

Bimini Bay Homeowners Association, Inc.
1151 Eleuthera Drive N. E.
Palm Bay, Florida 32905

Governing Documents



Declaration of Covenants, Conditions and Restrictions
for Bimini Bay Homeowners Association, Inc.



By-Laws of Bimini Bay Homeowners Association, Inc.



Articles of Incorporation of
Bimini Bay Homeowners Association, Inc.

Bimini Bay Homeowners Association, Inc.
1151 Eleuthera Drive N.E.
Palm Bay, Florida 32905

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BIMINI BAY

Prepared by Bimini Bay Document Review Committee
(Michael Valley, Chairman, Gary Olson, John Cady, Karen Linnen, and Joe Lane)

Initial Approval By The Board Of Directors
Pending Review By Attorneys
(April 8, 2009)

Reviewed By General Council Community Resource Management
Sherry Highman, Attorney At Law
(August 15, 2009)

Final Approval By The Board Of Directors
Michael Valley, President • Glenda Cagle, Vice President • Mary Ann Scofield, Secretary
• Jane Quadrozzi, Treasurer • Vikki Elder, Director
(September 21, 2009)

Approved By The Membership
The Annual Membership Meeting
(January 19, 2010)

Filed At The Brevard County Clerks Office
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Amended By The Membership
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Amended By The Membership
Filed At The Brevard County Clerks Office
March 4, 2021

PURPOSE OF THIS DOCUMENT

The purpose of this document is to subject Bimini Bay which is described in the Plat of Bimini, recorded in Plat Book 50, Page 46, of the Public Records of Brevard County, Florida (hereinafter the "Plat") to the covenants and restrictions contained in this Declaration. For the purpose of this Declaration the term "Bimini" shall mean the property identified and known as Bimini Bay in the Plat recorded in the Public Records of Brevard County, Florida.

THIS DECLARATION, made this 19th day of January, 2010; BIMINI BAY HOMEOWNERS ASSOCIATION, INC. a Florida Corporation, hereinafter called the Association. WITNESSETH

WHEREAS, the Association is incorporated under the laws of the State of Florida, as a not for profit corporation, BIMINI BAY HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the efficient preservation of the values of the amenities of the real property, a planned residential community with clubhouse, recreational area, open spaces, greenbelts and other common facilities for the benefit of the said community; and

WHEREAS, the Association desires to provide for the preservation of the values and amenities in said community and for the maintenance of said clubhouse, recreational areas, open spaces, greenbelts and other common facilities; and to this end desires to subject the real property described in Plat Book 50 of the Public Records of Brevard County together with additions as may hereafter be made thereto (as provided in Article III) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

WHEREAS, the Association is delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

NOW THEREFORE, the Association declares that the real property described in Plat Book 50 of the Public Records of Brevard County and such additions thereto as may be made pursuant to Article III, hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

MUTUAL BENEFITS AND OBLIGATIONS

The Covenants contained in this Declaration are for the purpose of protecting the value and desirability of Bimini Bay and made for the mutual benefit of each and every owner of a Unit in Bimini Bay. They are intended to be nondiscriminatory. They are also intended to create enforceable rights and obligations in favor of and against each Unit and its Owner. Each Owner, his or her family, friends, guest, tenants and invitees shall comply with the provisions of the Covenants while present within Bimini Bay.

ARTICLE II

DEFINITIONS

In addition to any terms defined in and throughout this Declaration, the following words when used in this Declaration or any Declaration (unless the context shall prohibit) shall have the following meaning:

- 2.1 "Assessments" shall mean all annual, special, and other assessments and monetary obligations made or imposed by the Association against Units in Bimini Bay made in accordance with the terms of these Covenants.
- 2.2 "Board of Directors" or "Board" shall mean the Board of Directors of the Association as defined herein.

- 2.3 "Common Property" or "Common Area" shall mean Tracts A, B, C, D, E, F and G, as identified on the Plat, and all real property (including improvements thereto) owned by the Association, intended for the common use and benefit of all owners.
- 2.4 "Unit" or " Dwelling" shall mean any single family residence constructed on any lot shown on the Plat of Bimini Bay subdivision map with the exception of the Common Property and/or any road right-of-way dedicated to a public authority or the Association.
- 2.5 "Owner" shall mean and refer to the recorded owner, whether one or more persons or entities, of the fee simple title to any Unit, but notwithstanding any applicable theory concerning a mortgage encumbering any Unit, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- 2.6 "Party Wall" shall mean a wall which rests longitudinally along the property lines of two adjacent units as a support for contiguous units, with one half (50%) of the width of each wall being constructed on each side of the boundary lines of the contiguous Units and which is utilized for the structural support and integrity and for the common benefit of the two.
- 2.7 "Subdivision" shall mean all the property known as Bimini Bay, initially identified in the Plat, recorded in the Public Records of Brevard County, Florida.
- 2.8 "Association" shall mean and refer to Bimini Bay Homeowners Association, Inc. a Florida corporation not for profit, its successors and assigns.
- 2.9 "Surface Water" or "Stormwater Management System" shall mean a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C. and which shall be owned and maintained by the Association.
- 2.10 "Declaration" and "Covenants" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of Bimini Bay and all amendments thereto.
- 2.11 "Governing Documents" shall mean and collectively refer to the Declaration of Covenants, Conditions and Restrictions for Bimini Bay, the Articles of Incorporation, the Bylaws, and amendments to such of the Association.
- 2.12 "Property" or "Properties" shall mean and refer to that certain real property described in the Purpose section of this Declaration and such additions thereto as may be brought within the jurisdiction of the Association.
- 2.13 "Reclaimed Water" shall mean and have the same definition as set forth in the Brevard County Code, and as defined by the St. John's River Water Management District to include the application of Reclaimed Water.
- 2.14 "Dwelling" shall mean any attached or free standing single family residence constructed upon any Lot and sharing no more than one Party Wall.
- 2.15 "Member" shall mean and refer to all those recorded Owners who are members of the Association as provided in Article III, 3.1 hereof.
- 2.16 "General Proxy" shall mean and refer to an authorized manner by which to establish a quorum at the annual or special meeting of the membership.
- 2.17 "Limited Proxy" shall mean and refer to an authorized form to be utilized on any voting action by which a voting member may assign a person to vote on any issue on his/her behalf as outlined in the governing documents.
- 2.18 "Binding Proxy" shall mean and refer to an authorized form of vote that allows for the voting member to cast his/her vote to a specific issue that may not be altered or modified prior to the vote at a meeting of the membership.

- 2.19 "Secret Ballot" shall be defined as the manner by which a voting member may cast his/her vote to elect the board of directors. Ballots may only be cast for the election of the board of directors in the manner set forth in the governing documents and implemented by the board of directors.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

- 3.1 "Membership" - Every person or entity who is a recorded owner of a Unit, which is subject to these covenants and subject to assessments, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from or independent of ownership of any Unit which is subject to assessment.
- 3.2 "Voting Rights" - Members shall be entitled to one vote for each Unit in which they hold the interests required for membership by this Article. When more than one person holds such interest, all such persons shall be members, and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.
- 3.3 "Quorum" - The required percentage of members present at a meeting of the membership who are entitled to cast a vote in person or by proxy shall constitute a quorum for any issue decided upon by the membership as outlined in the governing documents.

ARTICLE IV

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO THE PROPERTY

- 4.1 Property Subject to Declaration - The Property is, and shall be, held transferred, sold, conveyed and occupied subject to this Declaration.
- 4.2 Additions to the Property - The Association reserves the right to add other real property, not now included within the Property of the association, and upon recording an amendment hereto such additional real property shall be subject to the provisions of this Declaration.
- 4.3 Additions or Modifications - Such amendments or supplements to the Declaration may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of any undeveloped parcels of property annexed pursuant to this Declaration which is the subject of such amendments or supplements to the Declaration, and are not inconsistent with the scheme of this Declaration. Further, such amendments or supplements to the Declaration may contain provisions which, among other things, amend, modify or change assessments due hereunder, and the basis thereof, amend or impose rules regulation, architectural controls and other provisions consistent with the nature of the development of such property and pertaining to all or part of such undeveloped parcels, to the exclusion of the other portions of the Property.
- 4.4 Recordation - Upon each commitment of additional real property to this Declaration, a recordation of such additions shall be made as a supplement or amendment to this Declaration in the Public Records of Brevard County, Florida, such real property described therein shall be committed and subjected to and encumbered by the covenants contained in this Declaration and shall be considered "Property" as fully as though originally designated and defined herein as Property.
- 4.5 Merger - Nothing in this Declaration is intended to limit or restrict in any way the Association's right or ability to merge with any other association as the Board may feel is in the best interests of the Association and its Members. Upon a merger or consolidation of the Association with another association, all Common Area, rights and obligations shall be operation of law, be transferred to the surviving or consolidated association or alternatively, shall become the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants by this Declaration within the Property together with the covenants and restriction established by any supplement upon any other properties as on scheme. However, no such merger or consolidation shall cause a revocation, change or addition to the covenants in the Declaration as it pertains to the Property, except as provided herein.

**ARTICLE V
ASSESSMENTS**

- 5.1 General Purpose The Association is organized for the purpose of providing common services to the Owners. All Unit Owners are members of the Association. Services provided by the Association include but are not limited to: maintaining the landscaping and sodded areas on the Common Property; maintaining the landscaping and sodded areas in designated areas of the Unit property as described in the Architectural Controls section of the Covenant; maintaining the entrance gates, signs, and lights; maintaining the clubhouse, swimming pool, or other recreational facilities located on any Common Property; maintaining roadways, streets, entranceways, irrigation system, perimeter fences, and right-of-ways conveyed to the Association; roof replacement and exterior painting of the units due to normal wear and tear as outlined in the Architectural Controls section of the Covenant; and, other services as provided herein. The Association shall provide for the enforcement of the Declaration and engage in activities for the mutual benefit of the Owners. Provisions relating to the Association are contained in the Articles of Incorporation and Bylaws of the Association.

The Association shall be responsible for the maintenance, operation and repair of the Stormwater Management System located upon the property. Maintenance of the Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other Stormwater Management System capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the Stormwater Management System shall be as permitted, or if modified, as approved by the St. Johns River Water Management District. The St. Johns River Water Management District shall have the right to enforce by a proceeding at law or in equity the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Stormwater Management System. Any amendment to the Declaration which alters the Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Property, must have the prior approval of the St. Johns River Water Management District.

The Board shall have the right to increase or reduce the level of services it provides and to add or delete services in accordance with the governing documents. However, the Association shall be responsible for the maintenance, operation and repair of the Stormwater Management System to be maintained by it and shall not delete, reduce or modify any services related to the Stormwater Management System without prior approval of the St. Johns River Water Management District.

In order to pay for these services including the Stormwater System, the Association shall charge assessments against the Units and their owners for all services as noted above including Stormwater Management System Services provided by it. Each Owner is obligated to pay assessments that come due during the time the Owner owns the Unit.

5.2 Enforcement of Assessments.

5.2.1 Personal Obligations. Each owner is personally responsible and liable to pay assessments which become due during the time such owner owns the Unit. In addition, A Unit owner is jointly and severally liable with the previous Unit owner for all unpaid assessments that came due up to the time of transfer of title, except as otherwise described within the Article V as as outline in the Florida Statutes Chapter 720.3085. ~~The personal obligation of an owner to pay assessments which become due during his or her ownership of a Unit shall not pass to such owner's successors in title unless assumed by them or unless such assessments have become a lien on such Unit in accordance herewith.~~ (Amended & Filed 3-4-21 in Brevard Clerk of the Courts see page 20).

5.2.2 Lien. All Units are subject to a continuing lien to secure unpaid assessments due to the Association in accordance with the provisions of these covenants, whether or not the deed to the Unit refers to these covenants. This continuing lien also secures interest on unpaid assessments and the cost of collecting unpaid assessments, including reasonable attorney's fees whether or not litigation is filed. Notice of the lien shall be given by recording a claim of lien in the Public Records of Brevard County, Florida without further notice, not earlier than twenty (20) days after the date such unpaid assessments become delinquent, stating the Unit description, the name of the record owner, the amount due and the due date and mailing a copy of the Lien to the Owner. A claim of lien may be filed against a Unit for unpaid assessments after conveyance of the Unit. The Association shall, without charge, or written request of any owner or the mortgagee of any owner, furnish a certificate in recordable form signed by an officer or duly authorized agent of the Association which sets forth the assessments levied against an owner and the Owner's Unit and whether the assessment has been paid. A properly executed certificate shall be binding on the

Association as of the date of its issuance. The lien shall remain in effect until all sums due to the Association have been fully paid and shall secure all further amounts becoming due hereunder without the necessity of amending the recorded line or providing further notice to the Owner of the Unit upon which the lien was recorded. Any payments received for delinquent assessments shall first be applied to costs, expenses and attorneys fees incurred by the Association, then to accrued interest and finally to the oldest unpaid assessment(s).

5.2.3 **Collection of Rents.** During and for the term of the lease, the Association shall have the right, but not the obligation, to collect rents due directly from the tenant. The Association may exercise this right if the unit owner, in the payment of the monthly assessment, has been delinquent once or late twice in the twelve months prior to any month of the lease. Upon demand to the tenant by the Association, rents shall be paid directly to the Association by the tenant. The Association shall apply the rent Moines to bring current the assessment account of the unit owner; and the Association shall forward any remaining rent Moines to the unit owner in a timely manner. No provision of this paragraph shall relieve the unit owner of his responsibility for the timely payment of the monthly assessment.

