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DECLARATION OF CONDOMINIUM FOR CONDOMINIUM II AT BARLETTA A CONDOMINIUM

MADE this 29th day of July, 2005, by U.S. Home Corporation, a Delaware corporation authorized to do business in the State of Florida, hereinafter called the "Developer", for itself and its successors, grantees and assigns.

WHEREIN the Developer makes the following declarations:

1. **THE LAND**. The Developer owns certain real property located in Lee County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Land").

2. **SUBMISSION STATEMENT**. The Developer hereby submits the Land described in Exhibit "A" and all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, located on and intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date of recording this Declaration, excluding therefrom, however, all public utility installations, cable television lines, and other similar equipment, if any, owned by the utility furnishing services to the Condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of condominium parcels. The acquisition of title to a unit, or any interest in the condominium property, or the lease, occupancy, or use of any portion of the condominium property shall constitute an acceptance and ratification of all provisions of this Declaration as it may be amended from time to time, and shall signify agreement to be bound by its terms.

3. **NAME**. The name by which this Condominium shall be identified is Condominium II at Barletta, a Condominium, (the "Condominium") and its address is Barletta Lane, Estero, Florida.

4. **DEFINITIONS**. The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires.

4.1 **"Architectural Review Committee" or "ARC"** means the Architectural Review Committee as established and empowered in Section 6 of the Master Declaration.

4.2 **"Assessment"** means the share of the funds required for the payment of common expenses which from time to time is assessed against each of the units.

4.3 **"Association"** means Condominium II at Barletta Association, Inc., a Florida corporation not for profit, the entity responsible for the operation of this Condominium.

4.4 **"Association Property"** means all property, real or personal, owned or leased by the Association for the use and benefit of the unit owners.

4.5 **"Board of Directors" or "the Board"** means the representative body which is responsible for the administration of the Association's affairs, and is the same body referred to in the Condominium Act as the "Board of Administration".

4.6 **"Condominium Documents"** means this Declaration and all recorded exhibits hereto, as amended from time to time.

4.7 **"County"** All references in the governing documents to "a County" or "the County" or to a specific Florida County are intended to refer to Lee County, Florida, and shall be construed to do so.

4.8 **"Declarant"** or **"Developer"** means U.S. Home Corporation, a Delaware corporation authorized to do business in the State of Florida. Wherever either term is used in this Declaration, or in the Articles or Bylaws of the Association, it shall always be deemed to include any successor in interest to the Declarant's development rights and obligations.

4.9 **"Electronic Transmission"** means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmissions of images, and text that is sent via electronic mail between computers.

4.10 **"Family" or "Single Family"** means any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

4.11 **"Fixtures"** means items of tangible personal property which, by being physically annexed or constructively affixed to a unit, have become accessory to it and part and parcel of it, including but not limited to, interior partition walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall or ceiling coverings.

4.12 **"Guest"** means any person (other than the unit owner and his family) who is physically present in, or occupies any unit on a temporary basis at the invitation of the unit owner or other permitted occupant, without the payment of consideration.

4.13 **"Institutional Mortgagee"** means the mortgagee (or its assignee) of a mortgage encumbering a condominium parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any other institutional lender providing financing of acquisition, development or construction, or any agency of the United States of America. The term also refers to any holder of a mortgage against a condominium parcel, which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns.

4.14 **"Lease"** means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

4.15 **"Limited Common Elements"** means those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.16**"Master Association" or "the Master Association"** means Bella Terra of Southwest Florida, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the Master Association Common Areas within Master Association, as described in the Governing Documents.

4.17 **"Master Common Areas"** means the real property and all improvements thereon owned or to be owned by the Master Association for the use and benefit of the members of Bella Terra.

4.18 **"Master Declaration"** means the Declaration of Covenants, Conditions, and Restrictions for Bella Terra, as originally recorded in O.R. Book 04236, at Pages 0511 to 0599, Public Records of Lee County, Florida, (the "Master Declaration"), and as it may be amended from time to time.

4.19 **"Occupant"** when used in connection with a unit, means a person who is physically present in a unit on two or more consecutive days, including staying overnight. "Occupy" means the act of staying overnight in a unit.

4.20 **"Primary Institutional Mortgagee"** means that institutional mortgagee which, at the time a determination is made, holds more first mortgages on units in the Condominium than any other institutional mortgagee, such determination to be made by reference to the number of units encumbered, and not by the dollar amount of such mortgages.

4.21 **"Rules and Regulations"** means the rules and regulations promulgated by the Board of Directors concerning the use of the common elements and the operation of the Association.

4.22 **"Voting Group"** means a group of members of the Master Association whose Living Units are represented by one (1) or more Directors of the Master Association, as more particularly described in Section 11.7 of the Bella Terra Declaration, and in a Supplemental Declaration to be recorded as provided therein.

4.23 **"Voting Interests"** refers to the arrangement established in the condominium documents by which the owners of each unit collectively are entitled to one vote in Association matters. There are forty-eight (48) units, so the total number of voting interests is forty-eight (48) votes.

4.24 **"Voting Representative"** means the representative selected by the Members of this Neighborhood to be responsible for casting all votes the Members in the Neighborhood in all Master Association matters other than the election of Directors.

5. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS.

5.1 **Survey and Plot Plans.** Attached to this Declaration as part of Exhibit "B" and incorporated by reference herein, are a survey of the Land and plot plans, which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements and limited common elements, and their relative locations and dimensions.

5.2 **Unit Boundaries.** Each unit shall include that part of the building that lies within the following boundaries:

(A) Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to their intersections with the perimeter boundaries:

(1) **Upper Boundaries.** The horizontal plane or planes of the unfinished lower surface of the ceiling of the unit.

(2) **Lower Boundaries.** The horizontal plane of the unfinished upper surface of the concrete floor of the unit.

(B) Perimeter Boundaries. The perimeter boundaries of the unit shall be the vertical planes of the unfinished interior surfaces of the plasterboard walls bounding the unit as shown in Exhibit "B" hereto, extended to their intersections with each other and with the upper and lower boundaries.

(C) Interior Walls. No part of the non-structural interior partition walls within an unit shall be considered part of the boundary of a unit.

(D) Apertures. Where there are openings in any boundary, including, without limitation, windows, doors and skylights, the boundaries of the unit shall extend to the interior unfinished surfaces of the coverings of such openings, and the frames thereof. Therefore, windows, doors, screens and all frames, casings and hardware therefor, are excluded from the unit.

(E) Utilities. The unit shall not be deemed to include any pipes, wiring, ducts or other utility installations that are physically within the above-described boundaries, but which serve other units or the common elements. Such utility installations shall be common elements.

In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the unit boundaries set forth in Exhibit "B" hereto shall control in determining the boundaries of a unit, except the provisions of Section 5.2(D) above shall control over Exhibit "B".

6. CONDOMINIUM PARCELS; APPURTENANCES AND USE.

6.1 **Shares of Ownership.** The Condominium contains forty-eight (48) units. The owner of each unit also owns a one forty-eighth (1/48th) undivided share in the common elements and the common surplus.

6.2 **Appurtenances to Each Unit.** The owner of each unit has certain rights and owns a certain interest in the condominium property, including without limitation the following:

(A) An undivided ownership share in the Land and other common elements of the Condominium and the common surplus of the Association, as specifically set forth in Section 6.1 above.

(B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibits "C" and "D" respectively.

(C) The exclusive right to use the limited common elements reserved for the unit, and the non-exclusive right to use the common elements.

(D) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(E) Other appurtenances as may be provided by law or by this Declaration and its exhibits.

Each unit and its appurtenances constitutes a "**condominium parcel.**"

6.3 **Use and Possession.** A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements and common areas in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other unit owners or other persons having rights to use the condominium property. No unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the units, common elements, and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association, through its Board of Directors, as set forth in the Bylaws.

7. COMMON ELEMENTS; EASEMENTS.

7.1 **Definition.** The term "common elements" means all of the condominium property not included within the units, and includes without limitation the following:

(A) The Land.

(B) All portions of the buildings and other improvements on the Land not included within the units, including limited common elements.

(C) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.

(D) An easement of support in every portion of the condominium property that contributes to the support of a building or structure.

(E) The property and installations required for furnishing utilities and other services to more than one unit or to the common elements.

7.2 **Easements.** Each of the following easements and easement rights is reserved through the condominium property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of the easements specified in this Section may be encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

(A) **Utility and other Easements.** The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the common elements, and to grant access easements or relocate any existing access easements in any portion of the common elements, as the Association shall deem necessary or desirable for the proper Operation and maintenance of the Condominium. This power also includes a limited power to convey easements, as provided for in Chapter 73, Florida Statutes. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

(B) **Encroachments.** If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

(C) **Ingress and Egress.** A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective guests and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

(D) **Construction; Maintenance.** The Developer (including its designees and contractors) shall have the right to enter the condominium property and take any action reasonably necessary or convenient for the purpose of completing the construction thereof, provided such activity does not prevent or unreasonably interfere with the use or enjoyment by the unit owners of the condominium property.

(E) **Sales Activity.** For as long as it holds any unit in the Condominium for sale in the ordinary course of business, the Developer and its designees shall have the right to use any units owned by it, and the common elements in order to establish modify, maintain and utilize, as it and they deem appropriate, model units and sales and other offices. Without limiting the generality of the foregoing, the Developer and its designees may show model units or the common elements to prospective purchasers or tenants, erect on the condominium property signs and other promotional material to advertise units for sale or lease, and take all other action helpful for sales, leases and promotion of the Condominium.

(F) The easements and rights described in (D) and (E) above shall terminate upon the sale of all units in the Condominium to purchasers other than a successor Developer.

7.3 **Restraint Upon Separation and Partition.** The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from" the unit and passes with the title to the unit, whether separately described or not. No owner may maintain an action for partition of the common elements. A unit owner's interest in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to his unit.

8. LIMITED COMMON ELEMENTS.

8.1 **Description of Limited Common Elements.** Certain common elements have been or may be designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been assigned are as described in this Declaration and as further identified on the attached survey and plot plan.

(A) Covered Parking Spaces. Certain one car covered parking spaces are shown in Exhibit "B." The exclusive right to the use of each covered parking space is assigned as a limited common element to the unit bearing the same number.

(B) Stairs. The exclusive use of any stairways, stairwells and railings which are attached to and which exclusively serve particular units is a limited common element for the units which they serve. The maintenance, repair and replacement thereof shall be the responsibility of the Association and shall be a common expense.

(C) Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to that unit, are limited common elements.

(D) Lanai , Patio or Balcony. The airspace comprising any lanai, patio or balcony attached to and serving exclusively a unit is a limited common element.

(E) Others. Any part of the common elements that is connected to and exclusively serves a single unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by, or at the expense of, the unit owner, shall be deemed a limited common element, whether specifically described above or not. This paragraph includes windows, screens and doors, including all hardware, locks and frames therefor.

8.2 **Exclusive Use.** The exclusive right to use a limited common element is an appurtenance to the unit or units to which it is designated or assigned. The use right passes with the unit, whether separately described or not, and cannot be separated from it.

9. **ASSOCIATION**. The operation of the Condominium is by Condominium II at Barletta Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

9.1 **Articles of Incorporation.** A copy of the Articles of Incorporation of the Association is attached as Exhibit "C".

9.2 **Bylaws.** The Bylaws of the Association shall be the Bylaws attached as Exhibit "D", as they are amended from time to time.

9.3 **Delegation of Management.** The Board of Directors may contract for the management and maintenance of the condominium property and authorize a manager or management company to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules, and maintenance and repair of the common elements with funds made available by the Association for such purposes. The Association and its Directors and officers shall, however, retain at all times the powers and duties provided in the Condominium Act.

9.4 **Membership.** The members of the Association are the owners of record legal title to the units, as further provided in the Bylaws.

9.5 **Acts of the Association.** Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or the condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the unit owners. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

9.6 **Powers and Duties.** The powers and duties of the Association include those set forth in the Condominium Act and in the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property and association property. The Association may impose reasonable fees for use of common elements or association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other possessory or use interests in lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the unit owners.

9.7 **Official Records.** The Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

The Association shall not be required to provide a prospective purchaser or lienholder with information about the condominium or the Association other than information or documents required by law to be made available or disclosed.

Notwithstanding the foregoing, the Association shall be entitled to charge a reasonable fee to the prospective purchaser, lienholder, or member for its time in providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, provided that such fee does not exceed $150.00 plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with its response.

9.8 **Purchase of Units.** The Association has the power to purchase units in the Condominium and to acquire and hold, lease, mortgage, and convey them, such power to be exercised by the Board of Directors.

9.9 **Acquisition of Property.** The Association has the power to acquire property, real or personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as provided in 9.8 above, the power to acquire interests in real property may be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

9.10 **Disposition of Property.** Any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the Board of Directors, without need for authorization by the unit owners.

9.11 **Roster.** The Association shall maintain a current roster of names and mailing addresses of unit owners. A copy of the roster shall be made available to any member upon request.

Additionally, the Association shall maintain the electronic mailing addresses and the numbers designated by members for receiving notice by electronic transmission of those members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by members to receive notice by electronic transmission shall be removed from Association records when consent to receive notice by electronic transmission is revoked. The Association, however, is not liable for an erroneous disclosure of the electronic mailing address or the number for receiving electronic transmission of notices.

10. **ASSESSMENTS AND LIENS.** The Association has the power to levy and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association, including regular

assessments for each unit's share of the common expenses as set forth in the annual budget, and special assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts other than common expenses which are properly chargeable against such unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in Section 6 of the Bylaws and as follows:

10.1 **Common Expenses.** Common expenses include all expenses of the operation, maintenance, repair, replacement and protection of the common elements and association, property, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted to fund reserve accounts. The cost of water and sewer service to the units shall be a common expense. If the Board of Directors enters into a contract for pest control or cable television services in bulk for all units, the cost of such services shall be a common expense.

