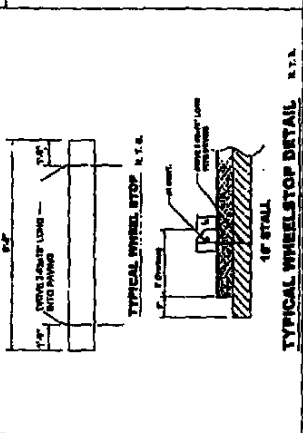
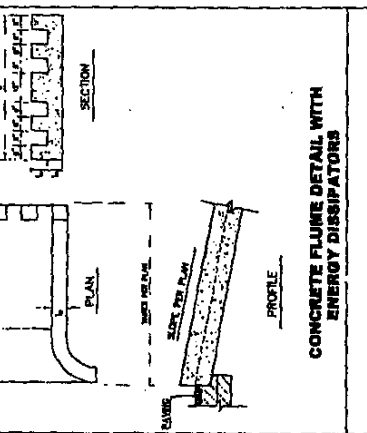
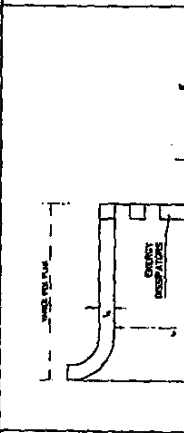
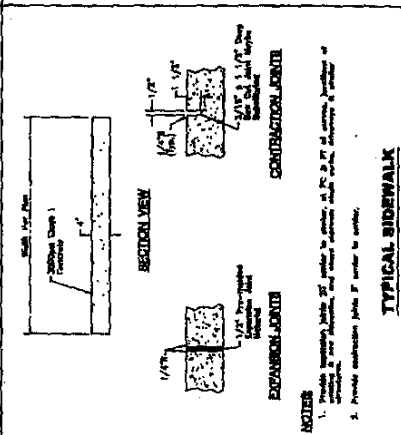
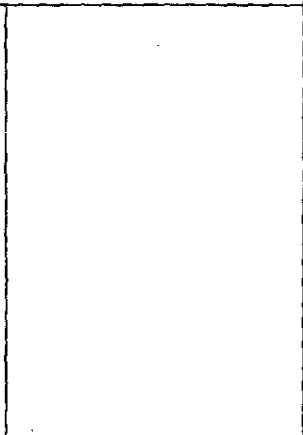
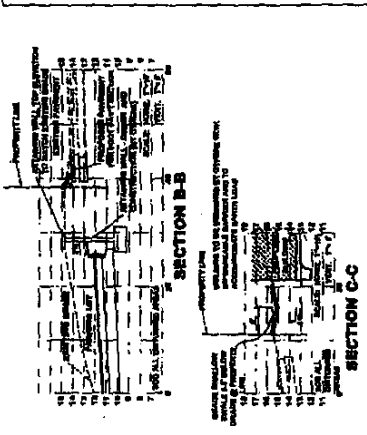
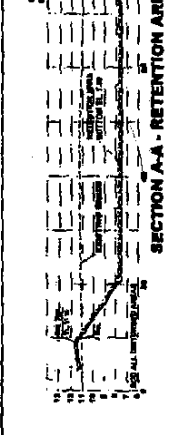
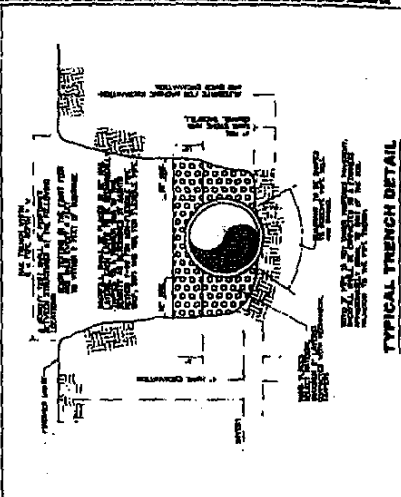
All work shall be done in accordance with the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction, 2004 Edition, and the City of Stuart, Florida, Specifications for Road and Bridge Construction, 2004 Edition.

All work shall be done in accordance with the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction, 2004 Edition, and the City of Stuart, Florida, Specifications for Road and Bridge Construction, 2004 Edition.

NEW PAVEMENT SECTION WITHIN FOOT RW

The pavement shall be constructed in accordance with the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction, 2004 Edition, and the City of Stuart, Florida, Specifications for Road and Bridge Construction, 2004 Edition.