5.3 **Annual Assessments.** The Annual assessment shall be set as outlined in the governing documents. Initially, annual assessments shall be payable in equal monthly installments. The collection schedule including the due date of the annual assessment, the periods of collection, whether annually, semi-annually, quarterly or monthly may be changed by the Board of Directors. The Board of Directors shall notify the owners of each Unit of the amount and the date on which the assessments are due and payable and the place of payment. Annual assessments shall be uniform (i.e. every unit shall pay the same annual assessment).

Maximum Annual Assessment. An increase to the Annual Assessment shall be set in the following manner.

5.3.1 The annual assessment may be increased each year by a maximum of fifteen percent (15%) above the current assessment unilaterally by the Board of Directors without the approval by a vote of the Membership.

5.3.2 To increase the annual assessment each year by more than fifteen percent (15%), an affirmative vote of 51% of the Members who are voting in person or by proxy at a meeting duly called for that purpose must occur.

5.3.3 The Board of Directors may fix the Annual Assessment at any amount not in excess of the maximum provided herein.

5.4 **Resale Assessment** At the time of resale of any unit, a Resale Assessment shall be paid to the Association by the purchaser at the time of closing. The Resale Assessment shall be used by the Association for a Capital Improvement Fund, Emergency Fund, or Operating Budget. The initial Resale Assessment shall be \$250.00. An increase to the Resale Assessment shall be set in the following manner.

5.4.1 The Resale Assessment may be increased each year by a maximum of Fifteen percent (15%) by the Board of Directors without the approval by a vote of the Membership.

5.4.2 To increase the Resale Assessment by more than fifteen percent (15%) in any given year, affirmative vote of 51% of the Members who are voting in person or by proxy at a meeting duly called for that purpose must occur.

5.5 **Special Assessments.** In addition to the Annual Assessments, the Board of Directors may levy a special assessment without the concurrence of the Owners to pay in whole or in part for the cost of any major repair, restoration, replacement or reconstruction in kind of an existing capital improvement owned or obligated by the Association, to pay the cost to repair any privacy wall, and to pay the costs of attorney's fees incurred by the Association. A major repair or replacement is a repair or replacement made to an existing capital improvement or obligation of the Association for any amount that is not provided for in the Operating Budget, a Capital Improvement Fund, or a Sub Category of the Reserve Fund and the useful life of which is greater than one (1) year

Except as provided herein, the Association may also levy or collect a special assessment to acquire a new capital improvement or for any other purpose if the special assessment is approved by a vote of two-thirds (2/3 of the members who are voting in person or by proxy at a meeting of the membership duly called for that purpose.

- 5.6 **Effect of Non-Payment of Assessment; Remedies of the Association.** Any assessment not paid within fifteen (15) days after the due date may be charged a late fee of \$25.00 or 5% of the assessment amount due rounded up to the nearest dollar, whichever is greater; and, shall bear interest from the date due at the rate of EIGHTEEN (18%) PERCENT PER ANNUM or the highest rate allowed under the laws of the State of Florida, whichever is greater, until paid in full. The Association may bring an action against the Owner of the Unit for payment of the assessment and may enforce its lien for the unpaid assessment or any other amounts becoming due thereafter and which are unpaid by foreclosure or any other means available under the law. The Board of Directors may waive payment of late fees and interest on an assessment, but may not waive payment of the assessment. No member may waive or otherwise escape liability for assessments by non-use of Common Property or by abandonment of the Unit owned by such owner.
- 5.7 **Subordination of the Lien to Mortgages.** The lien of the assessments provided for in this Declaration shall relate back to the date of recording this Declaration and shall be a lien superior to all other liens less and except real estate tax liens and the lien of any mortgage to any Institutional Lender which is now or hereafter placed upon any property subject to assessment, as long as, said mortgage lien is a first lien against the property encumbered thereby, ~~provided, however, that any such mortgagee, when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgagee requiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). The lien shall be enforced against any Institutional Lender, first mortgagee, successor, or any purchaser who acquire title to a Unit through foreclosure or conveyance in lieu of foreclosure or auction as outlined in the Florida Statutes Chapter 720.3085.~~ Any unpaid assessment which cannot be collected as a lien against any Unit by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Units as to which the foreclosure (or conveyance in lieu of foreclosure) took place. ~~Notwithstanding any contrary provision hereof, no Institutional Lender acquiring title to a Unit through foreclosure or conveyance in lieu of foreclosure, and no purchaser at a foreclosure sale, and no persons claiming by, through or under such Institutional Lender or purchaser, shall be personally obligated to pay assessments that accrue prior to the Institutional Lender's or the foreclosure purchaser's acquiring title.~~ Amended by the Membership and filed in the Brevard County Clerk of the Courts on 3-4-2021 (See Pages 21-23).
- 5.8 **Damage Done by Owners.** The Owner of a Unit shall be responsible for any cost or expense incurred by the Association to maintain, repair or replace Common Property which is necessary by reason of the Owner's carelessness, neglect or willful action or by that of the Owner's family, his guests, agents, tenants or invitees. Any such expense shall be a part of the assessment to which the Owner's Unit is subject and shall be due and payable in the same manner as annual assessments provided for in these Covenants.

ARTICLE 6 OWNER'S RIGHTS

- 6.1 **Right to Use Common Property.** Each Owner and members of such owner's family residing with the Owner or the tenant of a non-resident Owner, has the non-exclusive right to use Common Property for the purpose for which it is intended, which shall be appurtenant to and shall pass with title to the Unit and Lot owned by the Owner, subject to the following provisions:
- 6.1.1 The right of the Association to charge reasonable admission and other fees or a deposit for the use of any recreational facility situated upon Common Area;
- 6.1.2 The right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment or assessments against the Owner's Unit and Lot remains unpaid and for a period not to exceed **thirty (30)** days for any infraction of its published rules and regulations;
- 6.1.3 The right of the Association to mortgage the Common Area or dedicate or transfer all or part of the Common Area to any homeowners association, public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage, dedication, or transfer shall be effective unless an instrument agreeing to such mortgage, dedication or transfer approved by an affirmative vote of two-third (2/3rds) of those members present, in person or by proxy, at a duly called meeting of the membership.

- 6.2 **Utilities.** Each Owner shall have access to the underground utility lines, lift and pumping stations, pipes, sewers and drainage lines constructed in the roads or other easements as shown on any Plat recorded for the Subdivision, as the same may be relocated from time to time, subject to regulations and ordinances of Brevard County, Florida and the Association. Further, each Owner of a Lot shall have a non-exclusive appurtenant easement over, upon and across Lots and Common Property for the installation of underground utility lines, underground plumbing, pipes and conduits necessary for the reasonable use of a Unit or Dwelling on the Lot, however, such easement(s) shall not interfere with or impede another Owner's use or enjoyment of his/her Lot or Unit located thereon.
- 6.3 **Lot Easements.** Unless the Association elects to maintain easement areas on the Property, or as otherwise provided in this Declaration, each Owner shall be responsible for the maintenance of all easements situated on their respective Lot or Lots for utility or drainage purposes and all easements created herein are appurtenant to a Lot or Lots and may not be transferred separately from the Lot.
- 6.4 **Party Walls\Roof.**
- 6.4.1 **Ownership.** Except as provided herein, each Owner shall be deemed the sole owner of that portion of any Party Wall or roof constructed solely upon his Lot to the center line of such Party Wall or where such roof overlaps or connects with the roof of another adjacent Unit. Each Owner is granted a perpetual easement over that portion of an adjacent Lot, on which such Party Wall or roof is constructed, solely for the maintenance, repair, and use of said Party Wall or roof as a common structural support or protector for each Unit sharing a Party Wall or roof area.
- 6.4.2 **Maintenance.** Each Owner shall have equal responsibility for the general (non-structural) maintenance, and upkeep of Party Walls and roofs. No Owner shall at any time use any part of said Party Wall, in such a manner, as will unreasonably interfere with, impair, or obstruct any adjacent Lot Owner's use or benefit of such Party Wall or his/her Lot or which shall damage or impair the structural integrity of the Party Wall. Each Owner and the Association shall have the right to enter on the Property of another Owner with whom a Party Wall is shared, in so far as it may be reasonably necessary for the repair or maintenance of any Party Wall, and as such, shall take and observe all such necessary precautions and care so as to not damage the property of another Owner, and shall provide such Owner with reasonable notice of the intent and need to enter upon his Lot or within his Unit, for the purpose of repairing and/or maintaining the shared Party Wall.
- 6.4.3 **Damage/Repairs to Party Wall.** In the event of structural damage or the destruction of any Party Wall from any cause, other than the negligence or intentional or willful acts of any Owner, or his guests, invitees or family, the Association shall repair or rebuild said wall as it deems necessary, and each Owner, or their successors and assigns, shall have the right to the full use of said wall so repaired or rebuilt. The Association may, but is not required to, impose an assessment against each Owner of a Unit sharing the repaired or rebuilt Party Wall, or against all Owners within the Subdivision, for the costs and expenses to repair the Party Wall, with such assessments being payable and collected as provided in this Declaration for other assessments imposed by the Association. If any Owner or his guests, invitees or family members' negligence or intentional acts causes damage to or destruction of a Party Wall, such negligent Owner shall bear the entire cost of repair or reconstruction, however, such repairs shall be completed by the Association. If any Owner shall neglect or refuse to pay for all of such cost to repair the Party Wall, the Association shall repair the damaged Party Wall with the cost to repair the Party Wall being levied as an additional assessment against the Owner damaging the Party Wall which shall constitute a continuing lien upon the Owner's Unit or Dwelling and collectable as provided herein for other assessments imposed by the Association.
- 6.4.4 **Damage/Repair to Roof.** In the event of damage or destruction of any roof upon any Unit, or Dwelling, the Association within its sole and absolute discretion, shall repair and/or replace such roof as it deems necessary to insure the proper integrity, and aesthetic appearance of the Unit or Dwelling on which it is constructed. The costs of the repairing or replacing any roof upon any individual Unit, shall be paid by the Association, and the Association shall have the right to levy an assessment against the Owner of such Unit, or all Owners within the Subdivision, for the cost to repair or replace such roof(s). In the event that the entire roof upon any Building(s) containing one or more Units, or Dwellings requires repair or replacement whether in part or whole, the Association at its discretion, shall repair and/or replace such roofs, and shall be entitled to levy an assessment upon the Owners sharing a roof, or upon all Owners within the Subdivision.

- 7.3.4 To assess fines for violation of these Covenants which shall be added to the next installment of the annual assessment to which the Lot is subject and be enforceable as provided in Article 4 of these Covenants.
- 7.3.5 To release any Common Property from the dedication to the Association by the plat if approved by an affirmative vote of two-third (2/3rds) of those members present, in person or by proxy, at a duly called meeting of the membership.
- 7.4 **Association's Rights of Entry.** The Association's duly authorized representatives or agents shall, at all reasonable times, have and possess a reasonable right of entry and inspection upon the Common Area or any Lot for the purposes of fully and faithfully discharging the duties of the Association. Non-exclusive easements are hereby granted in favor of the Association throughout the Property as may reasonably be necessary for the Association to perform its services required and authorized hereunder, so long as none shall unreasonably interfere with the use of any Lot. Furthermore, an easement is hereby granted in favor of the Association, including its agents and designees, for purposes of carrying out all obligations and/or rights of the Association pursuant to this Declaration. Furthermore, a nonexclusive easement is hereby created over all utility easements or other right of ways contained on any Plat for Bimini Bay which easement is in favor of the Association, including its agents and designees, in perpetuity, to utilize for all proper purposes of the Association.
- 7.5 **Authorized Services.** The Association shall be authorized, but not required, to provide the following functions and services and shall have easement rights necessary to perform same:
- 7.5.1 lighting of roads, sidewalks, walks and paths throughout the Property;
 - 7.5.2 fire protection and prevention;
 - 7.5.3 garbage and trash collection and disposal;
 - 7.5.4 maintaining and repairing roadways, streets and right-of-ways conveyed to the Association;
 - 7.5.5 conducting recreation, sport, craft and cultural programs of interest to Owners, including their families, tenants, guests and invitees;
 - 7.5.6 maintaining gates, entranceway and signs;
 - 7.5.7 protection and security, including, but not limited to, the employment of stationary or patrolling security guards within the Property and operation of a guardhouse;
 - 7.5.8 maintenance of electronic and other surveillance devices;
 - 7.5.9 installation, operation and maintenance of cable television facilities, or other communication systems throughout the Property;
 - 7.5.10 services authorized in the Association's Articles or By-laws;
 - 7.5.11 cleanup, landscaping, maintenance, dredging, water treatment or other care of canals, roads or other property (public or private) adjacent to or near the Property to the extent such care would, in the reasonable determination of the Board, be beneficial to the Property and to the extent that the Association has been granted the right to so care for the affected property by the owner thereof or the other person authorized to grant such right, including, but not limited to, any appropriate governmental authority;
 - 7.5.12 emergency repairs and other work on the Lots reasonably necessary for the proper maintenance and operation of the Subdivision, including, but not limited to party wall repairs.
 - 7.5.13 maintaining lawns and exterior plants, shrubbery and plant beds

The right and/or authority to repair and replace any roof upon any Unit or Dwelling shall be within the sole and absolute discretion of the Association. In the event that any roof is damaged or destroyed by any negligent or intentional acts of any Owner, or his/her guests, invitees, or family, such Owner shall be responsible for and shall pay the entire cost for such repair or replacement of the roof, caused by his/her negligent or intentional acts, however, the repairs shall be completed by the Association. The Association shall have a continuing lien to secure all unpaid costs or expenses to repair any or replace any roofs upon any Unit or Building pursuant to this Section, and for any costs or expenses incurred by the Association to repair or replace any roof it is required to repair or replace as a result of the Owner(s) negligence or intentional or willful acts.