10.2 **Share of Common Expenses.** The owner of each unit shall be liable for a share of the common expenses of the Association equal to his share of ownership of the common elements and the common surplus, as set forth in Section 6.1 above.

10.3 **Ownership.** Assessments collected by or on behalf of the Association become the property of the Association; no unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit. No owner has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided-herein or by law.

10.4 **Who is Liable for Assessments.** The owner of each unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all monies owed by the transferor, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

10.5 **No Waiver or Excuse from Payment.** The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements, by abandonment of the unit for which the assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as provided below as to certain mortgagees.

10.6 **Application of Payments; Failure to Pay; Interest.** Assessments and installments thereon paid on or before ten (10) days after the due date shall not bear interest, but all sums not paid by the tenth (10th) day shall bear interest at the highest rate allowed by law, until paid. Assessments and installments thereon shall become due, and the unit owner shall become liable for the assessments or

installments, on the date established in the Bylaws or otherwise set by the Association for payment. The Association may impose a late payment fee, in addition to interest, as allowed by law. All payments on account shall be applied first to interest, then to late payment fees and attorney's fees and costs, and finally to unpaid assessments as required by law. No payment by check is deemed received until the check has cleared.

10.7 **Acceleration.** If any special assessment or quarterly installment of regular assessments as to a unit becomes more than thirty (30) days past due and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's annual assessment and all special assessments for that fiscal year as if the balance had originally been due on the date the Claim of Lien was recorded. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate is exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 **Liens.** The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and reasonable attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Lee County, Florida, stating the description of the condominium parcel, the name of the record owner, the name and address of the Association, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 **Priority of Lien.** Except as otherwise provided by law, the Association's lien for unpaid assessments shall be subordinate and inferior to the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but is superior to, and takes priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded. Any lease of a unit is subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

10.10 **Foreclosure of Lien.** The Association may bring an action in its name to foreclose its lien for unpaid assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid assessments without waiving any lien rights.

10.11 **Certificate As To Assessments.** Within fifteen (15) days after request by a unit owner, unit purchaser or mortgagee, the Association shall provide a certificate stating whether all assessments

and other monies owed to the Association by the unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby. The Association may charge a reasonable fee for the preparation of the certificate.

10.12 **Statutory Assessment Guarantee; Liability of Developer for Common Expenses.** The Developer guarantees that from the recording of this Declaration, until December 31, 2005, or such earlier date as unit owners other than the Developer first elect a majority of the Directors of the Condominium Association (the "turnover date"), assessments against unit owners for common expenses will not exceed $591.60 per quarter. If the turnover date has not occurred by December 31, 2005, then the Developer further guarantees that from January 1, 2006, until the first to occur of the turnover date or December 31, 2006, assessments against unit owners for common expenses will not exceed $680.34 per quarter. If the turnover date has not occurred by December 31, 2006, the Developer further guarantees that from January 1, 2007, until the turnover date, assessments against unit owners for common expenses will not exceed $782.39 per quarter. During this guarantee period, the Developer and units owned by the Developer shall be exempt from the payment of assessments for common expenses. The Developer shall, however, be obligated to fund any deficit caused by the failure of assessments at the guaranteed level receivable from other unit owners to meet the common expenses incurred by the Association.

11. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS. Responsibility for the protection, maintenance, repair and replacement of the condominium property, and restrictions on its alteration and improvement shall be as follows:

11.1 **Association Maintenance.** The Association is responsible for the protection, maintenance, repair and replacement of all common elements and association property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include, without limitation:

(A) Electrical wiring up to the circuit breaker panel in each unit.

(B) Water lines, up to the individual unit cut-off valve.

(C) Cable television lines up to the wall outlet.

(D) Main air conditioning condensation drain lines, up to the point where the individual unit drain line cuts off.

(E) Sewer lines, up to the point where they enter the individual unit.

(F) The exterior surfaces of the main entrance door to each unit.

(G) All exterior building walls, including painting, waterproofing, and caulking.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be, performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense unless the need for the work was caused by the unit owner. Regardless of the foregoing, the Association shall not be responsible for incidental damage to any alteration or addition to the common elements made by a unit owner or his predecessor in title.

11.2 **Unit Owner Maintenance.** Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit and of certain limited common elements. The owner's responsibilities include, without limitation:

(A) All screens, windows, window glass, and related hardware and frames.

(B) The entrance door to the unit and its interior surface.

(C) All other doors within or affording access to the unit.

(D) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the unit and serving only the unit.

(E) The circuit breaker panel and all electrical wiring going into the unit from the panel.

(F) Appliances, water heaters, smoke alarms and vent fans.

(G) All air conditioning and heating equipment, thermostats, ducts and related installations serving the unit exclusively.

(H) Carpeting and other floor coverings.

(I) Door and window hardware and locks.

(J) Shower pans.

(K) The main water supply shut-off valve for the unit.

(L) Other facilities or fixtures which are located or contained entirely or partially within the unit and serve only the unit.

(M) All interior, partition walls which do not form part of the boundary of the unit.

11.3 **Other Unit Owner Responsibilities:**

(A) **Porches or Lanais.** Where a limited common element consists of a porch or lanai area, the unit owner who has the exclusive right to use the area shall be responsible for day-to-day cleaning and care of the walls, floor and ceiling bounding said area, if any; and all fixed glass and sliding glass doors in portions of the entrance way to said area, if any; and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs. The Association is responsible for the maintenance, repair and replacement of all exterior walls of the building and the concrete slabs. No porch or lanai may be covered or enclosed in any way without the prior written approval of the Board of Directors. The maintenance, repair and replacement and insurance of such approved covering or enclosure is the responsibility of the unit owner. Maintenance, repair and replacement of all screening is the responsibility of the unit owner.

(B) **Covered Parking Spaces.** Maintenance of all interior spaces within the covered parking spaces shall be the unit owner's responsibility. Each unit owner shall keep the pavement surface of their covered parking space free of dirt, grime, grease and other debris. Maintenance of exterior, roof, and structural components of the covered parking space shall be by the Association and shall be a common expense.

(C) **Interior Decorating.** The unit owner is responsible for all decorating within his own unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

(D) **Flooring.** All units above the ground floor shall always have the floors covered with wall-to-wall carpeting installed over high quality padding, except carpeting is not required in kitchens, bathrooms or laundry rooms. An owner who desires to install in place of carpeting any hard-surface floor covering (e.g., marble, slate, ceramic tile, parquet) shall also install a sound absorbent underlayment of such kind and quality as to substantially reduce the transmission of noise to adjoining units, and must obtain written approval of the Board of Directors prior to any work being done. If the installation is made without prior approval the Board may, in addition to exercising all the other remedies provided in this Declaration, require the unit owner to cover all such hard-surface flooring with carpeting, or require the removal of such hard-surface flooring at the expense of the offending unit owner.

(E) **Window Coverings.** The covering and appearance of windows and doors, whether by draperies, shades, reflective film or other items, whether installed within or outside of the unit, visible from the exterior of the unit, shall be subject to the rules and regulations of the Association.

(F) **Modifications and Alterations.** If a unit owner makes any modifications, installations or additions to his unit or to the common elements with or without association approval, the unit owner, and his successors in title, shall thereby become financially responsible for:

(1) insurance, maintenance, repair and replacement of the modifications, installations or additions; and

(2) all damages to other property or persons caused by such modifications, installations or additions; and

(3) the costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the condominium property; and

(4) damage to the modifications, installations or additions caused by work being done by the Association.

(G) **Use of Licensed and Insured Contractors.** Whenever a unit owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the unit or common elements, whether with or without Association approval, such owner shall be deemed to have warranted to the Association and its members that his contractor(s) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

11.4 **Appliance Maintenance Contracts.** If there shall become available to the Association a program of contract maintenance for kitchen appliances or water heaters within units and/or air-conditioning compressors and/or air handlers serving individual units, which the Association determines is to the benefit of the owners to consider, then upon agreement by a majority of the voting interests present, in person or by proxy and voting, at a meeting called for the purpose, or upon agreement by a majority of the voting interests in writing, the Association may enter into such contractual undertakings. The costs of such contractual undertakings to the Association shall be common expenses. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the unit owner.

11.5 **Alteration of Units or Common Elements by Unit Owners.** No owner shall make or permit the making of any material alterations or substantial additions to his unit or the common elements, or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the ARC, as well as the approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the unit, are subject to regulation by

the Board of Directors. No owner may alter the landscaping of the common elements in any way without prior Board approval. The Board of Directors may revoke or rescind any approval of an alteration or modification previously given, if it appears that the installation has had unanticipated, adverse effects on the Condominium.

11.6 **Alterations and Additions to Common Elements and Association Property.** The protection, maintenance, repair, insurance and replacement of the common elements and association property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common elements or real property owned by the Association costing more than $10,000 in the aggregate in any calendar year without prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the common elements or association property also constitutes a material alteration or substantial addition to the common elements, no prior unit owner approval is required. All alterations are subject to the prior approval of the ARC.

11.7 **Enforcement of Maintenance.** If after reasonable notice the owner of a unit fails to maintain the unit or its appurtenant limited common elements as required above, the Association may institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the unit, with or without notice to or consent of the tenant or unit owner, to repair, replace, or maintain any common elements or of any portion of the unit to be maintained by the Association pursuant to this Declaration. Any expenses incurred by the Association in performing work within the unit as authorized by this Declaration shall be charged to the unit owner, together with reasonable attorney's fees and other expenses or collection, if any.

11.8 **Negligence: Damage Caused by Condition in Unit.** The owner of each unit shall be liable for the expenses of any maintenance, repair or replacement of common elements, other units, or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or tenants. Each unit owner has a duty to maintain his unit, any limited common element appurtenant to the unit (except those limited common elements required to be maintained by the Association), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other units, the common elements or the property of other owners and residents. If any condition, defect or malfunction, resulting from an owner's failure to perform this duty causes damage to other units, the common elements, association property or property within other units, the owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the owner.

11.9 **Association Access to Units.** The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair or replacement of any common elements or of any portion of a unit to be maintained by the Association, pursuant to the Declaration or as necessary to prevent damage to the common elements or to a unit or unit.

11.10 **Pest Control.** The Association may supply pest control services for the inside of each unit, with the cost thereof being part of the common expenses. An owner has the option to decline such service unless the Association determines that such service is necessary for the protection of the balance of the Condominium, in which event the owner thereof must either permit the Association's pest control company to enter his unit or must employ a licensed pest control company to enter his unit on a regular basis to perform pest control services and furnish written evidence thereof to the Association. Because the cost of pest control services provided by the Association is a common expense, the election of an owner not to use the service shall not reduce the owner's assessments.

11.11 **Porch or Lanai Enclosures.** The Board of Directors may adopt a basic approved plan for screening and/or glassing-in of porches or lanais, subject to ARC approval. A unit owner may screen or enclose the porch or lanai serving his unit in accordance with the approved basic plans without specific consent from the Board of Directors, provided that such screening or enclosure conforms in all respects to the approved basic plans and specifications therefor.

11.12 **Hurricane Shutters.** Subject to approval by the ARC, the Board of Directors shall adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Condominium. No hurricane shutter except of the standard model, color and style adopted by the Board of Directors shall be used in or upon the Condominium.

12. **USE RESTRICTIONS.** The use of the units and the common elements shall be in accordance with the following provisions, and with Section 5 of the Bella Terra Declaration, as long as the Condominium exists:

12.1 **Units.** Each unit shall at any time be occupied by only one family, its servants and guests, as a residence and for no other purpose. No business, commercial activity or profession may be conducted from any unit, nor may the name of the condominium or the address of any be publicly advertised as the location of any business. The use of a unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his unit. Such uses are expressly declared customarily incident to residential use. This Section 12.1 is, however, intended to prohibit commercial or business activity by a unit owner which would unreasonably disrupt the residential ambiance of the building, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Condominium by persons making deliveries or pick-ups, by employees or other business associates, or by customers and clients.

12.2 **Age.** There is no restriction on the age of occupants of units. All occupants under eighteen (18) years of age must be closely supervised at all times by an adult to insure that they do not become a source of annoyance to other residents.

12.3 **Pets.** The owner of each unit may keep no more than two (2) small pets, of a normal domesticated household type (such as a cat or dog) in the unit. Dogs and cats must be leashed or carried at all times while outside of the unit. The ability to keep pets is a privilege, not a right, and the Board of Directors may order and enforce the removal of any pet which becomes a reasonable source of annoyance to other residents. The owner is responsible for cleaning up after his pet. No pets of any kind are permitted in leased units. No reptiles, rodents, poultry, amphibians, swine or livestock may be kept in the Condominium, but tropical fish or caged birds in reasonable numbers are permitted.

12.4 **Nuisances.** No owner shall use his unit, or permit it to be used, in any manner that is unreasonably disturbing, detrimental or a nuisance to the occupants of another unit, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each unit shall be consistent with existing laws, the governing documents and the condominium documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.5 **Signs.** No person other than the Developer may post or display any signs, banners, and the like, anywhere on the condominium property, including "For Sale," "For Rent," "Open House" and other similar signs. If any sign is erected in violation of this provision, the Declarant, the Master Association, or the Neighborhood Association shall have the right to enter the property on which the sign is located and remove it. The foregoing shall not apply to signs, banners, flags, billboards or advertisements used or erected by Declarant, entry and directional signs installed by Declarant, and signs required by law, nor shall it apply to the respectful display of one portable, removable United States Flag by a unit owner pursuant to Florida Statute §718.113(4).