The pavement shall be constructed in accordance with the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction, 2004 Edition, and the City of Stuart, Florida, Specifications for Road and Bridge Construction, 2004 Edition.



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- X Florida Fish & Wildlife Conservation Commission - Imperiled Species Mgmt Section
- X Martin County - Community Development Director
- X Martin County - County Administrator
- X Martin County Board of County Commissioners
- X Martin County Engineer

OTHER INTERESTED PARTIES

- X Water Management Institute - Michael N. Vanatta

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EXHIBIT 7

DEPICTION OF ROAD MAINTENANCE OBLIGATIONS

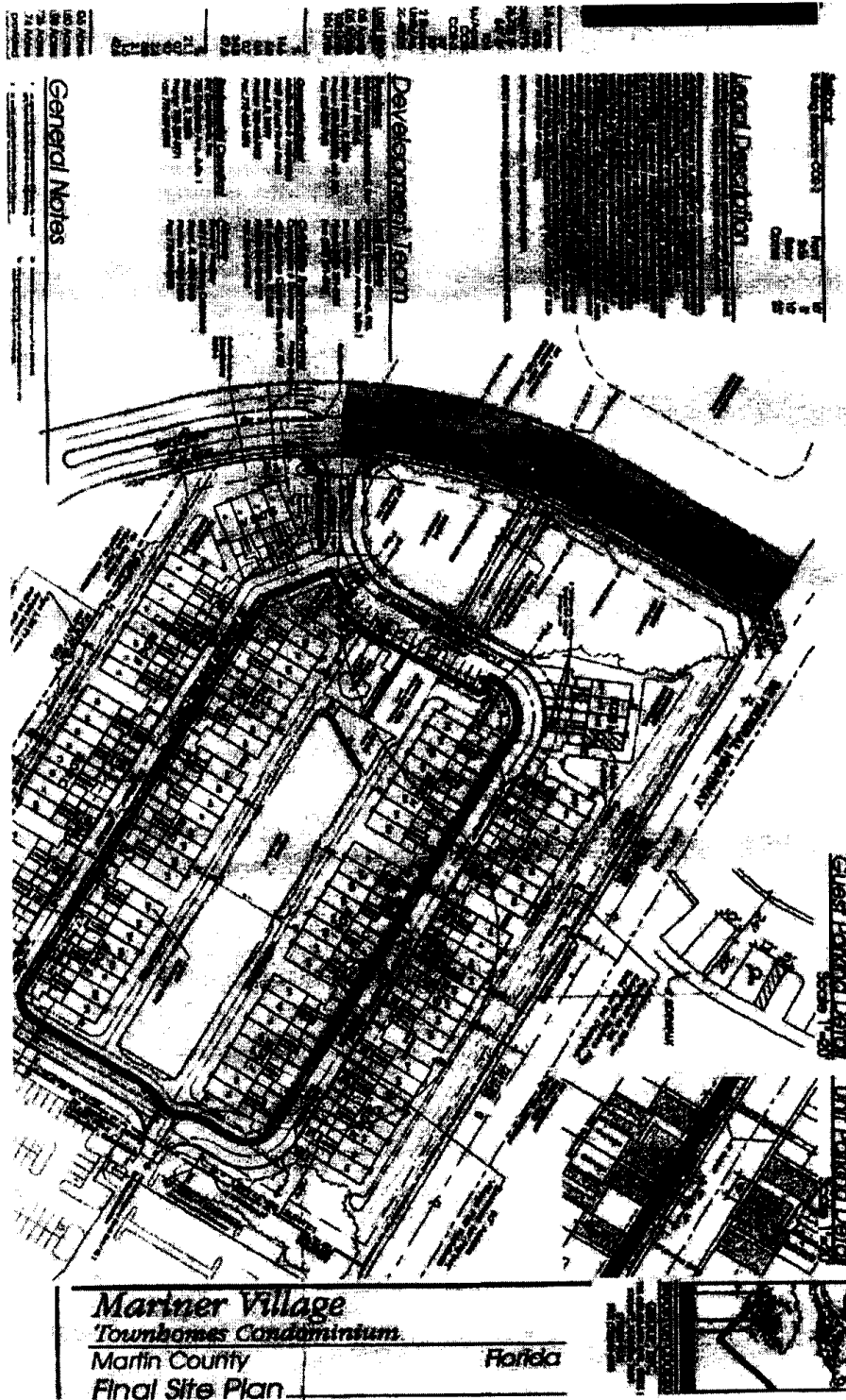
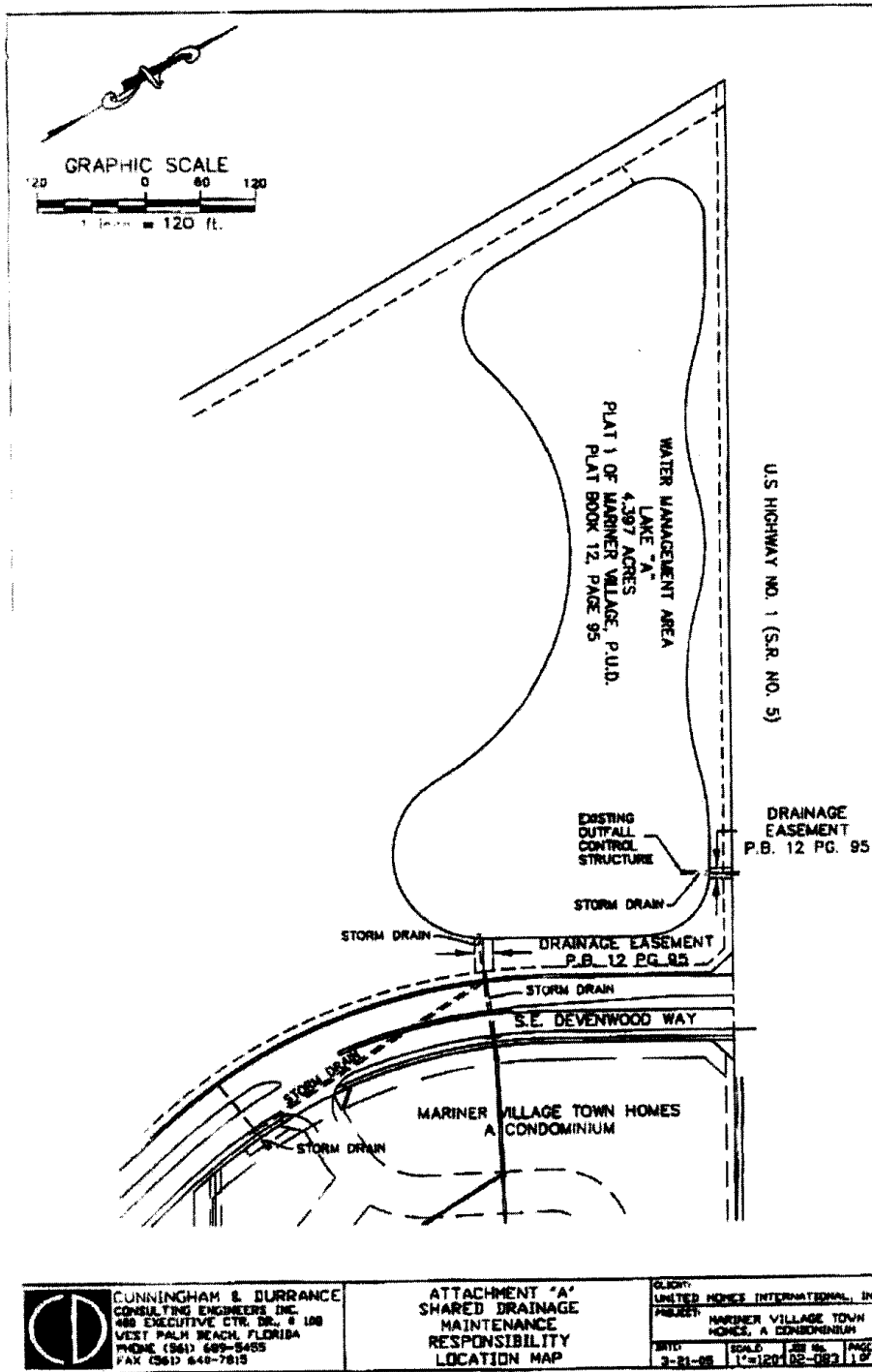


EXHIBIT 8

DEPICTION OF DRAINAGE MAINTENANCE OBLIGATIONS



Mariner Village
Declaration

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