ARTICLE 7

RIGHTS OF THE ASSOCIATION

- 7.1 **Enforcement Rights.** The Association, its agents or employees, shall have the right, but not the obligation, to enter upon any Lot to cure any violation of these Covenants, including without limitation, the right to remove any structure which is in violation of these Covenants and to enforce maintenance and repair of Lots and improvements. Except as provided herein, any such removal, curing, maintenance or repair shall be at the expense of the Owner of the Lot on which the violation has occurred or exists, which expense shall be payable by such owner to the Association on demand. Entry to remove and cure any violation of these Covenants shall not be a trespass and the Association shall not be liable for any damages incurred on account of the entry.

The rights of the Association described in this Section shall not be construed as a limitation of the rights of the any Owner to prosecute proceedings at law or in equity for the recovery of damages against persons violating or attempting to violate these Covenants or for the purpose of preventing or enjoining any violations or attempted violations. The remedies contained in this Section shall be construed as cumulative of all other remedies provided at law or in equity. The failure of the Association to enforce these Covenants, however long continuing, shall not be a waiver of the right to enforce these Covenants at a later time. In any action brought by the Association to enforce the provisions of these Covenants, including any pre-litigation costs or attorneys fees, the Association shall be entitled to recover its attorney fees and costs incurred in such action or collection efforts, whether or not a legal or equitable action is actually initiated.

- 7.2 **Other Assessments** Any amounts owed by any Owner to the Association as a result of the Association's abating or curing violations of these Covenants or maintaining or repairing Lots or homes shall be due and payable within fifteen (15) days from the date of receipt of a statement for such amounts from the Association. If any of said sums are not paid when due, they shall be added to and become part of the annual assessment to which the Lot is subject and enforceable as provided in these Covenants.

- 7.3 **Common Property Rights.** The Association shall have the right:

- 7.3.1 To adopt reasonable rules and regulations pertaining to the use of the Common Property and Lots, the preservation and maintenance of such property, and the safety and convenience of the owners;
- 7.3.2 To convey, lease, grant an exclusive use or license in, or encumber any Common Property if authorized by an affirmative vote of two-third (2/3rds) of those members present, in person or by proxy, at a duly called meeting of the membership. No dedication or transfer shall be effective unless an instrument agreeing to the dedication or transfer, by the Class B membership (until Class B membership terminates) and thereafter by the president and secretary of the Association certifying that the conveyance was approved by an affirmative vote of two-thirds (2/3rds) of the members voting in person or by proxy is recorded. The authorization contemplated by this subparagraph may be obtained at a meeting of the members or by execution of a written consent by the Owners of the requisite number of Lots, or both of such methods.
- 7.3.3 To grant easements and rights-of-way over the Common Property as it deems necessary or appropriate for the proper servicing and maintenance of the Common Property and for the development and improvement of any portion of the subdivision.

ARTICLE 8

FURTHER RIGHTS RESERVED BY THE ASSOCIATION

- 8.1 **Eminent Domain.** If all or part of any easement granted by the Association over property of the Association is taken by eminent domain, no claim shall be made any Owner other than the Association for any portion of any award, provided the Association shall grant a similar easement, if necessary, to provide owners with access to their Lots and with utility service.
- 8.2 **Easements for Utilities and Cable Television.** The Association reserves a perpetual easement on, over and under the easements and Common Property shown on any Bimini Bay plat for construction and maintenance of electric and telephone poles, wires, cables, conduits, water mains, drainage lines or drainage ditches, sewers, irrigation lines and other conveniences or utilities. To the extent permitted by law, the Association reserves an exclusive easement over, on and under each Lot for the installation and maintenance of utilities, lines, wires, pipes, power, telephone, CATV, radio and television cables within the Subdivision. The Owners of Lots subject to the easements reserved in this section shall acquire no right or interest in utility or cable television equipment placed on, over or under the portions of the Subdivision which are subject to such easements. All easements reserved by the Association are and shall remain Association easements and the sole and exclusive property of the Association.
- 8.3 **Drainage Easement.** Drainage flow shall not be obstructed or diverted from drainage easements. The Association may, but shall not be required to, cut drainways for surface water wherever and whenever necessary to maintain reasonable standards of health, safety and appearance. Except as provided in this Section, existing drainage shall not be altered so as to divert the flow of water onto an adjacent Lot or into sanitary sewer lines.
- 8.4 **Maintenance Easement.** The Association reserves an easement in, on, over and upon each Lot for the purpose of preserving, maintaining or improving the Common Property and any easements thereon.
- 8.5 **Easement for Access and Drainage.** The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water or Stormwater Management System for access to operate, maintain or repair the Stormwater Management System. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water or Stormwater Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water or Stormwater Management System as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual exclusive easement for drainage over the entire Surface Water or Stormwater Management System. No person shall alter the drainage flow of the Surface Water or Stormwater Management System, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.
- 8.6 **Survival.** Any and all easements, licenses, or other rights granted or reserved pursuant to this Declaration shall survive any termination of this Declaration and conveyance of any Lot and shall be deemed to run with the land more particularly described on any Plat for Bimini Bay and all other land annexed hereunder.

ARTICLE 9

ARCHITECTURAL CONTROLS

- 9.1 **Duties and Powers of Association** Except as otherwise provided in this Declaration, NO IMPROVEMENTS SHALL BE CONSTRUCTED ON THE COMMON PROPERTY AND NO ALTERATIONS OF THE EXTERIOR OF ANY HOME OR ALTERATION OR PERMANENT IMPROVEMENT OF ANY LOTS SHALL BE EFFECTED WITHOUT THE PRIOR WRITTEN CONSENT OF THE ASSOCIATION OR AN ARCHITECTURAL COMMITTEE COMPOSED OF THREE (3) OR MORE REPRESENTATIVES APPOINTED BY THE BOARD OF DIRECTORS OF THE ASSOCIATION. The Association shall have the right to approve or disapprove any building, fence, wall, screened enclosure, grading, floor, elevation and drainage plan, drain, mailbox, driveway, sidewalk, decorative building, landscaping plan, landscape device or object, or other improvement, change or modification and to approve or disapprove any exterior additions, changes, modifications or alterations to the home. Disapproval of any change, addition, modification or alteration may be solely on the grounds of aesthetics. The Association does reserve the right to define specifications and placement of energy saving devices, antennas, and satellite dishes on the grounds of aesthetics. It is the Association's intent to protect the community from nuisances and maintain the aesthetic quality, with substantial uniformity, of the homes. The Association may adopt additional standards and criteria to affect the purposes of this Section and Article.

9.2 **Duties of Association.** The Association shall approve or disapprove the plans for an improvement or modification in the following manner and as outlined in the Board Policy & Architectural Review Committee addendum *Criteria for Architectural Controls & Exterior Property Maintenance of Bimini Bay Residences*. Within 45 days of written receipt by the Association of a complete application for review, The Association through the Architectural Review Committee (ARC) will provide written notice to the applicant indicating approval, disapproval, or the need for more information. If the application is not approved, disapproved pending receipt of additional information, or disapproved, in writing within 45 days after submission, then the application shall be deemed "Denied." An application will be considered only if the ARC receives all of the following

- 9.2.1 Two sets of drawings to be submitted, drawn in a professional manner to accurately project the exact detail to be constructed or improvement.
- 9.2.2 Show the elevation of the ground on all sides of the proposed structure as it will exist after the modification.
- 9.2.3 Show a minimum roof material of architectural grade shingles or better with a minimum pitch of 6/12.
- 9.2.4 Include a list of proposed materials and samples of exterior materials and finishes which cannot be described to the Association's satisfaction.
- 9.2.5 Set forth set backs for the improvement to be constructed which are in accordance with the minimum set backs required by Brevard County, Florida and/or the City of Palm Bay, Florida.
- 9.2.6 The Association shall not be responsible for defects in plans or specifications or for defects in the improvements. The Association's review of plans is limited solely to appearance of the improvements and does not include any review to determine compliance with applicable building codes.
- 9.2.7 Any landscaping plan changes or alterations submitted to the Association shall provide for and include at a minimum the following items:
 - 9.2.7.1 Set forth a grading plan acceptable to the Association;
 - 9.2.7.2 A landscape plan providing for at least (2) to five (5) trees, depending on how many trees were originally planted on the lot. The removal, planting, or placement of any tree must be approved by the Association. Any tree planted must be a species approved by the Association with a minimum height of five (5) feet.
 - 9.2.7.3 A list of plant stock included in the plan; and
 - 9.2.7.4 The size of such stock at the time of planting.
 - 9.2.7.5 The entire Lot, together with the land between the street pavement and the right-of-way line adjacent to the Lot, shall be landscaped and maintained. No gravel, rocks, artificial turf or other similar materials shall be permitted as a substitute for a grass lawn and which must be either St. Augustine or Floritam sod. It shall be the goal of the Association in the approval of any landscape plan and layout plan to preserve all existing trees where possible.

9.3 **Maintenance of Homes and Lots.**

- 9.3.1 **External Maintenance.** In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot and/or Unit which is subject to assessment hereunder provided that an adequate reserve has been voted upon by the membership of the Association. External Maintenance includes: Painting of the exterior surfaces of any Building, Unit or Dwelling including window openings, doors, garage doors or other entrances to a Unit or Dwelling due to normal wear and tear (any painting or repairs performed by the owner or the owner's contractor outside the Association's scheduled maintenance shall be the responsibility of the owner); roof replacement due to normal wear and tear as outlined by the warranty and the life

expectancy of the roofing shingles as determined by the board of directors. The responsibility for roof replacement by the Association is limited to the replacement of the roofing shingles, the underlay, and the plywood foundation if necessary. The timeline for roof replacement will be determined by the board of directors after consultation with a committee appointed by the board of directors to conduct regular roof inspections and may include a licensed roofing contractor. Any roof damage as a result of hurricane, storms, wind, casualty, negligence, or other acts of god is the responsibility of the owner. The owner is responsible for the gutters, downspouts, soffits, and hurricane shutters. The owner is also responsible for any roof leaks that develop over time including around light tubes and vents or as a result of the installation of satellite dishes, solar energy devices, or any other such devices;

The Association is responsible for the maintenance of sprinklers, lawns and and grasses (the Association is responsible to maintain those areas to the extent of applying fertilizer, pesticide, and irrigation to the lawns, trees, bushes, and plants). If problems develop such as infestation or disease to any trees, bushes, plants as well as grass, the Association will do its very best to assist the owner to correct the problem. However, in the event that trees, bushes, plants, and grass located on an Owner's property should die, the responsibility for replacement belongs to the Owner. The Association is responsible for damage to trees, bushes, plants, and grass on private property caused as a result of work authorized and completed by the Association.); maintenance of common side walks, streets as platted and conveyed to and owned by the Association, maintenance and repair of main entrance ways to the Property, and detached walls and curbs, periodic weeding of flower beds (as determined by the Association), tree trimming, as deemed necessary by the Association, and fertilization and pest control for lawns, trees and shrubbery. The Owner of any Lot shall be responsible for the replacement of all plants, flowers, shrubs, trees and grass. Further, the maintenance, replacement or repair of windows, doors, garage doors, sliding glass doors, shutters, gutters, soffits, downspouts, or other areas and attachments to a Unit or Dwelling shall be the responsibility of the Owner.

- 9.3.2 **Willful Neglect.** In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Lot Owner, or through the willful or negligent acts of family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be the responsibility of the Lot Owner. Such cost may be added to and become part of the assessment to the Lot.

9.4 Miscellaneous Restrictions.

- 9.4.1 No fences shall be constructed on any Lot without the prior written approval of the Association which may be withheld for any reason. All shrub lines must be approved by the Association prior to construction or installation and fences may be constructed on any Lot with the prior written approval of the Association and all fences or hedges to be erected on any Lot within the Subdivision shall, at a minimum, comply with the following requirements and restrictions:
- 9.4.1.1 All fencing must have written approval of the Association's Board of Directors prior to installation, which may be withheld for any reason.
- 9.4.1.2 Unless otherwise set forth or required by any federal, state or local law, statute, rule, regulation, code or ordinance, no fence or hedge shall be erected within the Subdivision which shall unreasonably restrict or block the view of an adjoining Lot. For this purpose, a hedge or fence shall be maintained at a height not greater than five (5) feet and no wall or fence shall be erected or placed within the front set-back lines of any Lot, unless said wall or fence shall be ornamental and shall not in any manner impair the general scheme of said property. No wall or fence of any kind, whatsoever, shall be constructed on any Lot until after the height, type and design, and location thereof shall have been approved in writing by the Association.
- 9.4.1.3 Wooded fences, chain link fences or wire fences are not permitted on any residential Lots, except as expressly provided herein.
- 9.4.2 All Lots in Bimini Bay are residential parcels and shall be used exclusively for single family residential purposes. Detached auxiliary buildings, including dog houses or storage buildings, are not permitted. Further, no swimming pool, hot tub or jacuzzi may be constructed upon any Lot unless constructed solely within the interior walls of a Unit or Dwelling.