12.6 **Motor Vehicles; Parking.** No motor vehicle shall be parked anywhere on the condominium property except on a paved parking surface within their assigned covered parking space. No commercial trucks, or vehicles which are primarily used for commercial purposes, other than service vehicles temporarily present on business, nor any trailers, may be parked on the condominium property, unless fully enclosed within a garage. Boats, boat trailers, trailers, semitrailers, house trailers, campers, travel trailers, mobile homes, motor homes, recreational vehicles, and the like, and any vehicles not in operable condition or validly licensed, may not be kept on the condominium property unless fully enclosed within a garage. For the purpose of the foregoing sentence, the term "kept" shall mean present for either a period of six (6) consecutive hours or overnight, whichever is less. Because the number of parking spaces is limited, the right of the occupants or owners of any unit to keep more than one motor vehicle in the Condominium may be limited or regulated by the Association. For purposes of this paragraph "kept" shall mean present for either a period of twelve (12) consecutive hours or overnight, whichever is less. No house trailer, mobile home, motor home

and the like may be kept on the Condominium more than two (2) times in any month. Any vehicle parked in violation of this Section is subject to being towed away at the owner's expense without further warning.

12.7 **Covered Parking Spaces.** Covered parking spaces, which are limited common elements, are intended for the primary purpose of parking operational motor vehicles. No covered parking space shall be permanently enclosed or converted to any other primary use without the prior written approval of the Board.- Repair of motor vehicles, other than emergency repairs, is not permitted.

12.8 **Flags.** Any unit owner may display one (1) portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than 4 ½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

13. **LEASING OF UNITS.** All leases of units must be in writing. A unit owner may lease only his entire unit, and then only in accordance with this Section. The ability of a unit owner to lease his unit is a privilege, not a right. The privilege may be revoked by the Board of Directors if it is abused by the unit owner, or the owner fails or refuses to follow the required procedures.

13.1 **Procedures.**

(A) **Notice.** An owner intending to lease his unit must give to the Board of Directors (or its designee) written notice of such intention at least five (5) days prior to the starting date of the proposed lease, together with the name and address of the proposed lessee, and other information about the lessee or the lease that the Board may reasonably require.

(B) **Failure to Give Notice**. Any lease entered into without notice in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee by summary proceedings without securing consent to such eviction from the unit owner.

13.2 **Term of Lease and Frequency of Leasing.** The minimum lease term is thirty (30) consecutive days. No lease may begin sooner than thirty (30) days after the beginning of the last lease. No subleasing or assignment of lease rights by the lessee is allowed.

13.3 **Occupancy During Lease Term.** No one but the lessee and his family within the first degree of relationship by blood, adoption or marriage may occupy the unit. The total number of overnight occupants of a leased unit is limited to six (6) persons. No pets are permitted.

13.4 **Use of Common Elements and Common Areas.** To prevent overtaxing the facilities, a unit owner whose unit is leased may not use the recreation or parking facilities during the lease term.

13.5 **Regulation by Association.** All of the provisions of the condominium documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a unit as a lessee or guest to the same extent as against the owner. The Association may require lessees to post a security deposit as provided by law to protect against damage to the common elements. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents, designating the Association as the owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

14. **OWNERSHIP OF UNITS**. The transfer of ownership of units shall be subject to the following restrictions:

14.1 **Notice to Association.** An owner intending to sell his unit shall give the Association written notice of such intent at least seven (7) days prior to the closing of the sale, including the name of the purchaser and such other information about the purchaser as the Association may reasonably require. A new owner acquiring title shall provide to the Association a copy of the recorded deed, or other instrument evidencing title, within thirty (30) days after the transfer occurred.

14.2 **Designation of Member of the Master Association.** Where legal title to a unit is held in the name of two or more natural persons who are not husband and wife, or in the name of a corporation, partnership, or other entity which is not a natural person, the owner shall designate in writing one family as the member of the Master Association, as provided in Section 4 of the Master Declaration. For purposes of applying restrictions on the occupancy of units, the member and family designated to the Master Association shall also be deemed the owner of the unit.

14.3 **Life Estate.** A unit may be subjected to a life estate, either by operation of law or by a voluntary conveyance. In that event, the life tenant shall be the regular member of the Master Association from such unit, and occupancy of the unit shall be as if the life tenant was the only owner. The life tenant shall be liable for all assessments and charges against the unit. Any consent, approval or vote required may be given by the life tenant, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

15. **INSURANCE.** In order to adequately protect the Association and its members, insurance hall be carried and kept in force at all times in accordance with the following provisions:

15.1 **By the Unit Owner.** Each unit owner is responsible for insuring his own unit, and the personal property therein; all floor, wall and ceiling coverings; all built-in cabinets, appliances, water heaters, air conditioning and heating equipment, and electrical fixtures that are located within the unit and required to be repaired or replaced by the owner; and all alterations, additions and improvements made to the unit or the common elements by the owner or his predecessors in title. Each unit owner is expected to carry homeowner's insurance, with endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss assessment protection, or recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance.

15.2 **Association Insurance; Duty and Authority to Obtain.** The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under the condominium documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the unit owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self insure.

15.3 **Required Coverage.** The Association shall maintain adequate insurance covering the buildings and other improvements on the condominium property that the Association is required to insure, as well as all association property, in such amounts, and with such deductibles, as is determined annually by the Board of Directors to be reasonable in the exercise of its good business judgment, such insurance to afford at least the following protection:

(A) **Property.** Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "all risk" property contract.

(B) **Liability.** Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.

(C) **Automobile.** Automobile liability for bodily injury and property damage for owned and non-owned motor vehicles, in such limits of protection and with such coverage as may be determined by the Board of Directors.

(D) **Statutory Fidelity Bond.** To the extent required by law, fidelity bonds shall be required for those persons who control or disburse funds of the Association in the amount(s) required by the Condominium Act and the President, Secretary and Treasurer of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. The premiums on such bonds shall be paid by the Association as a Common Expense.

15.4 **Hazard Insurance.** Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:

(A) all portions of the condominium property located outside the units;

(B) the condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and

(C) all portions of the condominium property for which the declaration of condominium requires coverage by the Association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the Association. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage provided by the Association as set forth above shall be insured by the individual unit owner.

15.5 **Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and unit owners. Some of the more common options include:

(A) Flood insurance.

(B) Broad Form Comprehensive General Liability Endorsement.

(C) Directors and Officers Liability.

(D) Medical Payments.
(E) Leakage, seepage and wind-driven rain.

(F) Endorsement for loss by operation of local ordinance.

15.6 **Description of Coverage.** A detailed summary of the coverages included in the master policies, and copies of the master policies, shall be available for inspection and copying by unit owners or their authorized representatives upon request.

15.7 **Waiver of Subrogation.** If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the unit owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

15.8 **Insurance Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association, the unit owners and their mortgagees as their interests may appear, and all proceeds from policies purchased by the Association shall be payable only to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the unit owners and their respective mortgagees in the following shares:

(A) **Common Elements.** Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units, the shares of each unit owner being the same as his share in the common elements.

(B) **Units.** Proceeds received on account of damage within the units shall be held in prorated shares, based on the amount of damage within each damaged unit as a percentage of the total damage within all units.

(C) **Mortgagee.** If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. No mortgagee shall have the right to require application of insurance proceeds to any mortgage it may hold against a unit, unless insurance proceeds on account of damage to that unit are not used for repairs, or the proceeds exceed the actual cost of repairs or reconstruction. Except as otherwise expressly provided, no mortgagee shall have the right to participate in determining whether improvements will be repaired or reconstructed after casualty.

(D) **Deductibles.** The policies may provide for reasonable deductibles. In the case of property insurance, the deductible shall be paid by the party who would be liable for the loss or responsible for repairs in the absence of insurance. If multiple parties would be responsible, the deductible shall be allocated among them in proportion to the amount each party's loss bears to the total.

15.9 **Distribution of Proceeds.** Insurance proceeds from Association policies shall be distributed to or for the benefit of the unit owners in the following manner:

(A) **Costs of Protecting and Preserving the Property.** If a person other than the person responsible for repair and reconstruction has properly advanced funds to preserve and protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.

(B) **Cost of Repair or Reconstruction.** If the damage for which the proceeds are paid is to be repaired or reconstructed the remaining proceeds shall be paid to defray the Costs as provided in Sections 15.8 (A) and (B) above. Any proceeds remaining after repairs and reconstruction shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being paid jointly to them.

(C) **Failure to Repair or Reconstruct.** If it is determined in the manner elsewhere provided here in that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds on account of that damage shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them.

15.10 **Association as Agent**. The Association is hereby irrevocably appointed as agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the condominium property.

16. REPAIR OR RECONSTRUCTION AFTER CASUALTY. If any part of the condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

16.1 **Damage to Units.** Where loss or damage occurs within one or more units, any Association insurance proceeds on account of the loss or damage shall be distributed to the owner(s) of the damaged unit(s) in shares as provided in Section 15.8 above. The owner(s) of the damaged unit(s) shall be responsible for reconstruction and repair, and no other person, including the Association, is liable for the cost thereof in the absence of legal fault.

16.2 **Damage to Common Elements - Less than "Very Substantial".** Where loss or damage occurs to the common elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

(A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.

(B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all unit owners in proportion to their shares in the common elements for the deficiency. Such special assessments need not be approved by the unit owners. The proceeds from the special assessment shall be added to the funds available for repair and restoration of the property.

16.3 **"Very Substantial" Damage.** As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least three-fourths (3/4ths) of the total units cannot reasonably be rendered habitable within sixty (60) days. Should such "very substantial" damage occur:

(A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions, as further provided in Section 4.16 of the Bylaws. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the condominium property or association property as might be reasonable under the circumstances to protect the condominium property or association property from further damage or deterioration. This authority includes the authority to expend any and all available association funds, including reserves.

(B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.

(C) A meeting of the members shall be held not later than sixty (60) days after the Board has obtained the estimates, to determine the opinion of the membership with reference to rebuilding or termination of the Condominium, subject to the following:

(1) If the insurance proceeds, reserves and other association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished without levying a special assessment that exceeds fifteen percent (15 %) of the total annual budget for the condominium in the year in which the casualty occurred, the Condominium shall be repaired and reconstructed unless at least two-thirds (2/3rds) of the total voting interests of the Condominium vote for termination, in which case the Condominium shall be terminated.

(2) If upon the advice of legal counsel and construction experts, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of units; or if the insurance proceeds, reserves and

other association funds available for restoration and repair are not sufficient to cover the estimated cost thereof, and it is reasonably anticipated that the repairs and reconstruction can be accomplished only by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the Condominium in the year in which the casualty occurred, the Condominium shall be terminated, and the property removed from the provisions of the Condominium Act, unless at least two-thirds (2/3rds) of the total voting interests of the Condominium vote against termination. If the requisite number of unit owners vote against termination, the Board of Directors shall levy such assessments as are necessary, and shall proceed with the necessary repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and reconstruction.

(D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination by at least two-thirds (2/3rds) of the Directors shall be conclusive, and shall be binding upon all persons.

16.4 **Application of Insurance Proceeds.** It shall always be presumed that monies disbursed for repair and reconstruction come first from insurance proceeds; if there is an excess of insurance proceeds left in the funds held by the Association after the payment of all costs of repair, and reconstruction, such balance shall be distributed to the unit owners, except as otherwise provided in Section 15.8 above.

16.5 **Equitable Relief.** In the event of damage to the common elements which renders any unit uninhabitable, if repairs and reconstruction are not begun and completed within a reasonable period of time, the owner of the uninhabitable unit may petition a court for equitable relief, which may include termination of the Condominium and partition of the former condominium property. For purposes of this provision, it shall be conclusively presumed that repair and reconstruction has begun and been completed within a reasonable period of time if substantial work is commenced within six (6) months following the damage or destruction, and is completed within nine (9) months thereafter.

16.6 **Plans and Specifications.** Any repairs or reconstruction must be substantially in accordance with the plans and specifications for the original buildings, or according to different plans and specifications approved by the Board of Directors, by the owners of at least three-fourths (3/4ths) of the units, by the ARC, and by the Primary Institutional Mortgagee, if any. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any unit without the consent of the unit owner and his institutional mortgagee, if any.

17. CONDEMNATION.

17.1 **Deposit of Awards with Association.** The taking of all or any part of the condominium property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken.

Awards for the taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting unit owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that owner.

17.2 **Determination Whether to Continue Condominium.** Whether the Condominium will be continued after a taking by condemnation or eminent domain will be determined in the same manner provided for determining whether damaged property will be repaired or reconstructed or after a casualty.

17.3 **Disbursement of Funds.** If the Condominium is terminated, the proceeds of all awards and other payments will be deemed association property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated, but the size of the Condominium will be reduced, the owners of units to be diminished or eliminated, if any, will first be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

17.4 **Association as Agent.** The Association is hereby irrevocably appointed as each unit owner's attorney-in-fact for purposes of negotiating or litigating with a condemning authority for the purpose of realizing just compensation.

17.5 **Units Reduced but Habitable.** If the size of a unit must be reduced, and the remaining portion of the unit can be made habitable, the awards for the taking of a portion of that unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(A) **Restoration of Unit.** The unit shall be made habitable. If the cost of doing so exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit.

(B) **Distribution of Surplus.** The balance of the award, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and mortgagees.

17.6 **Unit Made Not Habitable.** If the condemnation is of an entire unit or reduces the size of a unit so that it cannot be made habitable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(A) **Payment of Award.** The award shall be paid to the owner of the unit and to each mortgagee of the unit as their interests may appear, the remittance being made payable jointly to the owner and mortgagee(s).

(B) **Addition to Common Elements.** If possible and practical, any remaining portion of the unit shall become part of the common elements and shall be placed in condition for use by some or all unit owners in a manner approved by the Board of Directors.

(C) **Adjustment of Shares in Common Elements.** The shares in the common elements appurtenant to the units that continue as part of the Condominium shall be adjusted to equitably distribute the ownership of the common elements among the changed number of units.

(D) **Assessments.** If the award to the Association for damage to the common elements resulting from a taking is not sufficient to pay the cost of converting the remaining portions of the unit for use as a part of the common elements, the additional funds required for those purposes shall be raised by special assessment against all unit owners who will continue as owners of units after the changes in the Condominium affected by the taking. The assessments shall be made in proportion to the shares of those owners in the common elements after the changes affected by the taking.