- 9.4.3 Trash, garbage or other waste shall not be kept on any Lot except in sanitary containers such as trash bags or trash cans or garbage compactor units. Garbage containers, if used, shall be kept in a clean and sanitary condition, and shall be so placed or screened as not to be visible from any road or adjacent property within sight distance of the Lot at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. Nothing herein contained shall be construed to conflict with §163.04, Florida Statutes.
- 9.4.4 No outside antennas, antenna poles, antenna masts, satellite television reception devices, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted except as approved in writing by the Association and all antenna, antenna poles, antenna masts, satellite television reception devices, electronic devices, antenna towers or citizen band (CB) or amateur (ham) antennas shall, at a minimum, comply with the following:
- 9.4.4.1 Only the following three types of television antennas are permitted:
- 9.4.4.1.1 A flat plate antenna no larger than 14 inches by 14 inches by 2 inches may be installed on the side or back outside wall of a home under the eaves and shall not protrude more than 9 inches from the surface of the house. All such antennas shall be painted the same color as the adjacent surface of the house.
- 9.4.4.1.2 A mast-type antenna (such as Yagi type) no larger than 24 inches in length, including the base, 1_ inches in diameter, may be installed on the side or back outside wall of a home provided that such antenna does not extend above the roof at the point of installation.
- 9.4.4.1.3 A satellite antenna no larger than 20 inches in diameter may be installed on the side or back outside wall of a home, or on a railing, door or ground mount. If ground mounted, the top of the antenna may not be higher than 5 feet above the average grade at the perimeter of the house and the base shall be shielded by landscaping on all sides.
- 9.4.4.2 No antenna shall be installed on the front of a home or in the front yard of a home. No exterior mast, tower, pole, aerial, satellite station or dish, antenna or appurtenances thereto, shall be erected except as permitted above. All wires or conduits to the permitted antenna shall be painted the same color as the adjacent surface of the house and shall not protrude more than 3 inches from the surface of the house.
- 9.4.4.3 The above dimensions are based upon common measuring standards, (feet and inches) physically taken (measured) from the furthest outside edge to furthest outside edge of installed equipment (length/width, height and depth). Manufacturers' listed dimensions are not determinative of actual dimensions.
- 9.4.4.4 All other outdoor antennas, including, but not limited to, radio and shortwave, are prohibited with the exception of those installed by Brevard County Utilities for monitoring utility installations. A flagpole for display of the American flag or any other flag shall be permitted only if first approved in writing by the Association, as to its design, height, location and type of flag. No flagpole shall be used as an antenna.
- 9.4.5 All permanent game and play structures (those which are not readily or easily subject to movement or removal), including permanent basketball hoops and supports (hoops and supports which are implanted into ground, driveway areas or affixed to any improvements to a Lot or residential unit), shall be located adjacent to any driveway area or at the side or rear of the improvement, or on the inside portion of the corner Lots within the set back lines. Tree houses or platforms of a like kind or nature shall not be constructed on any part of the Lot located in front of the rear line of the improvement constructed thereon.
- 9.4.6 In the event an improvement is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, not to exceed thirty (30) days, the Owner thereof shall either commence to rebuild or repair the damaged improvement and diligently

continue such rebuilding or repairing activities to completion or, upon a determination by the Owner that the improvement will not be repaired or replaced promptly, shall clear the damaged improvement and grass over and landscape such Lot in a manner consistent with the Association's plan for beautification of the Property. A destroyed improvement shall only be replaced with an improvement of an identical size, type and elevation as that destroyed unless the prior written consent of the Association is obtained.

- 9.4.7 Nothing shall be stored, constructed within or removed from any Common Area other than by the Association unless prior written approval is obtained.
- 9.4.8 Nothing shall be done or kept on any Common Area which shall increase the insurance rates of the Association without prior written consent of the Association.
- 9.4.9 No animals, livestock, or poultry of any kind shall be raised, bred or kept within the Property, other than household pets such as cats, dogs, birds, provided they are not kept, bred or maintained for any commercial purpose and provided they do not become a nuisance or annoyance to any other Owner. Further, an Owner may not keep, maintain, or house more than two dogs or two cats exceeding a total aggregate weight of 75 lbs. (single animal no more than 50 lbs.) at any one time. Residents are encouraged to have such animals neutered. Pets shall be kept only in the home, within screened patio or pool areas, or fenced yards if permitted. No animal shall be permitted off the Lot unless on a leash. Pets shall not be permitted to place or have excretions on any portion of the Property other than the Lot of the owner of the pet unless the owner of the pet physically removes any such excretions from that portion of the Property. For purposes hereof, "household pets" shall mean dogs, cats, domestic birds and fish. Pets shall also be subject to applicable Rules and Regulations of the Association and their Owners shall be held accountable for their actions. The Association may establish limits on the number and kind of pets that may be kept or permitted on any Lot.
- 9.4.10 No commercial activity shall be conducted on any Lot.
- 9.4.11 No mineral, oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot; or shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. Excepted from the foregoing shall be activities of the Association, or any assignee the Association, in dredging the water areas, creating, excavating or maintaining drainage or other facilities or easements, and/or the installation of wells or pumps in compliance with applicable governmental requirements, or for sprinkler systems for any portions of the Property.
- 9.4.12 All signs, billboards and advertising structures of any kind are prohibited, except one (1) sign to advertise the property for sale during any sales period. No signs may be nailed or attached to trees. "For Sale" signs shall not exceed four (4') square feet or be taller than thirty-six (36") inches and in accordance with uniform sign standards adopted by the Association as to appearance and location.
- 9.4.13 No hedge or shrub planting which obstructs sight lines at elevations between three (3') feet and six (6') feet above any roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and line connecting them at points twenty-five (25') feet rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10') feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10') feet from the intersection of a street property line with the edge of a driveway or alley pavement. Except as herein provided, no trees shall be permitted to remain within such distance of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines. Any such tree of a rare or unusual species may be permitted to remain in place upon application to and written permission from the Association and approval by the appropriate city, county or state official or department.
- 9.4.14 All mailboxes shall be approved by the Association and no mailbox or paper box of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected on any Lot

or Common Property until the size, location, design and type of material for the box are approved by the Association. If the United States mail services involved shall indicate a willingness to make delivery to wall receptacles attached to home, each owner, on the request of the Association, shall promptly replace the boxes previously employed for such purpose of purposes with all receptacles attached to homes.

- 9.4.15 No home shall be leased or rented for any period less than six (6) months without the express consent of the Association. A copy of the lease on each home shall be delivered to the Association at or before the time the tenant takes possession of the home.
- 9.4.16 The parking of vehicles is restricted as follows:
- 9.4.16.1 **Automobiles.** Automobiles without any advertising or logos on the vehicle shall be permitted to be parked in driveways and garages. Automobiles with advertising or logos of any kind whatsoever for any commercial purpose, business or endeavor (with the exception of emergency / public safety vehicles) must be parked only in garages at all times. Non-commercial resident's, guest's, family's, and invitee's automobiles and non-recreational passenger vans may be parked on the street during the hours of 8:00 a.m. to midnight so as not to obstruct the flow of traffic at anytime. No overnight parking on the streets is permitted. Exceptions may be made for temporary situations not to exceed 14 days with the written approval of the Association. If an exception is made, a temporary parking placard with the date/s of the exception approved by the Association shall be placed in full view on the dashboard in the front windshield. Residents, guests, family, and invitees who have multiple parking violations may be fined and/or have their car towed at the owners expense. Any vehicle parked in the street must be properly registered and maintained and is subject to state laws, municipal and county ordinances, deed restrictions and rules and regulations of the Association.
- 9.4.16.2 **Passenger Vans.** Passenger vans not outfitted for recreational purposes and without any advertising or logos shall be permitted to be parked in driveways and garages. Passenger vans outfitted for recreational purposes or with advertising or logos of any kind shall be permitted only in garages. A "passenger van" is a van that weighs less than five thousand (5,000) pounds, has seating for more than two (2) passengers, and has non-commercial license plates. "Outfitted for recreational purposes" shall mean a van that has running water, LP gas or sanitary waste facilities. No removable ladders or other commercial equipment shall be stored on the exterior of any passenger van. A "non-passenger van" is any van that does not comply with the definition of a "passenger van." A non-passenger van shall be subject to the same restrictions as a truck rated one-half (1/2) ton or less, as more fully provided herein.
- 9.4.16.3 **Trucks and Non-Passenger Vans.** Trucks rated one-half (1/2) ton or less, without any advertising or logos, used as the resident's regular or usual form of transportation, and non-passenger vans without any advertising or logos shall be permitted in Bimini Bay. Trucks of more than 3/4 tons, or trucks or non-passenger vans with any advertising or logos, or trucks not the resident's regular or usual form of transportation are not permitted to be parked in Bimini Bay unless present solely for the actual and continuous repair or construction of residence, but in no event shall any such trucks remain parked in Bimini Bay for more than 3 months. This provision does not supersede or relieve any Unit Owner from more restrictive provisions contained in the Master Documents. Any vehicle parked in the street must be properly registered and maintained and is subject to state laws, municipal and county ordinances, deed restrictions and rules and regulations of the Association
- 9.4.16.4 **Boats, Campers and Trailers.** Boats, campers and trailers shall be permitted to be parked in Bimini Bay only if parked in garages, unless necessary for cleaning, loading or unloading.

- 9.4.16.5 **Travel Trailers, Motor Coaches, Motor Homes and Mobile Homes.** Travel trailers, motor coaches, motor homes and mobile homes and any other trailer or vehicle not specifically permitted herein, shall not be parked in Bimini Bay at any time, unless necessary for cleaning, loading or unloading.
- 9.4.16.6 **Repairs.** No major repairs shall be performed on any vehicles upon any portion of the Property except in an emergency situation. Notwithstanding the foregoing, all repairs to disabled vehicles within the Property must be completed within two (2) hours from its immobilization or the vehicle must be removed. Routine maintenance (i.e. oil changes, tire rotation, etc.) may be performed inside of the garage.
- 9.4.16.7 **Hardship.** In cases of undue hardship, the Association may grant a special exception of limited duration to the provisions of this section upon written request to the Association.
- 9.4.16.8 **Lawn.** No vehicle shall be parked on any lawn, yard, or other area not intended for vehicular use.
- 9.4.17 Owners shall not do anything that will disturb or interfere with the reasonable rights and comforts of other owners.
- 9.4.18 No obnoxious, unpleasant, unsightly or offensive activity shall be carried on, nor may anything be done, which can be reasonably construed a nuisance, public or private in nature. Any questions with regard to the interpretation of this section shall be decided by the Association whose decision shall be final.
- 9.4.19 No sheets or aluminum foil shall be permitted in any window. Solar film may be installed with written consent of the Association if it is non-metallic in appearance.
- 9.4.20 Unless appropriate written consents or permits are obtained from all applicable governmental agencies, each of the following activities within, or uses of, jurisdictional wetlands (that is, wetlands within the jurisdiction of the St. Johns River Water Management District, the Department of Environmental Protection, and the U.S. Army Corps of Engineers, or any of them) within Bimini Bay are hereby prohibited and restricted:
- 9.4.20.1 The construction, installation or placement of signs, buildings, fences, walls, roads or other structures and improvements in or above the ground of the wetlands;
- 9.4.20.2 The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials on jurisdictional wetlands;
- 9.4.20.3 The cutting or removal or destruction of trees, shrubs or other vegetation from wetlands; and
- 9.4.20.4 The excavation, dredging or removal of loam, peat, gravel, rock, soil or other material substance from wetlands areas.
- 9.5 **Common Area.** Other than those improvements originally constructed by the Declarant, no improvements shall be constructed upon any portion of the Common Area without approval from the Association.
- 9.5.1 No activities constituting a nuisance shall be conducted upon any Common Area.
- 9.5.2 No rubbish, trash, garbage or other discarded items shall be placed or allowed to remain upon any Common Area.
- 9.5.3 The Association may from time to time adopt reasonable rules and regulations concerning use of the Common Area which shall be binding upon all Members of the Association.

- 9.6 **Property Maintenance.** In the event an Owner of any Lot shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Association, except for those areas or items to be maintained by the Association, the Owner shall be notified and given thirty (30) days within which to correct or abate the situation. If the Owner fails to do so, the Association shall have the right (although it shall not be required to do so) to enter upon the Lot for the purpose of repairing, maintaining and restoring the Lot and the exterior of the building and other improvements located thereupon at the sole cost of the Owner of the Lot. The cost of such repair, maintenance and restoration, together with reasonable attorneys' fees and costs for collection thereof incurred through all appellate levels, shall thereupon constitute a lien upon the Lot which lien shall become effective only upon the filing of a written claim of lien. The form, substance and enforcement of the lien shall be in accordance with the construction lien law of the State of Florida, and the Owner of the Lot shall, by virtue of having acquired the Lot subject to these restrictions, be deemed to have authorized and contracted for such repair, maintenance and restoration. The lien herein provided will be subordinate to a first mortgage lien of an Institutional Lender.
- 9.7 **Fines & Late Fees.** It is acknowledged and agreed among all Owners that a violation of any of the provisions of these Declarations or this Article by an Owner or resident will result in irreparable harm to other Owners or residents. Each Owner and the Association shall have the right to order, enforce and file all actions to obtain orders or judgments for specific performance and injunction of the terms and provisions of these covenants and this Declaration. All Owners agree that a fine or late fee may be imposed by the Association for each day of violation of these covenants continues after notification by the Association. All fines and late fees shall be imposed in compliance with and as outlined in Florida State Statutes, the governing documents and Association Rules and Regulations promulgated by the Board of Directors. All fines and late fees collected shall be used for the benefit of the Association. Any fine levied shall be paid within fifteen (15) days after mailing of notice of that fine and it shall be treated as a special assessment solely against the Owner found in violation and may be collected as provided in Article 5 of the Declaration and shall accrue interest at a rate of the greater of 18% per annum or the maximum amount allowed by law. Any payments received for fines imposed shall first be applied to payment of attorneys fees and costs incurred by the Association, then to accrued interest and finally towards satisfaction of the fine.

ARTICLE 10

UTILITY PROVISIONS

- 10.1 **Water System.** The central water supply system provided by the City of Palm Bay for the service of Bimini Bay shall be used as the sole source of water. Each owner shall pay water meter charges established by the City and shall maintain and repair all portions of such water lines located within the boundaries of his Lot.
- 10.2 **Sewage/Reuse Water System.** The central sewage system provided by the City of Palm Bay, Florida for the service of Bimini Bay shall be used as the sole sewage or disposal system for each Lot. Each owner shall maintain and repair all portions of such sewer lines located within the boundaries of his Lot and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal service made by the operator thereof. No septic tank or drain field shall be placed or allowed within Bimini Bay. The Association shall have the right and ability, but shall not be required, to contract with the City of Palm Bay, Florida, with regard to the establishment, maintenance and operation of a Reuse Water System for the Subdivision, and the Association shall have the right to control and regulate all use of the Reuse Water System, and all use of Reuse or Reclaimed Water within the Subdivision, including setting reasonable restrictions on the time and duration of use of such Reuse or Reclaimed Water or Reuse Water System. The Association hereby reserves and creates a perpetual easement in favor of and the Association, over, under and across all Property within the Subdivision for the construction, installation, repair and maintenance of a Reuse Water System for the Subdivision.
- 10.3 **Garbage Collection.** Garbage, trash and rubbish shall be removed from the Lots by the entity selected by the City of Palm Bay, Florida. Each Lot Owner shall pay when due the periodic charges or taxes for such garbage collection service.

- 10.4 **Electrical and Telephone Service.** All telephone, electric and other utility lines and connections between the main or primary utility lines and the residence and the other buildings located on each Lot shall be concealed and located underground in a manner acceptable to Brevard County.

ARTICLE 11

GENERAL PROVISIONS

- 11.1 **Privacy Wall.** The Association may construct privacy walls, fences, berm or swale areas within the Property ("Privacy Wall"). A Privacy Wall shall hereinafter be defined as any berm, swale area, wall or fence built by or inherited from the developer by the Association, in any Common Area, easement, or elsewhere on the Property as a visual barrier, decorative or architectural feature, safety feature, or for any other reason at the sole discretion of the Association, or as a requirement of any municipality or governing authority.
- 11.2 **Maintenance of Privacy Walls.** Unless the Association elects to maintain Privacy Walls, Owners shall be responsible for the maintenance of Privacy Walls situated on or near their respective Lot or Lots.
- 11.3 **Failure to Maintain a Privacy Wall.** To the extent an Owner does not maintain the Privacy Wall contiguous with the boundary line of that Owner's Lot, and the Association has elected not to maintain said Privacy Wall, the Association shall have the right to paint, repair or otherwise maintain that portion of the Privacy Wall. Upon the occurrence of such an event, the Association shall have the right to assess said Owner for the costs thereof and the enforcement provisions contained in this Declaration shall apply.
- 11.4 **Easement for Privacy Wall.** An easement is hereby created in perpetuity, in favor of the Association along the rear Lot lines of all exterior Lots (those Lots bordering other Lots, subdivisions, developments or property not within the Property) within the Subdivision, for the construction, management, inspection, painting, maintenance and repair of Privacy Walls along such rear Lot lines. The easement shall extend ten (10) feet from the rear Lot line of any and all exterior Lots of the Subdivision, into each affected Lot. Entry upon a Lot by the Association, or their agents, as provided herein, may occur without notice and shall not be deemed a trespass.
- 11.5 **Duration and Amendment.** These covenants and restrictions of this Declaration shall run with and bind the land submitted or subjected hereto and shall be and remain in effect for a period of twenty (20) years from the date this Declaration is recorded after which time they will be automatically extended for periods of ten (10) years, and shall inure to the benefit of and be enforceable by, the Association, the owners and their respective legal representatives, heirs, successors and assigns, unless modified or terminated by a duly recorded written instrument executed in conformity with requirements described below. In addition to any other manner herein provided for the amendment of this Declaration, these covenants and restrictions may be amended, changed, supplemented, modified or terminated at any time and for any reason from time to time upon the execution and recordation of an instrument approved by an affirmative vote of two-thirds (2/3rds) of those members present, in person or by proxy, at a duly called meeting of the membership. No provision of this Declaration may be amended if such provision is required to be included herein by any law.
- Any amendment or termination of any covenant, or part thereof, which would affect the Surface Water Management System, including the water management portions of the Common Property, must have the prior approval of the St. Johns River Water Management District.**
- 11.6 **Notices.** Any notice required to be sent to any person pursuant to any provision of these Covenants shall be effective if such notice has been deposited in the United States Mail, postage prepaid, addressed to the person for whom it is intended at his last known place of residence, or to such other address as may be furnished to the secretary of the Association. The effective date of the notice shall be the date of mailing.
- 11.7 **Severability.** Whenever possible, each provision of these Covenants shall be interpreted in a manner that is effective and valid. If any provision of these Covenants is prohibited or held invalid, the prohibition or invalidity of such provision shall not affect any other provision which can be given effect. To this end, the provisions of these Covenants are declared to be severable.

- 11.8 **No Waiver.** The failure of the Association to enforce any right, provision, covenant or condition which may be granted by this Declaration or the Governing Documents shall not constitute a waiver of the right of the Association to enforce such right, provision, covenant, or condition in the future.
- 11.9 **Enforcement/Attorney Fees.** In addition to any other rights or remedies provided in this Declaration, this Declaration may be enforced by the Association, or any Owner by procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain any violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. In any action or proceeding to enforce the provisions of this Declaration or in any way relating to this Declaration, including, without limitation, any action for declaratory relief, the prevailing party shall be entitled to recover from the unsuccessful party all attorney fees incurred at all trial and appellate levels in addition to all other costs and other expenses.
- 11.10 **Indemnification of Officers, Directors or Agents.** The Association shall be entitled to indemnify and procure insurance for any person acting as an officer, director or agent for the Association.
- 11.11 **Conflict.** This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and the Articles of Incorporation shall take precedence over the By-Laws.
- 11.12 **Governing Law/Venue.** The construction, validity and enforcement of this Declaration shall be determined in accordance with the laws of the State of Florida and the exclusive venue for enforcement of this Declaration shall be in Brevard County, Florida.

[Remainder of page left intentionally blank]

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

P. M. Johnson
Signature

PATRICK JOHNSON
Printed Name

D. Williams
Signature

DEBORAH WILLIAMS
Printed Name

STATE OF FLORIDA

COUNTY OF BREVARD


By: BIMINI BAY HOMEOWNERS
ASSOCIATION, INC.

Michael N. Valley
Michael N. Valley, President
Board of Directors

The foregoing instrument was acknowledged before me this 5 day of February, 2010 by Michael N. Valley, President of Bimini Bay Homeowners Association, Inc. who is personally known to me or has produced a State of Florida Drivers License as identification.

DEPUTY CLERK per F.S. 695.03/92.60
Scott Ellis, Clerk
Brevard County, Florida

P. M. Johnson
Notary Public Signature



PATRICK JOHNSON

Printed Name

Bimini Bay Homeowners Association, Inc.
1151 Eleuthera Drive N.E.
Palm Bay, Florida, 32905

Amendment To The

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY

Proposed Amendment Passed By An Affirmative Vote By Two-Thirds (2/3rds) Of Those Members Present, In Person Or By Proxy At A
Membership Meeting On March 8, 2010

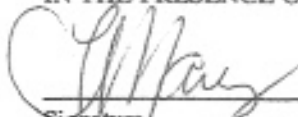
ARTICLE V - ASSESSMENTS

5.2.3 Collection of Rents. During and for the term of the lease, the Association shall have the right, but not the obligation, to collect rents due directly from the tenant. The Association may exercise this right if the unit owner, in the payment of the monthly assessment, has been delinquent once or late twice in the twelve months prior to any month of the lease. Upon demand to the tenant by the Association, rents shall be paid directly to the Association by the tenant. The Association shall apply the rent Moines to bring current the assessment account of the unit owner; and the Association shall forward any remaining rent Moines to the unit owner in a timely manner. No provision of this paragraph shall relieve the unit owner of his responsibility for the timely payment of the monthly assessment.

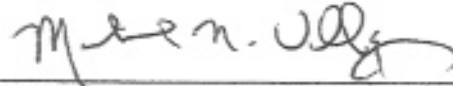
In WITNESS WHEREFORE, the Board of Directors certifies the above amendment to the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY Homeowners Association, Inc. was voted upon by the membership and attests that the two-thirds (2/3) affirmative vote of those members present in person or by proxy required for passage of the amendment to the Declaration of Covenants, Conditions, and Restrictions has been met and declare the passage of such amendment. With the signature affixed below, the President of the Board of Directors certifies that the voting instrument used was properly executed and is hereby recorded as such and filed as an addendum to the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY in the Office of Clerk of Courts, Brevard County, Florida Book 6108 / Page 1644 on this 9th day of March, 2010.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

By: BIMINI BAY HOMEOWNERS ASSOCIATION, INC.




Signature
TRACY MARBS



Michael N. Valley, President
Board of Directors

Printed Name



Signature

Printed Name

CFN 2010043271. OR BK 6125 PAGE 2479,
Recorded 03/09/2010 at 10:29 AM. Scott Ellis, Clerk of
Courts, Brevard County
Pgs:1

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 9th day of March, 2010 by Michael N. Valley, President of Bimini Bay Homeowners Association, Inc. who is personally known to me or has produced a State of Florida Drivers License as identification.



Notary Public Signature
TRACY MARBS

DEPUTY CLERK per F.S. 695.03/92.60

Scott Ellis, Clerk
Brevard County, Florida
State of Florida

My Commission Expires on _____

THIS DOCUMENT PREPARED BY
AND RETURN TO:
Michael N. Valley
BIMINI BAY HOMEOWNERS ASSOCIATION, INC.
1151 Eleuthera Drive NE
Palm Bay, FL 32905

_____ the space above this line is reserved for recording purposes _____

CERTIFICATE OF AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY HOMEOWNERS ASSOCIATION, INC.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, as President and Secretary of the BIMINI BAY HOMEOWNERS ASSOCIATION, INC. (hereinafter Association), pursuant to the Florida Statutes and the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY, recorded in the Official Records Book 6108 Page 1644, of the Public Records of Brevard County, Florida (hereinafter "Declaration"), hereby certify that the AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY, as amended and supplemented, which amendment is attached hereto and by reference made a part hereof (hereinafter "Amendment"), was duly adopted at a meeting of the members on the 2nd day of February, 2021 (hereinafter the "Meeting").

Said Amendment was approved at the Meeting in accordance with the requirements of Article XI of the Declaration, as amended, by the affirmative vote of two-thirds (2/3) of the Owners. Proper Notice of the Meeting pursuant to the By-Laws of the Association and the Florida Statutes. The Notice of the Meeting stated the purpose, time, date and location of the Meeting.

The Association is a homeowners association created pursuant to the laws of the State of Florida. With the exception of the attached Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the Association has caused these presents to be executed in its name, the

4 day of March 2021.

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BIMINI BAY HOMEOWNERS ASSOCIATION, INC.**

The following amendment is made to Article V, Section 5.7 of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIMINI BAY HOMEOWNERS ASSOCIATION, INC., recorded in the Official Records Book 6108 Page 1644 of the Public Records of Brevard County, Florida (additions are indicated by underlining, deletions are indicated by ~~strikethrough~~, and unaltered provisions remain the same.

ARTICLE V
ASSESSMENTS

5.2 Enforcement of Assessments. Personal Obligation

Section 5.2.1 Personal Obligation

Each owner is personally responsible and liable to pay assessments which become due during the time such owner owns the Unit. In addition, a Unit owner is jointly and severally liable with the previous Unit owner for all unpaid assessments that came due up to the time of transfer of title, except as otherwise described within the Article V and as outlined in the Florida Statutes Chapter 720.3085. ~~The personal obligation of an owner to pay assessments which become due during his or her ownership of a Unit shall not pass to such owner's successors in title unless assumed by them or unless such assessments have become a lien on such Unit in accordance herewith.~~

Section 5.7 Subordination of the Lien to Mortgages

The lien of the assessments provided for in this Declaration shall relate back to the date of recording this Declaration and shall be a lien superior to all other liens less and except real estate tax liens and the lien of any mortgage to any Institutional Lender which is now or hereafter placed upon any property subject to assessment, as long as, said mortgage lien is a first lien against the property encumbered thereby. ~~provided, however, that any such mortgagee, when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgagee acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). The lien shall be enforced against any Institutional Lender, first mortgagee, successor, or any purchaser who acquire title to a Unit through foreclosure or conveyance in lieu of foreclosure or auction as outlined in the Florida Statutes Chapter 720.3085.~~ Any unpaid assessment which cannot be collected as a lien against any Unit by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Units as to which the foreclosure (or conveyance in lieu of foreclosure) took place. ~~Notwithstanding any contrary provision hereof, no Institutional Lender acquiring title to a Unit through foreclosure or conveyance in lieu of foreclosure, and no purchaser at a foreclosure sale, and no persons claiming by, through or under such Institutional Lender or purchaser, shall be personally obligated to pay assessments that accrue prior to the Institutional Lender's or the foreclosure purchaser's acquiring title.~~

Signed, sealed and delivered
in the presents of:

BIMINI BAY HOMEOWNERS
ASSOCIATION, INC.

[Signature]
(Sign - Witness 1)

Aaron Guiter
(Print - Witness 1)

[Signature]
(Sign - Witness 2)

CAROLE ROOKSBERRY
(Print - Witness 2)

[Signature]
(Sign - Witness 1)

Aaron Guiter
(Print - Witness 1)

[Signature]
(Sign - Witness 2)

CAROLE ROOKSBERRY
(Print - Witness)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing was acknowledged before me this 4 day of March
2021, by Mary Ann Scofield, as President and Patricia Yatteau, as Secretary, of Bimini Bay Homeowners
Association, Inc., a Florida not for profit corporation, on behalf of the corporation, who is personally known to
me or who has produced a Florida Drivers License as identification.

By:

[Signature]
(Sign)

MARY ANN SCOFIELD
(Print)

President, Bimini Bay Homeowners
Association, Inc.