17.7 **Taking of Common Elements.** Awards for the taking of common elements only shall be used to make the remaining portion of the common elements usable in a manner approved by the Board of Directors. The balance of such awards, if any, shall become part of the common surplus.

17.8 **Amendment of Declaration.** Any changes in units and in the common elements, in the ownership of the common elements, and in the sharing of common expenses that are necessitated by condemnation or eminent domain shall be accomplished by amending this Declaration and Exhibits "A" and "B" in conformity to the changes mandated by Sections 17.5 and 17.6 above. Such amendments need be approved only by the owners of a majority of the units. Approval of, or joinder by, lien holders is not required for any such amendment.

18. TERMINATION. The Condominium may be terminated in the following manner:

18.1 **Agreement.** The Condominium may be caused to be terminated at any time by written agreement of the owners of at least three-fourth; (3/4ths) of the units, and the Primary Institutional Mortgagee.

18.2 **Very Substantial Damage.** If the Condominium suffers "very substantial damage" to the extent defined in Section 16.3 above, and it is not decided as therein provided that the Condominium will be reconstructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated.

18.3 **Certificate of Termination.** The termination of the Condominium by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice-President with the formalities of a deed, and certifying as to the facts effecting the termination. The certificate shall also include the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, who is designated by the Association to act as Termination Director, and shall be executed by the Director indicating willingness and ability to serve in that capacity. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this Section is recorded in the Public Records of Lee County, Florida. The recording of that Certificate of Termination automatically divests the Association and all unit owners of legal title, and vests legal title in the Termination Director named in the Certificate of Termination, to all real and personal property which was formerly the condominium property or association property, without need for further conveyance. Beneficial title to the former condominium and association property is owned by the former unit owners as tenants in common, in the same undivided shares as each owner previously owned in the common elements. Upon termination, each lien encumbering a condominium parcel shall be automatically transferred to the equitable share in the condominium property attributable to the unit encumbered by the lien, with the same priority.

18.4 **Wind-up of Association Affairs.** The termination of the Condominium does not, by itself, terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, and in the Articles of Incorporation and Bylaws, for the purpose of winding up the affairs of the Association in accordance with this Section. 18.4 Director's Powers and Duties. The Termination Director shall hold title to the property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees and other lien holders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this Section, the Termination Director shall have the power and authority to convey title to the real property, and to distribute the proceeds in accordance with the provisions of this Section. The Termination Director shall be entitled to reasonable fees for acting in such capacity, and such fees, and all costs and expenses incurred by the Termination Director in the performance of its duties, shall be paid by the Association or paid from the proceeds of the sale of the former condominium and Association property, or other Association assets, and shall constitute a lien on the property superior to any other lien. The Director shall be entitled to indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as Termination Director unless such liabilities are the result of gross negligence or malfeasance. The Termination Director may rely upon the written instructions and information provided to it by the officers, Directors and agents of the Association, and shall not be required to inquire beyond such information and instructions. In the event of the resignation or incapacity of the Director, a successor Director may be appointed by the Circuit Court of the county in which the Condominium is located on the petition of the Association.

18.5 **Partition; Sale.** Following termination, the former condominium property and association property may be partitioned and sold upon the application of any unit owner. If following a

termination, at least seventy-five percent (75%) of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the Termination Director, and the Director shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto. If the unit owners have not authorized a sale of the former condominium and association property within 1 year after the recording of the Certificate of Termination, the Director may proceed to sell the property without agreement by the former unit owners. The proceeds of the sale of any of the property or assets of the Association shall be distributed by the Termination Director to the beneficial owners thereof, as their interests shall appear.

18.6 **New Condominium.** The termination of the Condominium does not bar creation of another Condominium including all or any portion of the same property.

18.7 **Provisions Survive Termination.** The provisions of this Section 18 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have the power to levy assessments to pay the costs and expenses of maintaining the property until it is sold. The costs of termination, the fees and expenses of the Termination Director, as well as post-termination costs of maintaining the former condominium property and winding up the affairs of the Association, are common expenses, the payment of which shall be secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

19. OBLIGATIONS OF OWNERS.

19.1 **Duty to Comply Right to Sue.** Each unit owner, his tenants and guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Declaration, the documents creating the Association, the Bylaws and the Rules and Regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a unit owner against:

(A) The Association;

(B) A unit owner;

(C) Directors designated by the Developer, for actions taken by them prior to the time control of the Association is assumed by unit owners other than the developer.

(D) Any director who willfully and knowingly fails to comply with these provisions.

(E) Any tenant leasing a unit, and any other invitee occupying a unit.

19.2 **Waiver of Rights.** The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a unit owner if the waiver would adversely affect the rights of the owner or defeat the purpose of the provision, except that unit owners or Directors may waive notice of specific meetings as provided in the Bylaws. Any written instrument or instruction given by a prospective purchaser or unit owner to an escrow agent may be relied upon by the escrow agent, whether or not such instruction and the payment of funds thereunder might otherwise constitute a waiver of any provision of the Condominium Act.

19.3 **Attorney's Fees.** In any legal proceeding arising out of an alleged failure of a tenant, unit owner or the Association to comply with the requirements of the Condominium Act or the condominium documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees as may be awarded by the court.

19.4 **No Election of Remedies.** All rights, remedies and privileges granted to the Association or unit owners under any terms, provisions, covenants, or conditions of the condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the condominium documents, or at law or in equity.

20. RIGHTS OF MORTGAGEES.

20.1 **Approvals.** Written consent of the institutional mortgagee of a unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the unit in the ownership of the common elements, except as provided in Section 17.6(C) above. Such prior consent of the Mortgagee may not be unreasonably withheld.

20.2 **Notice of Casualty or Condemnation.** In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any unit or any part of the common elements, the record holder of any first mortgage on an affected unit shall be entitled to notice.

20.3 **Mortgage Foreclosure.** If the mortgagee of a first mortgage of record acquires title to a condominium parcel as a result of foreclosure of the mortgage, or by a deed given in lieu of foreclosure, the liability of the mortgagee for the share of common expenses or assessments attributable to the condominium parcel, or chargeable to the former owner of the parcel, which came due prior to the mortgagee's acquisition of title shall be governed by the Condominium Act, as it may be amended from time to time. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common expense collectible from all unit owners, including the

acquirer and his successors and assigns. No owner or acquirer of title to a condominium parcel by foreclosure (or by a deed in lieu of foreclosure) may during his period of ownership, whether or not the parcel is occupied, be excused from the payment of any assessments coming due during the period of such ownership:

20.4 **Redemption.** If proceedings are instituted to foreclose any mortgage or lien on any unit, the Association, on behalf of one or more unit owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the unit at the foreclosure sale. A mortgagee shall have an unrestricted, absolute right to accept title to the unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the unit at the foreclosure sale.

20.5 **Right to Inspect Books.** The Association shall make available to institutional mortgagees upon request current copies of the recorded condominium documents and the books, records and financial statements of the Association. "Available" means ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies provided at the request of the mortgagee shall be at the expense of the mortgagee.

20.6 **Financial Statement.** Any institutional mortgagee is entitled, upon written request, to a copy of the financial statement or financial report of the Association as delivered, to the owners for the immediately preceding fiscal year.

20.7 **Lender's Notices.** Upon written request to the Association, any institutional mortgagee shall be entitled to timely written notice of:

(A) Any delinquency of sixty (60) days or longer in the payment of assessments or charges owed by the owner of any unit on which it holds a mortgage.

(B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(C) Any proposed action that requires the consent of a specified number or percentage of mortgage holders.

21. DEVELOPER'S RIGHTS AND DUTIES. Notwithstanding any other provision of this Declaration, so long as the Developer or any successor in interest to the Developer holds any units in the Condominium for sale in the ordinary course of business, the following shall apply:

21.1 **Developer's Use.** Until the Developer has completed all of the contemplated improvements and has sold all of the units in the Condominium, neither the unit owners nor the Association, nor their use of the condominium property shall unreasonably interfere with the completion of the

contemplated improvements or the sale of units. The Developer may make any use of the unsold units and the common elements as may reasonably be expected to facilitate completion and sales, including, but not limited to, maintenance of a sales office, display of signs, leasing units, and showing the units for sale to prospective purchasers. Developer reserves the right to use units for use as hospitality suites for prospective purchasers.

21.2 **Assignment.** All or any of the rights, privileges, powers and immunities granted or reserved to the Developer in the condominium documents may be assigned by the Developer to any person or entity without the consent of any other unit owner or any holder of a mortgage secured by any unit. In the event of the foreclosure of any mortgage owed by the Developer, or deed in lieu of such foreclosure, the person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Developer.

21.3 **Amendments by Developer.** The Developer has the right under the Condominium Act to amend this Declaration and any of its exhibits for certain specific purposes. Said amendments may be made and executed solely by the Developer and recorded in the Public Records of Lee County, Florida, and without any requirement of securing the consent of any unit owner, the Association, or the owner and holder of any lien encumbering a condominium parcel.

21.4 **Sales of Units.** The Developer shall have the right to sell or transfer any unit owned by it to any person, on such terms and conditions as it deems in its own best interest.

21.5 **Transfer of Association Control.** By electing a majority of the Directors, the unit owners other than the Developer assume control. At that time the Developer must deliver to the Association all property of the Association held or controlled by the Developer, and all items, and documents that the Developer is required to turn over to the Association under Florida law. The Developer may turn over control of the Association to unit owners other than the Developer before the statutory deadlines by causing all of its appointed Directors to resign, whereupon it becomes the affirmative obligation of unit owners other than the Developer to elect Directors and assume control. Provided at least sixty (60) days notice of the Developer's decision to cause its appointees to resign is given to unit owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with the resignations, if unit owners other than the Developer refuse or fail to assume control.

21.6 **Developer's Rights.** As long as the Developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer.

(A) Any assessment of the Developer as a unit owner for capital improvements.

(B) Any action by the Association that would be detrimental to the sales of units by the Developer. However, an increase in assessments for common expenses shall not be deemed to be detrimental to the sales of units.

22. AMENDMENT OF DECLARATION. Except as otherwise provided above as to amendments made by the Developer, all amendments to this Declaration shall be proposed and adopted as follows:

22.1 **Proposal.** Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the owners of at least one-fourth (l/4th) of the units.

22.2 **Procedure.** Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

22.3 **Vote Required.** Except as otherwise provided by law, or by specific provision of the condominium documents, this Declaration may be amended if the proposed amendment is approved by at least two-thirds (2/3rds) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose. Prior to the assumption of control of the Association by unit owners other than the Developer, this Declaration may be amended by vote of a majority of the Directors, and no vote of the unit owners is required, but only as to those matters other than those under Florida Statute §718.110(4) and §718.110(8) and/or where the statute expressly requires a vote of the unit owners.

22.4 **Certificate; Recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

22.5 **Proviso.** An amendment to this Declaration may change the configuration or size of any unit in a material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of a parcel shares the common expenses and owns the common surplus, if the record owner of the unit, his institutional mortgagee, if any, and the owners of at least a majority of the units, consent to the amendment. This proviso does not apply to changes ordered by a governmental agency as a result of condemnation or a taking by eminent domain under Section 17 above, nor to mergers under Section 22.6 below.

22.6 **Merger.** Bella Terra will contain several condominiums or other forms of residential development, each with its own association. This multi-development, multi-association structure is administratively convenient and desirable from the Developer's perspective. However, it is possible that the owners, after they have assumed control of the various associations, will determine that it is in their best interest collectively to merge any or all of the condominiums and the common areas into a single association, in the manner contemplated by Section 718.110(7), Florida Statutes (2004), as amended from time to time. Notwithstanding any provision in this Declaration to the contrary, this Declaration and the recorded exhibits thereto may be amended in any way necessary to accomplish

that purpose by the written consent of at least seventy-five percent (75%) of the voting interests and the approval of all record owners of liens on the condominium property, and no other approval, consent or joinder of any other person shall be necessary. Proviso: the amendments or new documents accomplishing such a merger must provide that:

(A) The security and priority of all existing mortgages and liens, and the rights of existing mortgagees and other lien holder, shall not be impaired by the merger;

(B) The then-existing restrictions on the use, occupancy and transfer of units shall not be materially changed as part of the merger; and

(C) The share of common expenses and ownership of the common elements for each unit in the new condominium shall be a fraction, the numerator of which is the number "one" (1), and the denominator of which is the total number of Living Units in all condominiums or other developments being merged.

23. MISCELLANEOUS.

23.1 **Severability.** The invalidity or non-enforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not effect the remaining portions thereof.

23.2 **Applicable Statutes.** The validity, application and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as it exists on the date of recording this Declaration in the Public Records of Lee County, Florida.

23.3 **Conflicts.** If there is an irreconcilable conflict between any provision of this Declaration and the Governing Documents or the Condominium Act, the Governing Documents or the Condominium Act shall control. If there is a conflict between this Declaration and the Association's Articles of Incorporation or Bylaws, this Declaration shall control. Nothing in the Governing Documents shall conflict with the powers and duties of the Association or the rights of the unit owners as provided in the Act.

23.4 **Interpretation.** The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

23.5 **Exhibits.** There is hereby incorporated within this Declaration any materials contained in any of the exhibits hereto which, under the Condominium Act, are required to be part of the Declaration.

23.6 **Headings and Capitalization.** The headings used in the condominium documents, and the capitalization of certain words, are for reference and convenience purposes only, and do not constitute substantive matter intended to be considered in construing the terms and provisions of these documents.