Attest:

[Signature]
(Sign)

Patricia A Yatteau
(Print)

Secretary, Bimini Bay Homeowners
Association, Inc.

NOTARY PUBLIC

[Signature]
(Sign)



Aaron Guiter
(Print)

State of Florida, At Large
My Commission Expires:

DEPUTY CLERK, per F.S. 095.03/02.50
Rachel M. Sadoff, Clerk
Brevard County, Florida

Bimini Bay Homeowners Association, Inc.
1151 Eleuthera Drive N.E.
Palm Bay, Florida 32905

BY-LAWS OF BIMINI BAY HOMEOWNERS ASSOCIATION, INC.
A Florida Not For Profit Corporation

Prepared by Bimini Bay Document Review Committee
(Michael Valley, Chairman, Gary Olson, John Cady, Karen Linnen, and Joe Lane)

Initial Approval By The Board Of Directors
Pending Review By Attorneys
(April 8, 2009)

Reviewed By General Council Community Resource Management
Sherry Highman, Attorney At Law
(August 15, 2009)

Final Approval By The Board Of Directors
Michael Valley, President • Glenda Cagle, Vice President • Mary Ann Scofield, Secretary
• Jane Quadrozzi, Treasurer • Vikki Elder, Director
(September 21, 2009)

Approved By The Membership
The Annual Membership Meeting
(January 19, 2010)

Filed At The Brevard County Clerks Office
February 5, 2010

Amended by The Membership
Bi-Laws Articles 9.8.1 & 9.8.4 Filed At The Brevard County Clerks Of The Courts
March 4, 2021

BY-LAWS OF BIMINI BAY HOMEOWNERS ASSOCIATION, INC.

ARTICLE I - NAME AND LOCATION

The name of the corporation is the BIMINI BAY HOMEOWNERS ASSOCIATION, INC. (the "Association"). The principal office of the corporation shall be located at 1151 Eleuthera Drive N.E., Palm Bay, Florida 32905 but the meetings of members and directors may be held at such places within the State of Florida, County of Brevard, as may be designated by the Association's Board of Directors.

ARTICLE II - DEFINITIONS

The terms and definitions used herein are further defined and clarified in the Declaration of Covenants and Restrictions for BIMINI BAY (the "Declaration"), to be recorded in the Public Records of Brevard County, Florida. For purposes of these By-Laws certain terms are defined as follows:

- 2.1 "Articles" shall mean the Articles of Incorporation of BIMINI BAY HOMEOWNERS ASSOCIATION, INC.
- 2.2 "Association" shall mean and refer to the BIMINI BAY HOMEOWNERS ASSOCIATION, INC., a Florida Not for Profit Corporation, and its successors and assigns.
- 2.3 "BIMINI BAY" shall mean the overall BIMINI BAY subdivision on file with Brevard County, Florida.
- 2.4 "Common Area" shall mean all real property owned by the Association, in fee simple, by virtue of dedication to the Association, or otherwise, for the common use and enjoyment of the Owners and as more particularly described in the Declaration.
- 2.5 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for BIMINI BAY and any amendments or restatements thereof, all recorded in the Public Records of Brevard County, Florida.
- 2.6 "Lot" shall mean and refer to any unit, parcel, tract or plot of land shown on any subdivision map or plat of the Properties on file or recorded in the Public Records of Brevard County, Florida with the exception of the Common Area, and/or road right-of-ways if dedicated to a public authority or the Association. Each lot is subject to assessments and entitles each Owner to voting rights as hereinafter defined.
- 2.7 "Member" or "Members" shall mean and refer to those persons entitled to membership as provided in the Declaration.
- 2.8 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot, tract or parcel which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 2.9 "Properties" or "Property" shall mean and refer to that certain real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE III - MEMBERS

- 3.1 **Qualifications.** The qualifications of members, the manner of their admission to membership, changes in membership and the termination of such membership, shall be as set forth in the Declaration and the Articles. All record Owners of Lots shall be members of the Association. Accordingly, membership in the Association may be transferred only as an incident to the transfer of the transferor's Lot.
- 3.2 **Membership Register.** The Association shall maintain a membership register at the office of the Association showing the names and addresses of the Members. Each Member shall at all times advise the Secretary of the Association of any change of address of the Member or any change of ownership of the Member's Lot. Each Owner shall comply with any requests by the Association to furnish it with information about or evidence of the legally record ownership of the Lot. The Association shall not be responsible for making any changes to the register until notified of such change in writing.

3.3 Voting Rights.

- 3.3.1 **Determining the Voting Member.** The record ownership of each Lot shall be established by reference to the membership register for purposes of determining the "Voting Member" with respect to that Lot. When a lot is owned by more than one person, the Voting Member shall be designated by a certificate signed by all record Owners and filed with the Association. When a lot is owned by a corporation, partnership, limited partnership, or trust, the Voting Member shall be designated by a certificate filed with the Association and signed by the corporation's president or vice president, all the partnership's partners, all the limited partnership's general partners, or all the trustees, as the case may be. The Voting Member need not be an Owner, or one of the joint owners or officers, directors, partners or trustees of an Owner. Each duly executed and filed certificate designating the Voting Member shall be valid until the record Owner of the Lot files a written certificate or other notice revoking or amending the prior certificate or appearing, in person at a meeting and revoking the proxy or certificate.
- 3.3.2 **Failure to File Certificate.** Owners who are required to file but fail to file a certificate as provided herein shall not be considered Voting Members for purposes of determining whether a quorum exists at membership meetings and shall not be permitted to vote at meetings on any issue.
- 3.3.3 **Voting by Proxy.** Voting Members may cast their votes in person or by a limited proxy relating to a specific issue or issues at a specific membership meeting. Owners may not vote by general proxy. Limited and general proxies may be used to establish a quorum. A Voting Member's proxy shall be valid only for the particular meeting specified in writing, signed by the Voting Member designating the proxy and filed with the Association's Secretary or designee before the commencement of the meeting to which it relates. Unless the proxy specifically indicates on its face that it is a proxy to vote as to a particular issue or question at the meeting, it shall entitle the holder to vote for the Voting Member on any issue that is properly published in the agenda before the meeting. Holders of proxies need not be Owners. A proxy is valid for a period of not longer than ninety (90) days after the date of the first meeting for which it was given. A proxy is revocable at any time at the pleasure and in the sole discretion of the Owner. Proxies shall be automatically terminated upon conveyance by the Member of his Lot. Proxies may not be used for election of members of the Board of Directors.

ARTICLE IV - MEETING OF MEMBERS

- 4.1 **Place of Meeting.** All meetings of the Association membership shall be held on the Properties or at another suitable place in Brevard County, Florida, determined by the Board of Directors. Any notice of a membership meeting shall clearly indicate the place where it is to be held.
- 4.2 **Time.** Every membership meeting shall be scheduled on a date and at a time determined by the Board of Directors.
- 4.3 **Annual Meetings** The Annual Meeting of the Membership shall be held in December or January at a date, time and place determined by the Board of Directors.
- 4.4 **Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board of Directors or upon written request of and signed by one-fourth (1/4) of the members who are eligible to vote.
- 4.5 **Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purposes of notice. Such notices shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting. No business shall be conducted at any special meeting (except one of which no notice is required) other than the business identified in the notice of the special meeting.

- 4.6 **Attendance at Meetings.** Any person entitled to cast the votes of a Member, and in the event that any lot is owned by more than one person, all co-owners of a Lot, may attend any meeting of the Members. Any person not expressly authorized to attend the meeting of the Members, as set forth above, may be excluded from any meeting of the members by the presiding officer of such meeting.
- 4.7 **Organization.** At each meeting of the members, the President, or in his absence, the Vice President, shall act as chairman of the meeting. The Secretary, or in his absence, any person appointed by the chairman of the meeting, shall act as Secretary of the meeting. The approved minutes of all meetings of the members shall be kept in a book available for inspection by the members or their authorized representatives, and the members of the Board of Directors, at any reasonable time.
- 4.8 **Quorum.** Except as otherwise provided in the Articles, the Declaration, or these By-Laws ten percent (10%) of the membership eligible to cast a vote or if proxies entitled to cast, shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting, until a quorum as aforesaid shall be present or represented. No notice of the rescheduled meeting need be given other than an announcement at the original meeting and a conspicuous posting of a notice of the first rescheduled meeting on the community properties.
- 4.9 **Vote Required to Decide Issues.** With the exception of the election of directors, the majority of the voting members who are present in person or by a limited proxy at a membership meeting and are entitled to vote at the meeting shall decide any question brought before the meeting for a vote, unless the question is one in which a different vote is required by the Articles or the Declaration. If some lessor or greater percentage of voting interest is required herein or in the Declaration or Articles, it shall mean such lessor or greater percentage of the votes of the Voting Members and not of the Owners themselves.
- 4.10 **Written Consent in Lieu of a Meeting.** Any action required or permitted to be taken at an annual or special meeting of the Members may be taken without a meeting, without prior notice, and without a vote if the action is taken by the Members entitled to vote on such action and having not less than the minimum number of votes to authorize such action at a meeting at which all Members entitled to vote on such action were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by the approving Members having the requisite number of votes and entitled to vote on such action, and delivered to the Association by delivery to the Secretary or any other officer of the Association. Such written consent shall not be effective to take the corporate action referred to in the consent unless: (i) the consent is signed by Members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and (ii) the consent is delivered in the manner required by these By-Laws. Any written consent may be revoked in writing, delivered prior to the date that the Association receives the required number of consents to authorize the proposed action. Within ten (10) days after obtaining such authorization by written consent, notice must be given to those Members who are entitled to vote on the action but who have not consented in writing. The notice must fairly summarize the material features of the authorized action.

ARTICLE V - BOARD OF DIRECTORS SELECTION AND TERM OF OFFICE

- 5.1 **Number.** The affairs of this Association shall be managed by a Board of Directors of five (5) Directors who need not be Members of the Association. The number of directors shall always consist of an odd number.
- 5.2 **Term of Office.** At the first annual meeting, the Members shall elect five (5) Directors for a term of one (1) year. Beginning with the second annual meeting and at each annual meeting thereafter, the Membership shall adopt a Staggered Term Format to elect the Board of Directors. In the first year of the Staggered Term Format, the Members shall elect three (3) Directors for a term of two (2) years and two (2) Directors for a term of one (1) year. In the first year of the Staggered Term Format, the three (3) candidates receiving the most votes would serve the initial two (2) year term. In the second year of the Staggered Term Format and every year thereafter, each Director position whose term expires would be elected for a two (2) year term.

Sample Format for Staggered Terms

| 2008 | | 2009 | | 2010 | | 2011 | | 2012 | |
|----------|-------------|----------|------------------|----------|------------------|----------|------------------|----------|------------------|
| Director | Term | Director | Term | Director | Term | Director | Term | Director | Term |
| A | 2 Year Term | D | 2 Year Term | A | 2 Year Term | D | 2 Year Term | A | 2 Year Term |
| B | 2 Year Term | E | 2 Year Term | B | 2 Year Term | E | 2 Year Term | B | 2 Year Term |
| C | 2 Year Term | A | 1 Year Remaining | C | 2 Year Term | A | 1 Year Remaining | C | 2 Year Term |
| D | 1 Year Term | B | 1 Year Remaining | D | 1 Year Remaining | B | 1 Year Remaining | D | 1 Year Remaining |
| E | 1 Year Term | C | 1 Year Remaining | E | 1 Year Remaining | C | 1 Year Remaining | E | 1 Year Remaining |

- 5.3 **Removal.** Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. No Director shall continue to serve on the Board of Directors if, during the term of his office, his membership in the Association has been terminated for any reason.
- 5.4 **Compensation.** No Director shall receive compensation for any service he may render to the Association as a Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.
- 5.5 **Action Taken Without a Meeting.** The Directors shall have the right to take any action required or permitted to be taken at a Board of Director's meeting without a meeting if the action is taken by all the Members of the Board of Directors. The action must be evidenced by one or more written or electronic consents describing the action taken and signed or by electronic consent by each Director. The action taken pursuant to this Section is effective when the last Director signs the consent, unless the consent specifies a different effective date. A consent signed under this Section has the effect of meeting vote and may be described as such in any document.

ARTICLE VI - NOMINATION AND ELECTION OF DIRECTORS

- 6.1 **Nomination.** Nomination for election to the Board of Directors shall be made by a nominating committee. The Nomination/Teller Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nomination/Teller Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting. The Nomination/Teller Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members and non-members.
- 6.2.1 **Election.** Election of the Board of Directors shall take place at the annual Membership Meeting or in conjunction with the Annual Membership Meeting. The Nomination/Teller Committee may set a time duration approved by the Board of Directors for members to cast their ballot in order for the Nomination/Teller Committee to have sufficient time to count the ballots. Election to the Board of Directors shall be by secret written ballot. At such election, the members in respect to

each vacancy, shall vote by a ballot that the Voting Member personally casts, as many votes as the Voting Member is to exercise under the provisions of the Declaration during the polling time and manner set forth by the Nomination/Teller Committee and approved by the Board of Directors. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII - MEETING OF DIRECTORS

- 7.1 **Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly or as the Board of Directors shall otherwise deem necessary to operate or manage the Association and shall be at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Meetings of the Board of Directors shall be open to all Owners, and notices of meetings shall be posted in a conspicuous place on the Association's property at least forty-eight (48) hours in advance, except in an emergency. Notice of any meeting in which assessment against lots are to be established shall specifically contain a statement that assessment shall be considered and a statement of the nature of such assessments. Notice of a meeting of the Board of Directors need not be given to any Director who signs a waiver of notice either before or after the meeting. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting and the manner in which it has been called or convened, except when a Director states, at the beginning of the meeting or promptly upon arrival of the meeting, any objection to the transaction of affairs because the meeting was not lawfully called or convened.
- 7.2 **Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.
- 7.3 **Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

ARTICLE VIII - POWERS AND DUTIES OF THE BOARD OF DIRECTORS

- 8.1 **Powers.** The Board of Directors shall have power to:
- 8.1.1 adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
 - 8.1.2 suspend the voting rights and right to use the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days for infraction of published rules and regulations;
 - 8.1.3 exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved for the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
 - 8.1.4 declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
 - 8.1.5 employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;
 - 8.1.6 to borrow money and mortgage and encumber Common Areas as set forth in the Declaration and assign such assessments or portions thereof to owners;
 - 8.1.7 to contract for the management of the Association and Common Areas and to delegate to such contractor all of the powers and duties of the Association, if so approved by the Board of Directors;

- 8.1.8 to employ personnel to perform the services required for proper administration of the Association;
 - 8.1.9 to maintain bank accounts on behalf of the Association and designate signatories required on the accounts;
 - 8.1.10 to establish reasonable rules and regulations for the use of the Common Areas. To employ, dismiss, and compensate personnel reasonably required for operating the community property and administering the Association;
 - 8.1.11 to enforce the obligations of the Members, collect delinquent assessments by filing suit or other reasonable means, to abate nuisances, to enjoin Members from violating the Declarations; and
 - 8.1.12 enter into and upon any portion of the Property, including any Lot(s) when necessary to maintain or preserve any real or personal property in the event the respective Owner fails to do so.
- 8.2 **Duties.** It shall be the duty of the Board of Directors to:
- 8.2.1 cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth () of all Members who are eligible to vote;
 - 8.2.2 supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
 - 8.2.3 as more fully provided in the Declaration to:
 - 8.2.3.1 establish the amount of the annual assessment against each unit or projected unit at least thirty (30) days in advance of each annual assessment period;
 - 8.2.3.2 send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - 8.2.3.3 file a lien and/or foreclose the lien against any property for which assessments are not paid as outlined in the Florida State Statutes Chapter 720 or to bring an action at law against the owner personally obligated to pay the same.
 - 8.2.4 issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
 - 8.2.5 procure and maintain adequate liability and hazard insurance on property owned by the Association;
 - 8.2.6 cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate;
 - 8.2.7 cause the Common Area to be maintained;
 - 8.2.8 protect all property rights, interests, easements or rights-of-way, or otherwise, which are acquired by or conveyed to this Association, now or hereafter; and
 - 8.2.9 mortgage or encumber common areas as set forth in the Declaration, and assign such assessments or portions thereof to owners.

ARTICLE IX - OFFICERS AND THEIR DUTIES

- 9.1 **Enumeration of Offices.** The officers of this Association shall be President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

- 9.2 **Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.
- 9.3 **Term.** The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.
- 9.4 **Special Appointments.** The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the board may, from time to time, determine.
- 9.5 **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board of Directors in accordance with 5.3 of the BY-LAWS. Any officer may resign at any time giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- 9.6 **Vacancies.** A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.
- 9.7 **Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. After the sale of all Lots, no person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.
- 9.8 **Duties.** The duties of the officers are as follows:
- 9.8.1 **President.** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds, ~~promissory notes~~ and other written instruments. ~~and shall co-sign all checks and promissory notes.~~ The President or designee approved by the Board shall have the authority to sign checks and make electronic payments on behalf of the Board. The President shall be the chief executive officer of the Association, vested with all the powers and duties that are usually vested in the office of the President of an Association. (Amended by Membership and filed in Brevard County Clerk of the Courts March 4, 2021 see pages 10 & 11).
- 9.8.2 **Vice President.** The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.
- 9.8.3 **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.
- 9.8.4 **Treasurer.** ~~The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association.~~ The Treasurer or designee approved by the Board shall have the following authority: shall sign checks and make electronic payments on behalf of the Board; shall sign all checks and promissory notes of the Association; shall receive or oversee all deposits of monies into appropriate bank accounts of the Association; and shall disburse such funds as directed by resolution of the Board of Directors; shall keep proper books of account; shall cause a Financial Report of the Association books at the completion of each fiscal year as outlined in the Florida State Statutes Chapter 720 Financial Reporting; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. (Amended by Membership and filed in Brevard County Clerk of the Courts March 4, 2021 see pages 10 & 11).

ARTICLE X - COMMITTEES

The Association shall appoint an Architectural Review Committee as provided in Declaration, and a Nomination/Teller Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XI - BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and these By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XII - ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. Any assessment not paid within fifteen (15) days of its due date shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, may incur a Late Fee as outlined in the Florida State Statutes Chapter 720, and the Association may bring an action at law against the owner or owners personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added. No owner may waiver or otherwise escape liability for any assessment by non-use of the common area or abandonment of his lot.

ARTICLE XIII - CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: BIMINI BAY HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation.

ARTICLE XIV - AMENDMENTS

- 14.1 These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.
- 14.2 In the case of any conflict between Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XV - FISCAL MANAGEMENT

- 15.1 The provisions for fiscal management of the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:
 - 15.1.1 The Association shall maintain accounting records for each property it maintains in the county where the property is located, according to good accounting practices. The records shall be open for inspection by owners or their authorized representatives between the hours of 9:00 a.m. and 5:00 p.m. The records shall include, but are not limited to:
 - 15.1.1.1 a record of all receipts and expenditures; and
 - 15.1.1.2 an account for each lot and unit designating the name and current address of the lot and unit owner, the amount of each assessment, the date on which the assessments come due, the amount paid upon the account and the balance due.
 - 15.1.2 The Board of Directors shall adopt a budget for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the common expense budget, which shall include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance, and operation of common areas, landscaping, streets and walkways, office expenses, utility services, replacements and operating reserve, casualty insurance, liability insurance, administration and salaries. The Board of Directors shall also establish the proposed assessments against each Member as more fully provided in the Declaration. Delivery of a copy of any budget to each Member shall not affect the liability of any Member for any such assessments, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget as originally adopted. The Board of Directors shall designate 36.8% of the annual assessment to the *Reserve Fund* portion of the annual budget. Of the 36.8% of the annual budget, the Board of Directors shall plan for and establish a long term plan, and annually assign an adequate fund amount by percent based upon

that year's budget to each *Reserve Fund Sub Category* of Roof Replacement; Exterior Painting of the Residences; Street, Curb, and Sidewalk Repair / Restoration; Clubhouse, Irrigation, and Pool Repair and Improvements; Entry Gate and Fence Repair/Replacement. Upon the establishment of the funding percentages to each *Reserve Fund Sub Category* by the Board of Directors, the *Reserve Fund Sub Categories* may not be used to pay for any expenditure other than their specific intended purpose without the approval of the membership. In case of a catastrophic emergency

(i.e. hurricane/tornado damage, major sewer failure, road collapse / sink hole, fire, etc.), the Board of Directors may allocate *Reserve Funds* to make emergency repairs provided the Board of Directors notify the membership in writing within 10 days of the catastrophic emergency expenditure. The notification must include a detailed explanation of the emergency expenditure and a formal plan to restore the *Reserve Fund* to its pre catastrophic level through a special assessment, or by other proposed means

- 15.1.3 The depository of the Association shall be such bank of banks 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 such accounts may be made by check or electronically as authorized by the Directors.
- 15.1.4 A financial report of the accounts of the Association shall be made annually in accordance with Florida State Statute Chapter 720, Financial Reporting Requirement.
- 15.1.5 Fidelity bonds may be required by the Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association.

ARTICLE XVI - PARLIAMENTARY RULES

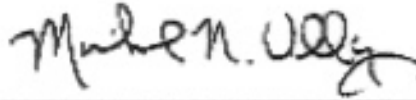
Robert's Rules of Order (latest edition) shall govern the conduct of the corporate meetings when not in conflict with the Articles of Incorporation and these By-Laws or with statutes of the State of Florida.

ARTICLE XVII - MISCELLANEOUS

- 17.1 **Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December every year, except that the first fiscal year shall begin on the date of incorporation.
- 17.2 **Notices.** Whenever notices are required to be sent or delivered pursuant to these By-Laws to an Owner, the notice will be mailed to the Owner at the recorded in the Membership Register. Notices to the Association shall be delivered by mail to the Secretary or the President of the Association at the place of business for the Association or such other address designated by the Association. Any party may change their mailing address by written notice to the other party. Whenever notices are required to be given under the provisions of the Articles, the Declaration or these By-Laws, a written waiver of notice signed by the person or persons entitled to such notice shall be deemed the equivalent of notice. Notice from the Association shall be deemed delivered when: (i) personally delivered to the Owner; or (ii) upon depositing in United States mail with postage prepaid and addressed to the place of residence for the Owner listed in the Membership Register. Notice to the Association shall be deemed delivered only upon actual receipt by the Secretary or President.
- 17.3 **Partial and Validity.** If any of these provisions of these By-Laws shall be or become enforceable at law or in equity, the remaining provisions shall, nevertheless, be and remain in full force and effect.
- 17.4 **Non-Waiver.** No requirement or right contained in these By-Laws shall be deemed to have been waived by the Association's failure to enforce such requirement or right.
- 17.5 **Gender and Plurality.** Wherever the context so requires, the use of a masculine gender shall be deemed to include all genders, and the use of a singular gender shall include the plural, and the use of the plural shall include the singular.
- 17.6 **Captions.** The captions used in these By-Laws are solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text that follows the caption.

I, the undersigned, as President of the Board of Directors certifies the foregoing revised BY-LAWS FOR BIMINI BAY HOMEOWNERS ASSOCIATION, INC..was successfully voted upon by the membership and attests that the majority affirmative vote required for passage has been met and declare the adoption of such document. With the signature affixed below, the President of the Board of Directors certifies that the voting instrument used was properly executed and is hereby recorded and filed in the Office of Clerk of Courts, Brevard County, Florida on this 5th day of February, 2010.

By: BIMINI BAY HOMEOWNERS
ASSOCIATION, INC.



Michael N. Valley, President
Board of Directors

THIS DOCUMENT PREPARED BY
AND RETURN TO:
Michael N. Valley
BIMINI BAY HOMEOWNERS ASSOCIATION, INC.
1151 Eleuthera Drive NE
Palm Bay, FL 32905

CFN 2021055043 OR BK 9038 PAGE 2941
Recorded 03/04/2021 at 09:22 AM Rachel M. Sacco,
Clerk of Courts, Brevard County
Pgs:3

the space above this line is reserved for recording purposes

**CERTIFICATE OF AMENDMENTS TO THE BY-LAWS OF BIMINI BAY HOMEOWNERS
ASSOCIATION, INC.**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, as President and Secretary of the BIMINI BAY HOMEOWNERS ASSOCIATION, INC. (hereinafter Association), pursuant to the Florida Statutes and BY-LAWS OF BIMINI BAY, recorded in the Official Records Book 6108 Page1644, of the Public Records of Brevard County, Florida (hereinafter "By-Laws"), hereby certify that the AMENDMENTS TO THE BY-LAWS OF BIMINI BAY, as amended and supplemented, which amendments are attached hereto and by reference made a part hereof (hereinafter "Amendments"), was duly adopted at a meeting of the members on the 2nd day of February, 2021 (hereinafter the "Meeting").

Said Amendments were approved at the Meeting in accordance with the requirements of Article XIV of the By-Laws, as amended, by the majority vote of the Owners. Proper Notice of the Meeting pursuant to the By-Laws of the Association and the Florida Statutes. The Notice of the Meeting stated the purpose, time, date and location of the Meeting.

The Association is a homeowners association created pursuant to the laws of the State of Florida. With the exception of the attached Amendments, all other terms and conditions of the By-Laws shall remain in full force and effect.

4 IN WITNESS HEREOF, the Association has caused these presents to be executed in its name, the
day of March, 2021.

AMENDMENTS TO THE BY-LAWS OF BIMINI BAY HOMEOWNERS ASSOCIATION, INC.

The following amendments are made to Article XIV, Section 9.8.1 and 9.8.4 of the BY-LAWS OF BIMINI BAY HOMEOWNERS ASSOCIATION, INC., recorded in the Official Records Book 6108 Page 1644 of the Public Records of Brevard County, Florida (additions are indicated by underlining, deletions are indicated by ~~striketrough~~, and unaltered provisions remain the same).

ARTICLE IX OFFICERS AND THEIR DUTIES

Section 9.8 Duties. The duties of the officers are as follows

Section 9.8.1. President

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds, promissory notes and other written instruments. ~~and shall co-sign all checks and promissory notes.~~ The President or designee approved by the Board shall have the authority to sign checks and make electronic payments on behalf of the Board. The President shall be the chief executive officer of the Association, vested with all the powers and duties that are usually vested in the office of the President of an Association.

Section 9.8.4. Treasurer

~~The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association~~
The Treasurer or designee approved by the Board shall have the following authority: shall sign checks and make electronic payments on behalf of the Board; shall sign all checks and promissory notes of the Association; shall receive or oversee all deposits of monies into appropriate bank accounts of the Association; and shall disburse such funds as directed by resolution of the Board of Directors; shall keep proper books of account; shall cause a Financial Report of the Association books at the completion of each fiscal year as outlined in the Florida State Statutes Chapter 720 Financial Reporting; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

Signed, sealed and delivered
in the presents of:

BIMINI BAY HOMEOWNERS
ASSOCIATION, INC.