24. DISCLOSURE PURSUANT TO CHAPTER 2003-49 OF THE FLORIDA STATUTES.

FLORIDA STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE BRINGING ANY LEGAL ACTION FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU BRING ANY LEGAL ACTION, YOU MUST DELIVER TO THE OTHER PARTY TO THIS CONTRACT A WRITTEN NOTICE REFERRING TO CHAPTER 558 OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE SUCH PERSON THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND TO CONSIDER MAKING AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER WHICH MAY BE MADE. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THIS FLORIDA LAW WHICH MUST BE MET AND FOLLOWED TO PROTECT YOUR INTEREST.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Signed in the presence of:

Barbara J. Fallowfield
Witness Signature
BARBARA J. FALLOWFIELD
Printed Name of Witness

Barbara Atherton
Witness Signature
BARBARA ATHERTON
Printed Name of Witness

U.S. HOME CORPORATION,
a Delaware corporation

By: _____
Printed: DARIN McMURRAY
Title: REGIONAL VP - SW FLORIDA REGION
10481 Six Mile Cypress Parkway
Fort Myers, FL 33912

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was executed before me this 29 day of JUNE 2005 by DARIN McMURRAY, REGIONAL VP-SW FL REG (title), of U.S. Home Corporation, a Delaware corporation, on behalf of the corporation. He/she is personally known to me, or did produce PERSONALLY KNOWN as identification.

Bonnie G. Creach
Notary Public Signature

(SEAL)

BONNIE G. CREACH
Printed Name of Notary Public

F:\WPDATA\CJS\USHOME\Bella Terra\Condominium II at Barletta\Declaration.wpd
4/1/05

NOTARY PUBLIC STATE OF FLORIDA
Bonnie G. Creach
Commission # DD305640
Expires: March 31, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

EXHIBIT A

SURVEYORS CERTIFICATE

AS TO CONDOMINIUM II AT BARLETTA, A CONDOMINIUM, BUILDING #25 ONLY, SAID CONDOMINIUM BEING A PART OF TRACT "MF-1" AND TRACT "MF-2" OF BELLA TERRA UNIT ONE, PLAT BOOK 77, PAGES 84 THROUGH 99, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

I, RICHARD M. RITZ, OF COUNTY OF LEE, OF THE STATE OF FLORIDA, HEREBY CERTIFY AS FOLLOWS:

1. THAT I AM A REGISTERED LAND SURVEYOR AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA;

2. THAT THIS CERTIFICATE IS MADE AS TO BUILDING #25, OF CONDOMINIUM II AT BARLETTA, A CONDOMINIUM, BEING PART OF TRACT "MF-1" AND TRACT "MF-2" OF BELLA TERRA UNIT ONE, PLAT BOOK 77, PAGES 84 THROUGH 99, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND IN COMPLIANCE WITH SECTION 718.104(e), FLORIDA STATUTES;

3. THAT THE ATTACHED SHEETS OF BANKS ENGINEERING, INC. DRAWING NO. 1580, REVISED JULY 29th, 2005, TOGETHER WITH THE PROVISIONS OF THE DECLARATION RELATING TO MATTERS OF SURVEY, CONSTITUTE A CORRECT REPRESENTATION OF THE IMPROVEMENTS AS THEY NOW EXIST AND FROM THEM THE IDENTIFICATION, LOCATION, DIMENSIONS AND SIZE OF THE COMMON ELEMENTS, LIMITED COMMON ELEMENTS, AND OF EACH UNIT, CAN BE DETERMINED.

4. ALL PLANNED IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING, UTILTITY SERVICES AND ACCESS TO THE UNIT AND COMMON-ELEMENT FACILITIES SERVING THE BUILDING, AS SET FORTH IN THE DECLARATION, ARE COMPLETE.

BY: Richard M. Ritz
RICHARD M. RITZ, P.L.S.
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 1st day of August, 2005 by Richard M. Ritz who is personally known to me and who did not take an oath.

BY: Kimberly J. Rambo
Notary Signature

Kimberly J Rambo
Notary Printed Name

KIMBERLY J. RAMBO
MY COMMISSION # DD 440721
EXPIRES: July 24, 2006
Bonded Thru Notary Public Underwriters

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CONDOMINIUM PLAT BOOK ____ PAGE ____

Banks Engineering, Inc.
PROFESSIONAL ENGINEERS, PLANNERS & LAND SURVEYORS
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33912
(239) 939-5490

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

LYING IN
SECTION 29, TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA

DESCRIPTION OF CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 46 SOUTH, RANGE 26 EAST LEE COUNTY, FLORIDA (CONDOMINIUM II AT BARLETTA, A CONDOMINIUM)

LEGAL DESCRIPTION:

TRACTS OR PARCELS OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 29, TOWNSHIP 46 SOUTH, RANGE 26 EAST, BEING A PORTION OF TRACT "MF-1" AND TRACT "MF-2", BELLA TERRA UNIT ONE, AS RECORDED IN PLAT BOOK 77, AT PAGE 84 THROUGH 99, PUBLIC RECORDS OF SAID LEE COUNTY BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

PARCEL "A"

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT "MF-1"; THENCE N.02°07'59"W. ALONG THE EAST LINE OF SAID TRACT FOR 394.21 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.02°07'59"W. ALONG SAID EAST LINE FOR 359.53 FEET; THENCE S.89°47'02"W. FOR 152.69 FEET; THENCE N.51°44'56"W. FOR 24.95 FEET; THENCE S.38°15'04"W. FOR 19.83 FEET; THENCE S.89°47'02"W. FOR 15.63 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID TRACT AND POINT "A", SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1155.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.85°02'54"W.; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WEST LINE THROUGH A CENTRAL ANGLE OF 12°50'29" FOR 258.86 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 545.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WEST LINE THROUGH A CENTRAL ANGLE OF 10°22'35" FOR 98.70 FEET; THENCE S.87°30'48"E. FOR 116.19 FEET; THENCE N.87°52'01"E. FOR 86.29 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

PARCEL "B"

COMMENCING AT SAID POINT "A"; THENCE N.54°26'24"W. FOR 40.46 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID TRACT "MF-2" AND THE POINT OF BEGINNING; SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 610.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.84°03'23"E.; THENCE NORTHERLY ALONG SAID CURVE AND SAID EAST LINE THROUGH A CENTRAL ANGLE OF 20°08'14" FOR 214.39 FEET; THENCE S.83°19'52"W. FOR 201.58 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID TRACT AND A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 875.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.78°40'04"W.; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WEST LINE THROUGH A CENTRAL ANGLE OF 03°02'46" FOR 46.52 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 450.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WEST LINE THROUGH A CENTRAL ANGLE OF 23°21'25" FOR 183.44 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 850.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WEST LINE THROUGH A CENTRAL ANGLE OF 08°34'54" FOR 127.31 FEET; THENCE S.89°36'11"E. FOR 88.12 FEET; THENCE N.88°08'47"E. FOR 113.19 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID TRACT AND A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1190.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.88°08'47"W.; THENCE NORTHERLY ALONG SAID CURVE AND SAID EAST LINE THROUGH A CENTRAL ANGLE OF 07°47'50" FOR 161.94 FEET TO THE POINT OF BEGINNING.

PARCELS CONTAIN 3.36 ACRES, MORE OR LESS

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS, DISTANCES AND COORDINATES ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" WEST ZONE 1983/90 ADJUSTMENT. THE AVERAGE SCALE FACTOR IS 0.99994998. WHEREIN THE EAST LINE OF TRACT "MF-1", BELLA TERRA UNIT ONE AS RECORDED IN PLAT BOOK 77, PAGES 84 THROUGH 99 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA BEARS N.02°07'59"W.

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-28-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

Banks Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
FORT MYERS ◆ NAPLES ◆ SARASOTA
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 5468
SURVEY LICENSE # LB 5890

U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	BIO	JEF	RMR	N/A	1	9	29-46-26

CONDOMINIUM PLAT BOOK ____ PAGE ____

SHEET 2 OF 9

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

LYING IN

SECTION 29, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

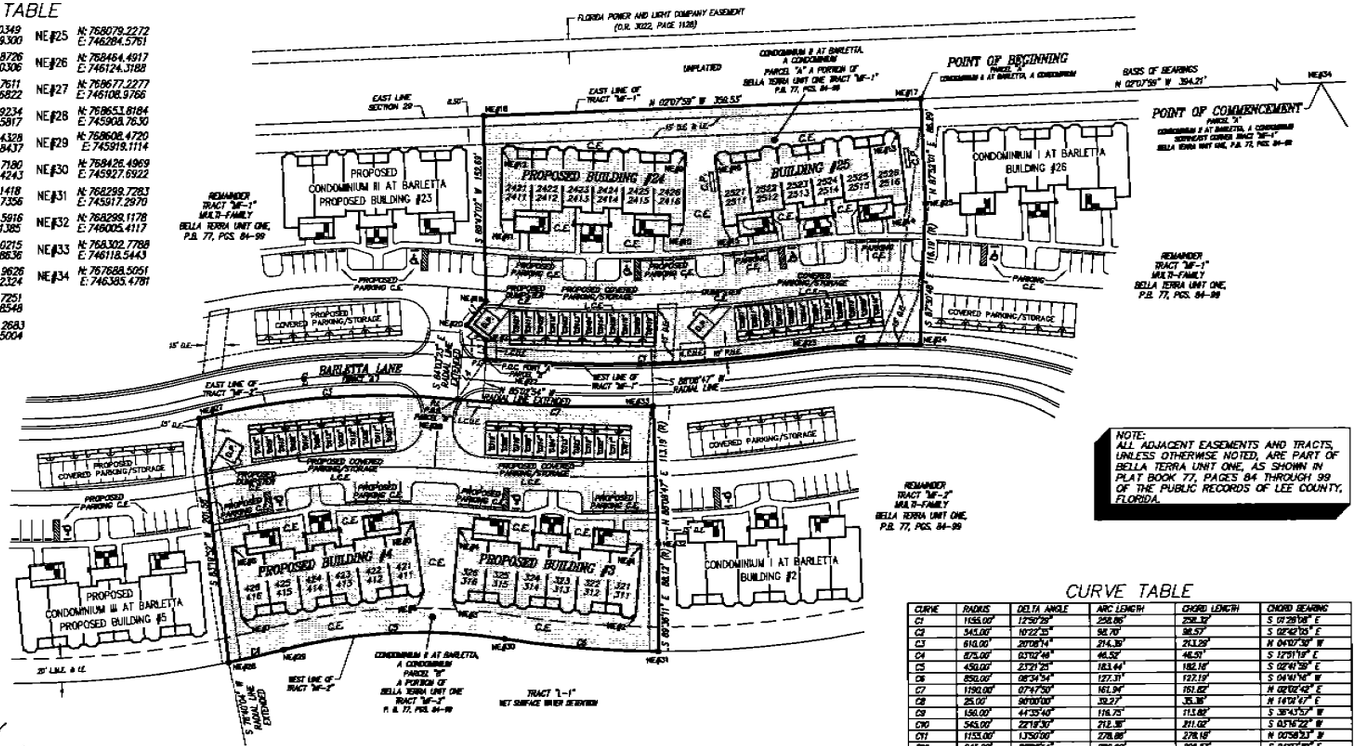
Banks Engineering, Inc.

PROFESSIONAL ENGINEERS, PLANNERS & LAND SURVEYORS
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33912
(239) 939-5490

GRAPHIC SCALE 1" = 50'

COORDINATE TABLE

NE#1	N: 768312.4926 E: 746005.1999	NE#13	N: 768101.0349 E: 746342.9300	NE#25	N: 768079.2272 E: 746284.5761
NE#2	N: 768317.9042 E: 745946.1139	NE#14	N: 768093.8726 E: 746284.0306	NE#26	N: 768464.4917 E: 746124.3188
NE#3	N: 768469.2706 E: 745959.9774	NE#15	N: 768244.7611 E: 746285.6822	NE#27	N: 768677.2277 E: 746108.9766
NE#4	N: 768463.8590 E: 746019.0634	NE#16	N: 768251.9234 E: 746324.5817	NE#28	N: 768651.8184 E: 745908.7630
NE#5	N: 768500.5270 E: 746024.3348	NE#17	N: 768382.4328 E: 746370.8437	NE#29	N: 768608.4720 E: 745919.1114
NE#6	N: 768492.4463 E: 745965.5543	NE#18	N: 768441.7180 E: 746357.4243	NE#30	N: 768426.4969 E: 745927.6922
NE#7	N: 768643.0301 E: 745944.8534	NE#19	N: 768441.1418 E: 746204.7356	NE#31	N: 768299.7283 E: 745917.2970
NE#8	N: 768651.1107 E: 746003.6339	NE#20	N: 768456.5916 E: 746185.1385	NE#32	N: 768299.1178 E: 746005.4117
NE#9	N: 768775.0918 E: 746326.4465	NE#21	N: 768441.0215 E: 746172.8836	NE#33	N: 768302.7788 E: 746118.5443
NE#10	N: 768276.8526 E: 746267.1393	NE#22	N: 768440.9626 E: 746157.2324	NE#34	N: 767688.5051 E: 746385.4781
NE#11	N: 768428.7857 E: 746271.6501	NE#23	N: 768182.7251 E: 746163.8548		
NE#12	N: 768427.0248 E: 746330.9573	NE#24	N: 768084.2683 E: 746168.5004		



NOTE:
ALL ADJACENT EASEMENTS AND TRACTS, UNLESS OTHERWISE NOTED, ARE PART OF BELLA TERRA UNIT ONE, AS SHOWN IN PLAT BOOK 77, PAGES 84 THROUGH 99 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