Michael N. Valley

(Sign - Witness 1)

Michael N. Valley

(Print - Witness 1)

[Signature]

(Sign - Witness 2)

Aaron Gutter

(Print - Witness 2)

Michael N. Valley

(Sign - Witness 1)

Michael N. Valley

(Print - Witness 1)

[Signature]

(Sign - Witness 2)

Aaron Gutter

(Print - Witness)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing was acknowledged before me this 4 day of March 2021, by Mary Ann Scofield, as President and Patricia Yatteau, Secretary, of Bimini Bay Homeowners Association, Inc., a Florida not for profit corporation, on behalf of the corporation, who is personally known to me or who has produced a Florida Drivers License as identification.

By:

Mary Ann Scofield

(Sign)

MARY ANN SCOFIELD

(Print)

President, Bimini Bay Homeowners
Association, Inc.

Attest:

Patricia A Yatteau

(Sign)

Patricia A Yatteau

(Print)

Secretary, Bimini Bay Homeowners
Association, Inc.

NOTARY PUBLIC

[Signature]

(Sign)

Aaron Gutter

(Print)

State of Florida, At Large
My Commission Expires:



DEPUTY CLERK, per F.S. 695.03/92.50
Rachel M. Sadoff, Clerk
Brevard County, Florida

Bimini Bay Homeowners Association, Inc.
1151 Eleuthera Drive N. E.
Palm Bay, Florida 32905

ARTICLES OF INCORPORATION OF
BIMINI BAY HOMEOWNERS ASSOCIATION, INC.

Filed
At The Brevard County Clerk's Office
July 18, 2003

ARTICLES OF INCORPORATION OF
BIMINI BAY
HOMEOWNERS ASSOCIATION, INC.

H03000237111 7

In compliance with the requirements of Chapter 617 of the Florida Statutes, the undersigned, all of whom are residents of the State of Florida, and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I
NAME OF CORPORATION

The name of the corporation is BIMINI BAY HOMEOWNERS ASSOCIATION, INC., a corporation not for profit organized under Chapter 617 of the Florida Statutes, as it existed on the date of incorporation, and all subsequent assessments thereto (hereinafter referred to as the "Association").

ARTICLE II
PRINCIPAL OFFICE

The principal office of the Association is located at 3410 N. Harbor City Blvd., Melbourne, Florida 32935, which shall be the initial registered office and mailing address of the Association.

ARTICLE III
INCORPORATOR

Mark Petroni, whose address is 3410 N. Harbor City Blvd., Melbourne, Florida 32935, is the sole incorporator of the Association.

ARTICLE IV
REGISTERED AGENT

David G. Larkin, whose address is Fallace & Larkin, L.C., 1900 South Hickory Street, Ste. A, Melbourne, Florida 32901 is hereby appointed as the initial registered agent of the Association.

ARTICLE V
PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is organized and for which it is to be operated are to provide for maintenance, preservation, and care of the property of the Association, and to provide the architectural control of the residential lots and common area within that certain tract of property described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"), and to promote the health, safety, and welfare of the residents within the Property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for these purposes. In connection therewith, the Association shall have the following powers:

- (a) To exercise all the powers and privileges and to perform all the duties and obligations of the Association as set forth in a Declaration of Covenants and Restrictions for Bimini Bay (the "Declaration"), applicable to the Property and to be recorded in the Office of the Clerk of the Circuit Court, Brevard County, Florida and as the same may be amended from time to time as therein provided;



- (b) Enforcing the provisions of the Declaration and these Articles of Incorporation, and the By-Laws of the corporation which may be hereafter adopted, and the rules and regulations governing the use of the common areas as the same may be hereafter established.
- (c) To fix, levy, collect, and enforce payment by any lawful means, all charges or assessments due to the Association or any other person affiliated with the Association pursuant to the terms of the Declaration; to pay all expenses in connection therewith; and to pay all office and other expenses incident to the conduct of business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (d) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (e) To borrow money, and with the assent of two-thirds ($\frac{2}{3}$) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (f) To dedicate, sell, or transfer all or any part of the common areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds ($\frac{2}{3}$) of each class of members, agreeing to such dedication, sale, or transfer unless otherwise set forth in the Declaration;
- (g) To participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of two-thirds ($\frac{2}{3}$) of each class of members;
- (h) To annex additional property and common areas in the manner set forth in the Declaration;
- (i) To have and to exercise any and all powers, rights and privileges which a corporation organized under Florida law, including Chapter 617, Florida Statutes, by law may now or hereafter have or exercise.
- (j) To levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the Surface Water or Stormwater Management Systems, including but not limited to work within retention areas, drainage structures, and drainage easements.
- (k) To operate maintain and manage the Surface Water or Stormwater Management Systems in a manner consistent with the St. John's River Water Management District permit requirements and applicable District rules, and assist in the enforcement of the restrictions and covenants contained therein.
- (l) Maintaining, repairing, replacing, operating, and managing the common areas of this subdivision and the property comprising same, including the right to reconstruct improvements after casualty and to make further improvement of said property.
- (m) To make and establish reasonable rules and regulations governing the use of common areas in accordance with the terms and provisions as set forth and defined in the Declaration.
- (n) To enter into leases and agreements of every nature or kind.



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ARTICLE VI
MEMBERSHIP

Every person or entity who is a record owner or who holds a fee or undivided fee interest in any lot which is subject to the Declaration, including contract sellers, shall be a member of the Association with the voting rights described in Article VII hereof. The foregoing shall not to include persons or entities who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association.

ARTICLE VII
VOTING RIGHTS

The Association shall have two classes of voting membership with the relative rights and preferences as follows:

Class A: Class A members shall be all owners, with the exception of the Declarant, of any plot of land shown upon any recorded plat of the Property ("Lot" or "Lots"). Each Class A member shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, each such person shall be members, however, the vote for such Lot shall be exercised as they collectively determine, and in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member shall be the Declarant (as defined in the Declaration), who shall be entitled to five (5) votes for each Lot owned within the Property. Unless converted earlier and voluntarily by the Declarant, the Class B membership shall cease and be converted to Class A membership upon the first to occur of either of the following events:

- (a) the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or
- (b) fifteen (15) years from the date of the original recording of the Declaration in the public records of Brevard County, Florida; or
- (c) at the election of the Declarant (whereupon the Class A Members shall be obligated to elect the Board of Directors and assume control of the Association).

ARTICLE VIII
BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of five (5) Directors, who need not be members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association. The Board of Directors shall be elected at the first meeting of the Association in the manner described in the Bylaws.

ARTICLE IX
DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust, or other organization to be devoted to such similar purpose.



In the event of termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water or Stormwater Management Systems must be transferred to and accepted by an entity which would comply with Section 40C-42.027, Florida Administrative Code, and be approved by St. John's River Water Management District prior to such termination, dissolution, or liquidation.

ARTICLE X
EXISTENCE AND DURATION

The existence of the Corporation shall commence with the filing of these Articles of Incorporation with the Secretary State, Tallahassee, Florida. The Corporation shall exist in perpetuity.

ARTICLE XI
AMENDMENTS

The Association shall have the right to amend these Articles at any time upon the affirmative vote of two-thirds ($\frac{2}{3}$) of each class of the voting interests of the Association as described in Article VII hereof. Amendments may be proposed by resolution approved by a majority of the Board of Directors; provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of the members, without approval in writing by all members and the joinder of all record owners of mortgages upon the Lots. No amendment shall be made that is in conflict with Florida law or the Declaration unless the latter is amended to conform to the same.

ARTICLE XII
BYLAWS

The Bylaws of the Association shall be adopted by the Board of Directors at the first meeting of Directors, and may be altered, amended, or rescinded thereafter in the manner provided therein.

ARTICLE XIII
ASSESSMENTS

The assessments shall be used for the maintenance and repair of the Surface Water or Stormwater Management Systems including but not limited to work within retention areas, drainage structure, and drainage easements and for the maintenance and repair of the common areas within the Property, and other property of the Association, as set forth in the Declaration.

ARTICLE XIV
INDEMNIFICATION

Every director and every officer of the corporation shall be indemnified by the corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the corporation, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of any claim for reimbursement of indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

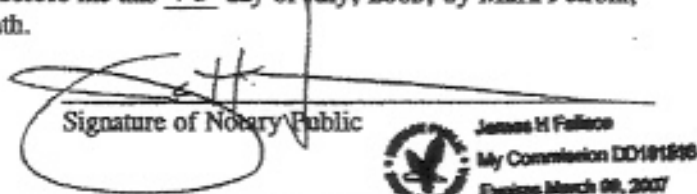
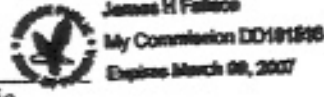


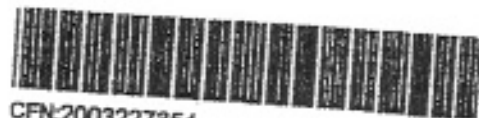
IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole Incorporator of this Association, has executed these Articles of Incorporation this 16 day of July, 2003.


Mark Petroni, Incorporator

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 16 day of July, 2003, by Mark Petroni, who is personally known to me and did not take an oath.


Signature of Notary Public

Print Name of Notary Public
Notary Public State of Florida
My Commission Expires:



CFN:2003227354
OR Book/Page: 4994 / 2530

**CERTIFICATE OF DESIGNATION OF
REGISTERED AGENT/REGISTERED OFFICE**

PURSUANT TO THE PROVISIONS OF SECTION 607.0501 OR 617.0501, FLORIDA STATUTES, THE UNDERSIGNED CORPORATION, ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA, SUBMITS THE FOLLOWING STATEMENT IN DESIGNATING THE REGISTERED OFFICE/ REGISTERED AGENT, IN THE STATE OF FLORIDA.


1. The name of the corporation is:

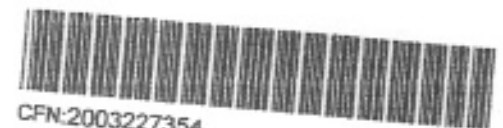
BIMINI BAY HOMEOWNERS ASSOCIATION, INC.

2. The name and address of the registered agent and office is:

David G. Larkin
Fallace & Larkin, L.C.
1900 So. Hickory Street, Ste. A
Melbourne, Florida 32901

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.


David G. Larkin
Dated: July 21, 2003



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OR Book/Page: 4994 / 2531

EXHIBIT "A"

EXHIBIT "A"

A part of Lots 9, 10 and 23 and including that part of a platted Right of Way vacated per Official Records Book 541, Page 55, ALL in Section 28, Township 28 South, Range 37 East, as shown on plat showing lands of FLORIDA INDIAN RIVER LAND COMPANY, as recorded in Plat Book 1 at Page 164, Public Records of Brevard County, Florida, lying East and South of Riviera Drive and LESS and EXCEPT lands described in Official Records Book 541, Page 55, Public Records of Brevard County, Florida, more particularly described as:

Commence at the West 1/4 corner of said Section 28, Township 28 South, Range 37 East, thence S 00 degrees 20 minutes 34 seconds W 25.00 feet to a point on the centerline of Craftsland Lane (a 50' right of way) as shown on Port Malabar Country Club Unit Seven, Plat Book 25, Pages 121-126, Public Records of Brevard County, Florida; thence S 89 degrees 39 minutes 26 seconds East along said centerline 360 feet to the PC of a circular curve concave Southerly, having a radius of 611.80 feet; thence Southeasterly along the arc of said curve through a central angle of 13 degrees 25 minutes 26 seconds a distance of 143.34 feet to the PT; thence continue along said centerline of Craftsland Lane S 76 degrees 14 minutes 00 seconds East 107.59 feet to the Point of intersection of the Centerline of Riviera Drive (a 100 foot right of way) said point being a point on a circular curve concave Northwesterly having a radius of 928.02 feet; thence Northeasterly along the arc of said curve and the centerline of said Riviera Drive, through a central angle of 12 degrees 33 minutes 13 seconds a distance of 203.33 feet to the PT; thence continue along said centerline of Riviera Drive N 01 degrees 12 minutes 47 seconds East 694.47 feet; thence departing from the centerline of said Riviera Drive S 88 degrees 47 minutes 13 seconds East 50.00 feet to the POINT OF BEGINNING of lands herein described; thence continue S 88 degrees 47 minutes 13 seconds East along and beyond the Southerly line of a 30 foot drive right of way as shown on aforesaid plat of Port Malabar Country Club Unit Seven a distance of 353.32 feet; thence S 01 degrees 12 minutes 47 seconds West 317.10 feet to the PC of a circular curve concave Northeasterly having a radius of 300.00 feet; thence Southerly along the arc of said curve through a central angle of 86 degrees 53 minutes 17 seconds a distance of 454.94 feet to a point on the arc of said curve; thence departing from said curve S 01 degrees 12 minutes 47 seconds West 422.57 feet to the PC of a circular curve concave Northwesterly, having a radius of 260.00 feet; thence Southwesterly along the arc of said curve through a central angle of 90 degrees 00 minutes 00 seconds a distance of 408.41 feet to the PT; thence N 88 degrees 47 minutes 13 seconds West 362.36 feet; thence N 59 degrees 57 minutes 03 seconds West 184.54 feet to a point on circular curve concave Northwesterly, having a radius of 1,125.00 feet; from which a radial bears N 57 degrees 09 minutes 01 seconds West, said point being on the Southeasterly right of way of aforesaid Riviera Drive; thence Northeasterly along the arc of said curve and along said right of way of Riviera Drive through a central angle of 01 degrees 15 minutes 24 seconds a distance of 24.67 feet to the point of compound curvature with a circular curve having a radius of 978.02 feet from which point a radial bears N 58 degrees 24 minutes 25 seconds West; thence along the arc of said curve and continuing along the Easterly right of way of Riviera Drive through a central angle of 30 degrees 22 minutes 48 seconds a distance of 518.58 feet to the PT; thence N 01 degree 12 minutes 47 seconds East 694.47 feet to the POINT OF BEGINNING.