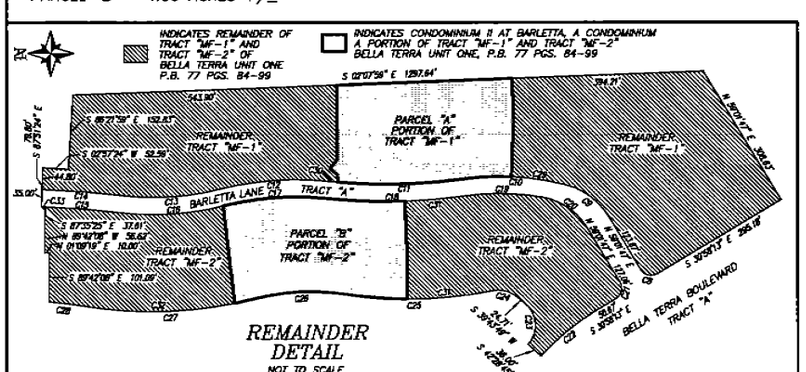
CURVE TABLE

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	1155.00'	12°50'29"	258.86'	258.32'	S 01°28'08" E
C2	545.00'	10°22'25"	98.70'	98.57'	S 02°42'05" E
C3	610.00'	20°08'14"	214.36'	213.28'	N 04°07'30" W
C4	875.00'	03°02'48"	46.52'	46.51'	S 11°01'17" E
C5	450.00'	23°31'25"	183.44'	182.18'	S 02°41'59" E
C6	850.00'	08°34'34"	127.31'	127.19'	S 04°41'16" W
C7	1190.00'	07°47'50"	161.94'	161.82'	N 02°02'42" E
C8	25.00'	90°00'00"	39.27'	35.36'	N 16°01'47" E
C9	490.00'	44°35'40"	116.75'	113.88'	S 38°43'57" W
C10	545.00'	22°18'36"	212.18'	211.02'	S 63°16'22" W
C11	1155.00'	13°50'00"	278.88'	278.18'	N 70°58'33" W
C12	645.00'	20°08'14"	226.69'	225.53'	S 04°07'30" E
C13	545.00'	20°46'08"	197.56'	196.48'	N 63°48'34" W
C14	2163.00'	04°25'57"	167.80'	167.75'	S 04°21'54" W
C15	2134.00'	04°25'57"	165.05'	165.05'	S 04°21'54" W
C16	580.00'	20°46'08"	210.24'	209.10'	N 63°48'34" W
C17	610.00'	20°08'14"	214.36'	213.28'	S 04°07'30" E
C18	1190.00'	13°50'00"	287.31'	286.61'	N 70°58'33" W
C19	510.00'	17°57'11"	159.84'	159.22'	S 00°55'13" W
C20	140.00'	48°17'58"	120.46'	116.78'	S 34°27'47" W
C21	25.00'	90°00'00"	39.27'	35.36'	N 75°58'13" W
C22	560.00'	19°13'52"	144.43'	143.83'	S 38°14'44" E
C23	57.00'	92°44'43"	92.27'	82.52'	S 86°06'24" W
C24	57.00'	51°21'03"	51.08'	48.39'	S 14°03'18" E
C25	850.00'	20°35'44"	305.54'	303.90'	N 01°19'09" W
C26	450.00'	23°27'25"	183.44'	182.18'	S 02°41'59" E
C27	875.00'	23°48'07"	363.51'	360.80'	S 02°28'26" E
C28	860.00'	04°34'02"	68.05'	68.04'	S 07°17'27" W
C29	545.00'	11°36'38"	113.98'	113.45'	S 08°23'39" W
C30	1155.00'	00°59'26"	19.98'	19.98'	N 05°26'52" E
C31	850.00'	12°00'50"	178.23'	177.90'	N 05°36'35" W
C32	875.00'	20°45'34"	316.99'	315.26'	N 00°57'14" W
C33	2134.00'	00°13'21"	8.29'	8.29'	S 02°15'14" W

ACREAGE SUMMARY

PARCEL "A" = 1.70 ACRES +/-

PARCEL "B" = 1.66 ACRES +/-



REMAINDER DETAIL
NOT TO SCALE

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 51°44'58" W	24.25'
L2	S 38°15'04" W	19.83'
L3	S 89°47'02" W	15.43'
L4	N 54°26'24" W	40.46'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

NO.	DATE	REVISION DESCRIPTION	BY
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	KJT

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ENGINEERING LICENSE # EB 6490
SURVEY LICENSE # LB 6690

U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	BEI	JEF	RMR	1" = 50'	2	9	29-46-26

SURVEYOR'S NOTES:

THIS PLAT PREPARED AS A CONDOMINIUM SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

CONDOMINIUM SURVEY BASED ON THE RECORD PLAT OF BELLA TERRA UNIT ONE, AS RECORDED IN PLAT BOOK 77, PAGES 84-99, AND EXISTING MONUMENTATION.

ALL IMPROVEMENTS ARE PROPOSED AS OF FEBRUARY 2005 UNLESS OTHERWISE SHOWN.

ALL PORTIONS OF THE CONDOMINIUM NOT INCLUDED WITHIN THE LIMITS OF THE UNITS ARE COMMON ELEMENTS, UNLESS OTHERWISE SHOWN.

DUMPSTER AREAS AND PARKING AREAS ARE COMMON ELEMENTS.

COVERED PARKING AND STORAGE AREAS ARE LIMITED COMMON ELEMENT. ALL CARPORTS DENOTED WITH "C" HAVE UNIT NUMBER DESIGNATIONS IMMEDIATELY AFTER, AND ARE LIMITED COMMON ELEMENTS TO SAID UNIT.

BEARINGS, DISTANCES AND COORDINATES ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" WEST ZONE 1983/90 ADJUSTMENT. THE AVERAGE SCALE FACTOR IS 0.9999498, WHEREIN THE EAST LINE OF TRACT "MF-1", BELLA TERRA UNIT ONE AS RECORDED IN PLAT BOOK 77, PAGES 84 THROUGH 99 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA BEARS N.02°07'59"W.

THE SUBJECT PARCELS AS SHOWN HEREON ARE NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA ON THE NATIONAL FLOOD INSURANCE PROGRAM'S FLOOD INSURANCE RATE MAPS.

PER FLOOD INSURANCE RATE MAP 125124 0500 B, PANEL NOT PRINTED. MAP INDEX REVISED MAY 5, 2003.

ABOVEGROUND AND UNDERGROUND IMPROVEMENTS WERE NOT LOCATED UNLESS OTHERWISE SHOWN.

PARCEL SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS AND RESERVATIONS OF RECORD.

DATE OF LAST FIELD WORK: 07-29-05

LEGEND:

(R)	INDICATES RADIAL
PGS.	INDICATES PAGES
C	INDICATES CARPORT
P.B.	INDICATES PLAT BOOK
℄	INDICATES CENTERLINE
C.P.	INDICATES CONCRETE PAD
D.P.	INDICATES DUMPSTER PAD
C.E.	INDICATES COMMON ELEMENT
LB	INDICATES LICENSED BUSINESS
D.E.	INDICATES DRAINAGE EASEMENT
P.O.B.	INDICATES POINT OF BEGINNING
I.E.	INDICATES IRRIGATION EASEMENT
NE	INDICATES NORTHING AND EASTING
O.R.	INDICATES OFFICIAL RECORDS BOOK
P.U.E.	INDICATES PUBLIC UTILITY EASEMENT
P.O.C.	INDICATES POINT OF COMMENCEMENT
♿	INDICATES HANDICAP PARKING SPACE
L.C.E.	INDICATES LIMITED COMMON ELEMENT
R.L.S.	INDICATES REGISTERED LAND SURVEYOR
L1	INDICATES LINE NUMBER 1 FROM TABLE
●	INDICATES SET 5/8" IRON ROD LB 6690
L.C.U.E.	INDICATES LEE COUNTY UTILITY EASEMENT
(1)	INDICATES CURVE NUMBER 1 FROM TABLE
⊙	INDICATES SET P/K NAIL AND DISC LB 6690
L.W.E.	INDICATES WATER DETENTION MAINTENANCE EASEMENT
NE#1	INDICATES COORDINATE NUMBER 1 IN COORDINATE TABLE

STATEMENT OF CERTIFICATION:

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

RICHARD M. FITZ, P.L.S.
FLORIDA CERTIFICATE NO. 6009
DATE SIGNED: 08-01-2005

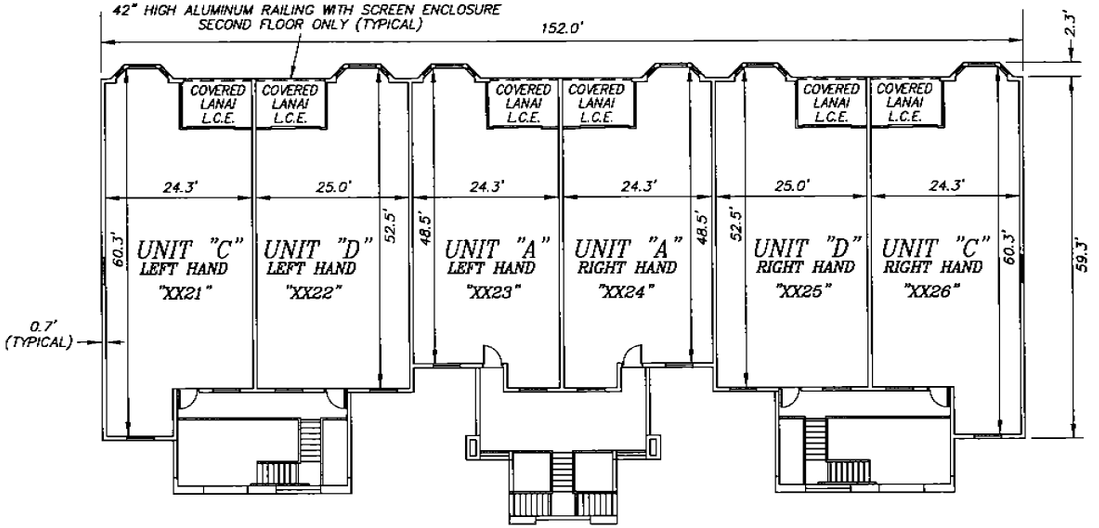
- THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

EXHIBIT "B"

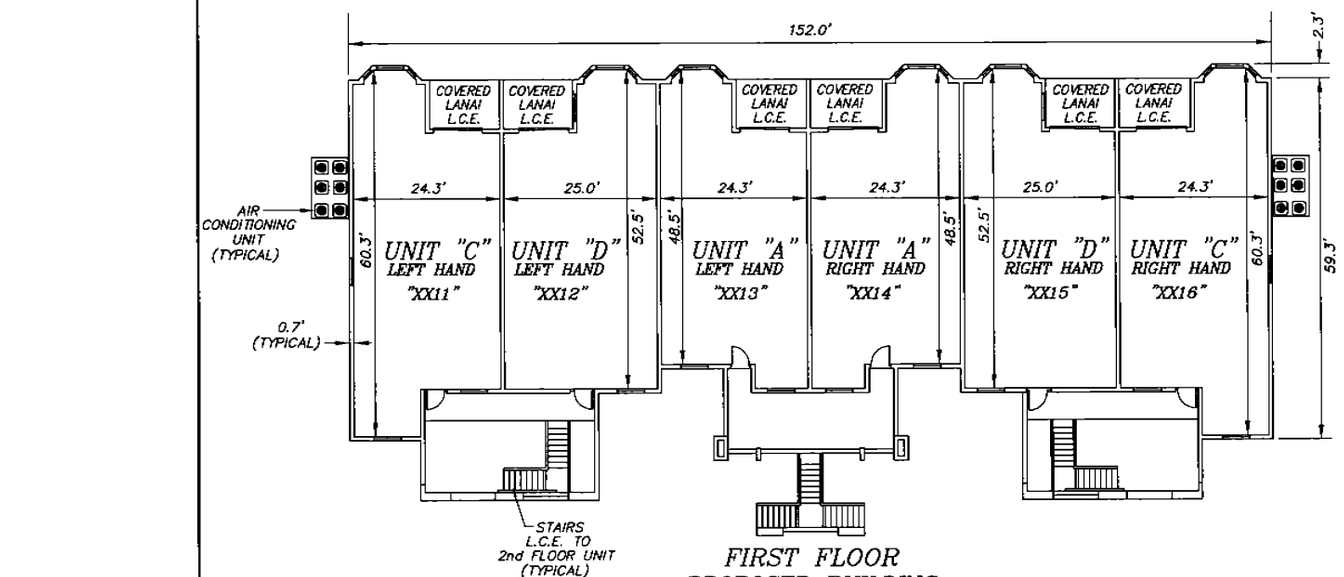
BOUNDARY SURVEY & PLOT PLAN

Page 41 of 78

Book4828/Page4366



SECOND FLOOR



FIRST FLOOR
PROPOSED BUILDING
#3, #4, #24 AND #25
REPLACE "X" IN UNIT DESIGNATION TO CORRESPOND WITH APPROPRIATE BUILDING NUMBER

GENERAL NOTES:

5.2 UNIT BOUNDARIES. EACH UNIT SHALL INCLUDE THAT PART OF THE BUILDING THAT LIES WITHIN THE FOLLOWING BOUNDARIES:

(A) UPPER & LOWER BOUNDARIES. THE UPPER AND LOWER BOUNDARIES OF THE UNIT SHALL BE THE FOLLOWING BOUNDARIES EXTENDED TO THEIR INTERSECTIONS WITH THE PERIMETER BOUNDARIES:

(1) UPPER BOUNDARIES. THE HORIZONTAL PLANE OR PLANES OF THE UNFINISHED LOWER SURFACE OF THE CEILING OF THE UNIT.

(2) LOWER BOUNDARIES. THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE CONCRETE FLOOR OF THE UNIT.

(B) PERIMETER BOUNDARIES. THE PERIMETER BOUNDARIES OF THE UNIT SHALL BE THE VERTICAL PLANES OF THE UNFINISHED INTERIOR SURFACES OF THE PLASTERBOARD WALLS BOUNDING THE UNIT AS SHOWN IN EXHIBIT "B" HERETO, EXTENDED TO THEIR INTERSECTIONS WITH EACH OTHER AND WITH THE UPPER AND LOWER BOUNDARIES.

(C) INTERIOR WALLS. NO PART OF THE NON-STRUCTURAL INTERIOR PARTITION WALLS WITHIN A UNIT SHALL BE CONSIDERED PART OF THE BOUNDARY OF A UNIT.

(D) APERTURES. WHERE THERE ARE OPENINGS IN ANY BOUNDARY, INCLUDING, WITHOUT LIMITATION, WINDOWS, DOORS, AND SKYLIGHTS, THE BOUNDARIES OF THE UNIT SHALL EXTEND TO THE INTERIOR UNFINISHED SURFACES OF THE COVERINGS OF SUCH OPENINGS, AND THE FRAMES THEREOF. THEREFORE, WINDOWS, DOORS, SCREENS AND ALL FRAMES, CASINGS AND HARDWARE THEREFOR, ARE EXCLUDED FROM THE UNIT.

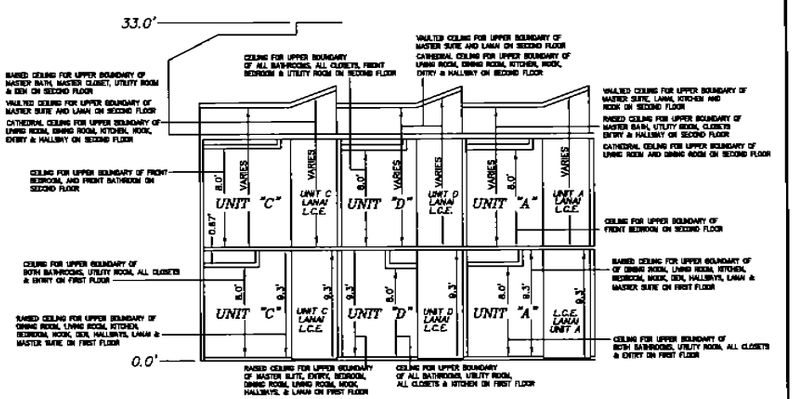
(E) UTILITIES. THE UNIT SHALL NOT BE DEEMED TO INCLUDE ANY PIPES, WIRING, DUCTS OR OTHER UTILITY INSTALLATIONS THAT ARE PHYSICALLY WITHIN THE ABOVE-DESCRIBED BOUNDARIES, BUT WHICH SERVE OTHER UNITS OR THE COMMON ELEMENTS. SUCH UTILITY INSTALLATIONS SHALL BE COMMON ELEMENTS.

IN CASES NOT SPECIFICALLY COVERED IN THIS SECTION 5.2, OR IN ANY CASE OF CONFLICT OR AMBIGUITY, THE GRAPHIC DEPICTIONS OF THE UNIT BOUNDARIES SET FORTH IN EXHIBIT "B" HERETO SHALL CONTROL IN DETERMINING THE BOUNDARIES OF A UNIT, EXCEPT THE PROVISIONS OF SECTION 5.2(D) ABOVE SHALL CONTROL OVER EXHIBIT "B".

2. ALL DISTANCES SHOWN HEREON ARE APPROXIMATE AND IN DECIMAL FORM.

3. ALL STORAGE UNITS ARE LIMITED COMMON ELEMENTS TO DESIGNATED UNITS.

C.E. = COMMON ELEMENT
L.C.E. = LIMITED COMMON ELEMENT



TYPICAL SECTION
NOT TO SCALE

EXHIBIT "B"
GENERAL NOTES & UNIT BOUNDARIES
FIRST AND SECOND FLOOR
12 UNIT BUILDING WITH UNITS C, D & A

10 5 0 10 20
GRAPHIC SCALE 1" = 10'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

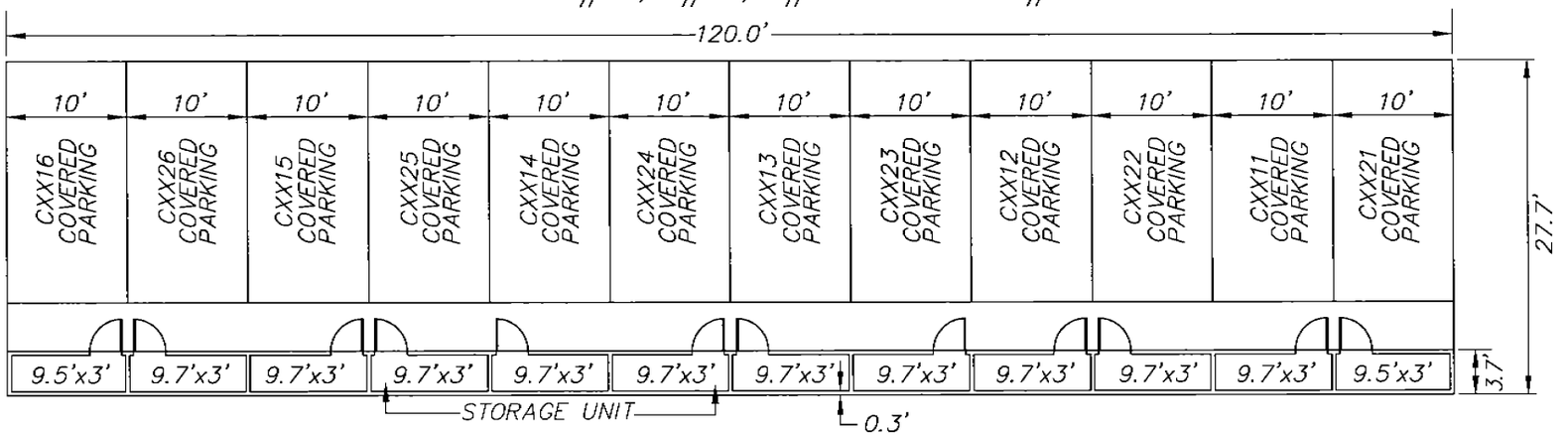
NO.	DATE	REVISION DESCRIPTION	BY
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

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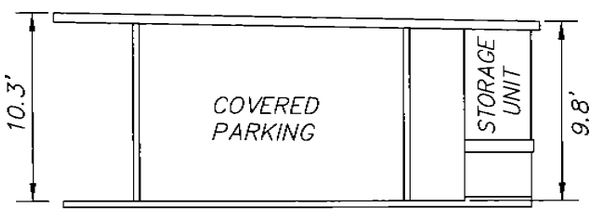
U.S. HOME CORPORATION
CONDOMINIUM II AT BARLETTA, A CONDOMINIUM
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	3	9	29-46-26

PROPOSED 12 UNIT COVERED PARKING & STORAGE (TYPICAL)
BUILDING #3, #4, #24 AND #25



NOTE:
1. COVERED PARKING AND STORAGE ARE LIMITED COMMON ELEMENT.
2. "C" INDICATES COVERED PARKING FOLLOWED BY THE UNIT NUMBER.
3. APPROPRIATE STORAGE UNIT NUMBER SHALL BE LOCATED ON SAID UNIT.
4. REPLACE "X" IN UNIT DESIGNATION TO CORRESPOND WITH APPROPRIATE BUILDING NUMBER.



TYPICAL SECTION
NOT TO SCALE

10 5 0 10 20
GRAPHIC SCALE 1"= 10'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

EXHIBIT "B"
12 UNIT COVERED PARKING & STORAGE

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

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PHONE: (239) 939-5490 FAX: (239) 939-2523
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SURVEY LICENSE # LB 6690

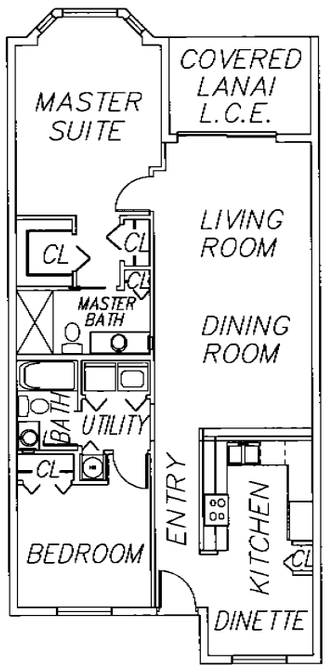
U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

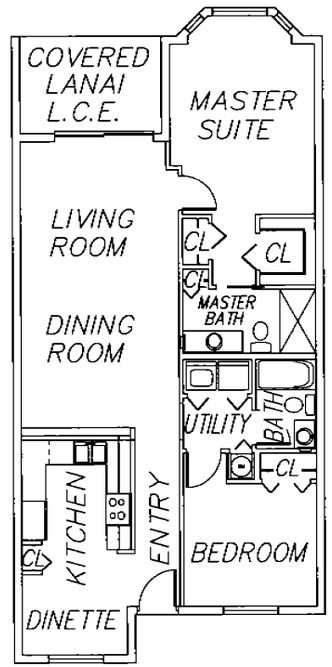
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	4	9	29-46-26

LEFT HAND



RIGHT HAND



UNIT "A"

10 5 0 10 20

GRAPHIC SCALE 1"= 10'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

UNIT "A"

ROOM SIZE UNIT "A"

ALL ROOM SIZES ARE APPROXIMATE AND IN DECIMAL FORM

BATHROOM	5.0'X7.0'
BEDROOM	10.0'X11.0'
DINETTE	6.6'X8.7'
DINING ROOM	11.7'X13.0'
KITCHEN	9.3'X10.3'
LANAI	8.0'X11.7'
LIVING ROOM	11.7'X13.0'
MASTER BATH	5.3'X11.0'
MASTER SUITE	12.0'X14.0'

NOTE:
1. CL INDICATES CLOSET
2. WH INDICATES WATER HEATER
3. L.C.E. INDICATES LIMITED COMMON ELEMENT

EXHIBIT "B"
UNIT "A" FLOOR PLAN
FIRST AND SECOND FLOOR
12 UNIT BUILDING

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

Banks Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
FORT MYERS ◆ NAPLES ◆ SARASOTA
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

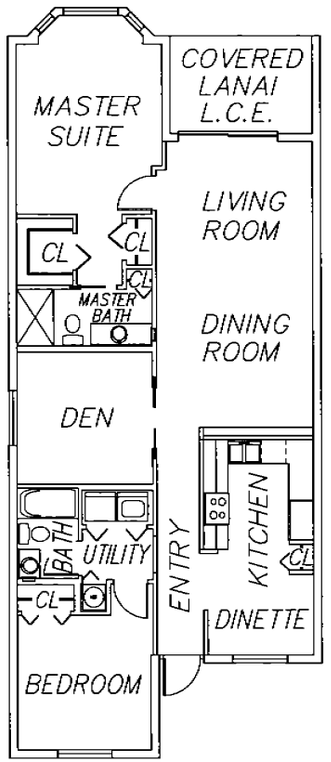
U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

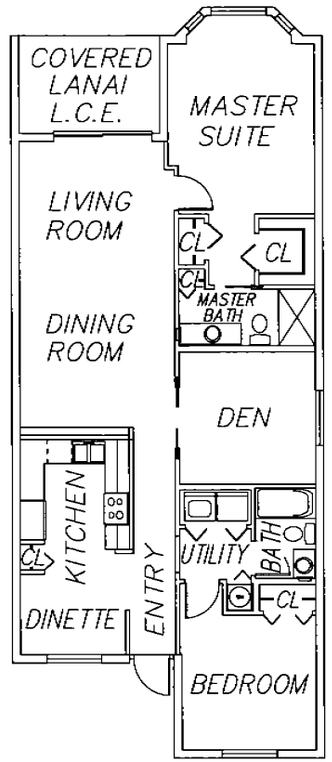
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	5	9	29-46-26

LEFT HAND



RIGHT HAND



UNIT "C"

ROOM SIZE UNIT "C"

ALL ROOM SIZES ARE APPROXIMATE AND IN DECIMAL FORM

BATHROOM	5.0'X7.4'
BEDROOM	11.0'X11.0'
DEN	10.7'X11.0'
DINING ROOM	11.7'X13.0'
DINETTE	6.6'X8.7'
KITCHEN	9.3'X10.3'
LANAI	8.0'X11.7'
LIVING ROOM	11.7'X13.0'
MASTER BATH	4.7'X11.2'
MASTER SUITE	12.0'X14.0'

NOTE:
1. CL INDICATES CLOSET
2. WH INDICATES WATER HEATER
3. L.C.E. INDICATES LIMITED COMMON ELEMENT

10 5 0 10 20

GRAPHIC SCALE 1"= 10'

UNIT "C"

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

EXHIBIT "B"
UNIT "C" FLOOR PLAN
FIRST AND SECOND FLOOR
12 UNIT BUILDING

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

Banks Engineering, Inc.
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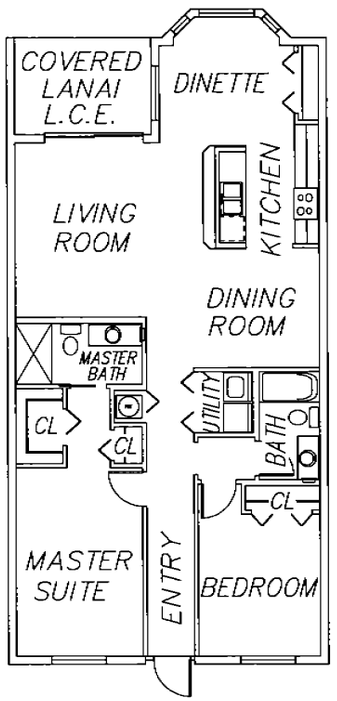
U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

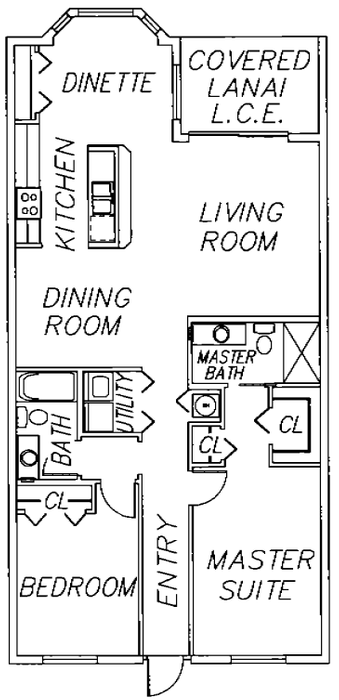
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	6	9	29-46-26

LEFT HAND



RIGHT HAND



UNIT "D"

10 5 0 10 20

GRAPHIC SCALE 1"= 10'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

UNIT "D"

ROOM SIZE UNIT "D"

ALL ROOM SIZES ARE APPROXIMATE AND IN DECIMAL FORM

BATHROOM	5.0'X8.8'
BEDROOM	10.0'X11.7'
DINETTE	6.5'X11.0'
DINING ROOM	9.8'X10.3'
KITCHEN	9.5'X10.2'
LANAI	8.0'X11.3'
LIVING ROOM	14.3'X15.7'
MASTER BATH	5.0'X10.5'
MASTER SUITE	10.5'X15.5'

NOTE:
1. CL INDICATES CLOSET
2. WH INDICATES WATER HEATER
3. L.C.E. INDICATES LIMITED COMMON ELEMENT

EXHIBIT "B"
UNIT "D" FLOOR PLAN
FIRST AND SECOND FLOOR
12 UNIT BUILDING

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

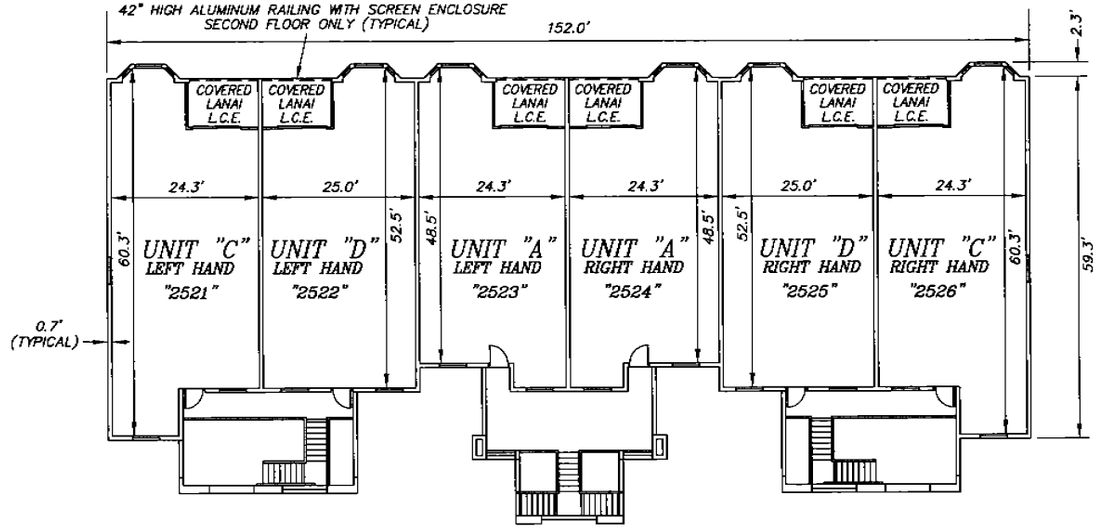
Banks Engineering, Inc.
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FORT MYERS ◆ NAPLES ◆ SARASOTA
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
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PHONE: (239) 939-5490 FAX: (239) 939-2523
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SURVEY LICENSE # LB 6690

U.S. HOME CORPORATION

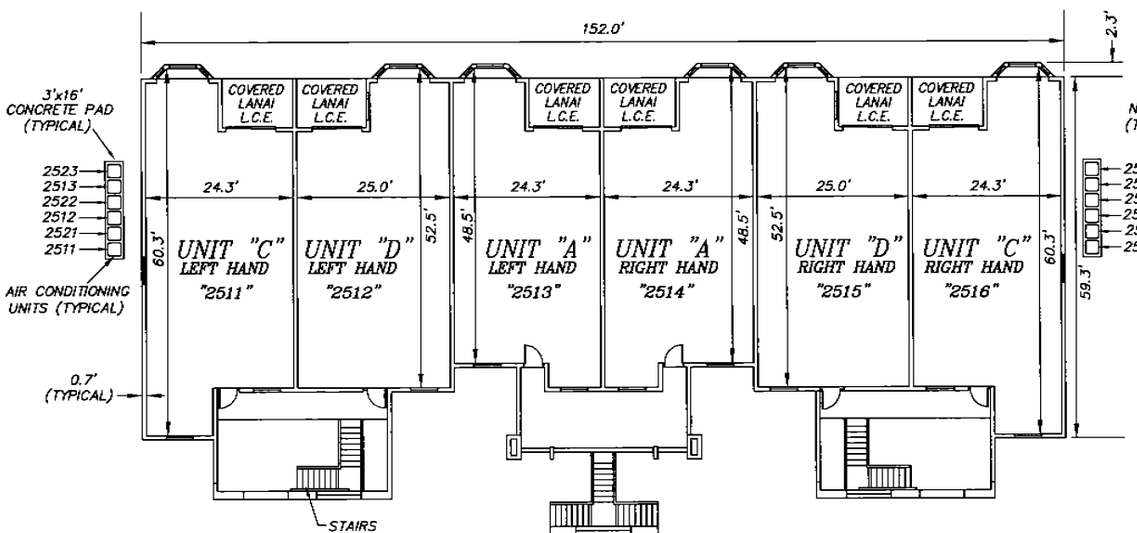
CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

LEE COUNTY, FLORIDA

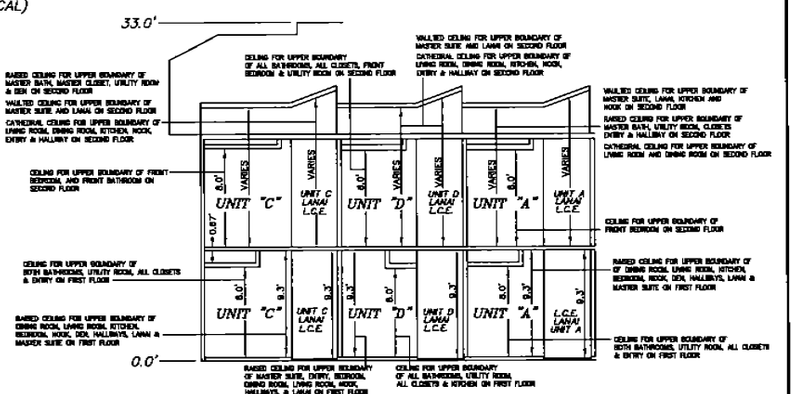
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	7	9	29-46-26



SECOND FLOOR



FIRST FLOOR
BUILDING #25



TYPICAL SECTION
NOT TO SCALE

GENERAL NOTES:

5.2 UNIT BOUNDARIES. EACH UNIT SHALL INCLUDE THAT PART OF THE BUILDING THAT LIES WITHIN THE FOLLOWING BOUNDARIES:

(A) UPPER & LOWER BOUNDARIES. THE UPPER AND LOWER BOUNDARIES OF THE UNIT SHALL BE THE FOLLOWING BOUNDARIES EXTENDED TO THEIR INTERSECTIONS WITH THE PERIMETER BOUNDARIES:

(1) UPPER BOUNDARIES. THE HORIZONTAL PLANE OR PLANES OF THE UNFINISHED LOWER SURFACE OF THE CEILING OF THE UNIT.

(2) LOWER BOUNDARIES. THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE CONCRETE FLOOR OF THE UNIT.

(B) PERIMETER BOUNDARIES. THE PERIMETER BOUNDARIES OF THE UNIT SHALL BE THE VERTICAL PLANES OF THE UNFINISHED INTERIOR SURFACES OF THE PLASTERBOARD WALLS BOUNDING THE UNIT AS SHOWN IN EXHIBIT "B" HERETO, EXTENDED TO THEIR INTERSECTIONS WITH EACH OTHER AND WITH THE UPPER AND LOWER BOUNDARIES.

(C) INTERIOR WALLS. NO PART OF THE NON-STRUCTURAL INTERIOR PARTITION WALLS WITHIN A UNIT SHALL BE CONSIDERED PART OF THE BOUNDARY OF A UNIT.

(D) APERTURES. WHERE THERE ARE OPENINGS IN ANY BOUNDARY, INCLUDING, WITHOUT LIMITATION, WINDOWS, DOORS, AND SKYLIGHTS, THE BOUNDARIES OF THE UNIT SHALL EXTEND TO THE INTERIOR UNFINISHED SURFACES OF THE COVERINGS OF SUCH OPENINGS, AND THE FRAMES THEREOF.
THEREFORE, WINDOWS, DOORS, SCREENS AND ALL FRAMES, CASINGS AND HARDWARE THEREFOR, ARE EXCLUDED FROM THE UNIT.

(E) UTILITIES. THE UNIT SHALL NOT BE DEEMED TO INCLUDE ANY PIPES, WIRING, DUCTS OR OTHER UTILITY INSTALLATIONS THAT ARE PHYSICALLY WITHIN THE ABOVE-DESCRIBED BOUNDARIES, BUT WHICH SERVE OTHER UNITS OR THE COMMON ELEMENTS.
SUCH UTILITY INSTALLATIONS SHALL BE COMMON ELEMENTS.

IN CASES NOT SPECIFICALLY COVERED IN THIS SECTION 5.2, OR IN ANY CASE OF CONFLICT OR AMBIGUITY, THE GRAPHIC DEPICTIONS OF THE UNIT BOUNDARIES SET FORTH IN EXHIBIT "B" HERETO SHALL CONTROL IN DETERMINING THE BOUNDARIES OF A UNIT, EXCEPT THE PROVISIONS OF SECTION 5.2(D) ABOVE SHALL CONTROL OVER EXHIBIT "B".

2. ALL DISTANCES SHOWN HEREON ARE APPROXIMATE AND IN DECIMAL FORM.

3. ALL STORAGE UNITS ARE LIMITED COMMON ELEMENTS TO DESIGNATED UNITS.

C.E. = COMMON ELEMENT
L.C.E. = LIMITED COMMON ELEMENT

EXHIBIT "B"
GENERAL NOTES & UNIT BOUNDARIES
FIRST AND SECOND FLOOR
12 UNIT BUILDING WITH UNITS C, D & A

10 5 0 10 20
GRAPHIC SCALE 1" = 10'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-28-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

Banks Engineering, Inc.
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10511 SIX MILE CYPRESS PARKWAY — SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6489
SURVEY LICENSE # LB 6690

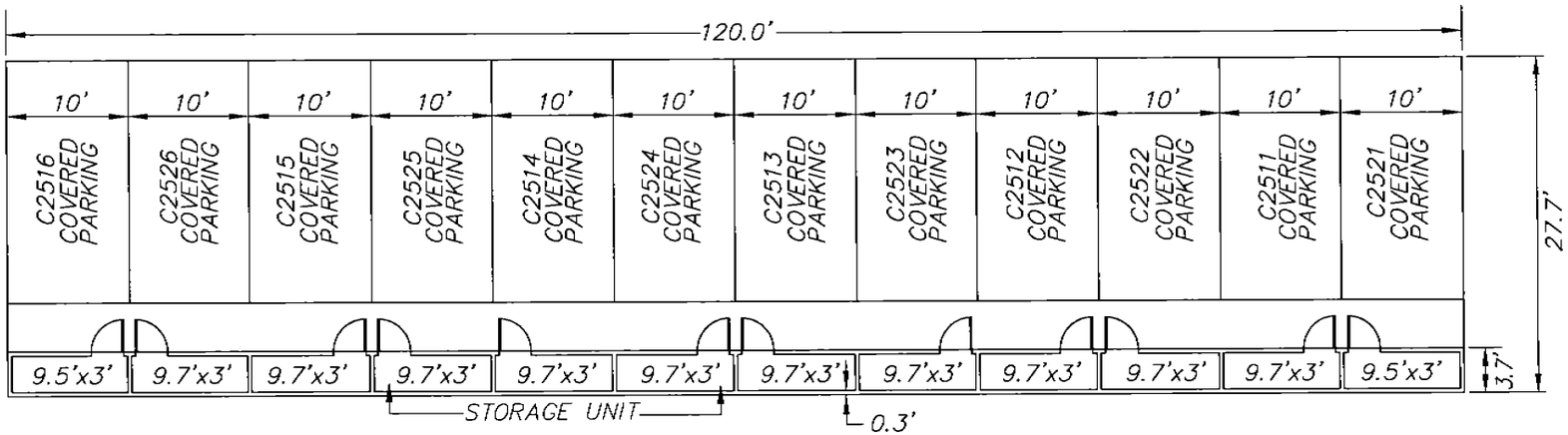
U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

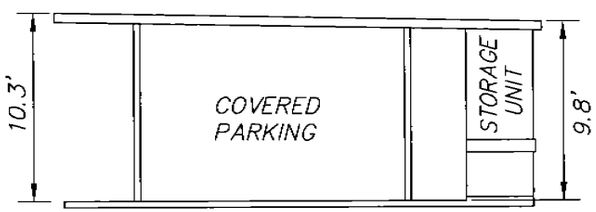
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	8	9	29-46-26

12 UNIT COVERED PARKING & STORAGE (TYPICAL)
BUILDING #25



NOTE:
1. COVERED PARKING AND STORAGE ARE LIMITED COMMON ELEMENT.
2. "C" INDICATES COVERED PARKING FOLLOWED BY THE UNIT NUMBER.
3. APPROPRIATE STORAGE UNIT NUMBER SHALL BE LOCATED ON SAID UNIT.



TYPICAL SECTION
NOT TO SCALE

10 5 0 10 20
GRAPHIC SCALE 1"= 10'

BUILDING #25 SUBSTANTIALLY COMPLETE 07-29-2005

EXHIBIT "B"
12 UNIT COVERED PARKING & STORAGE

NO.	DATE	REVISION DESCRIPTION	BY
10			
9			
8			
7			
6			
5			
4			
3			
2			
1	07-29-05	BUILDING #25 SUBSTANTIALLY COMPLETE	JEF

Banks Engineering, Inc.
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FORT MYERS, FLORIDA 33912
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

U.S. HOME CORPORATION

CONDOMINIUM II AT BARLETTA, A CONDOMINIUM

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	(S-T-R)
02-22-05	1580	BARLETTA	IMA	JEF	RMR	1" = 10'	9	9	29-46-26

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on June 16, 2005, to Articles of Incorporation for CONDOMINIUM II AT BARLETTA ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N05000002298.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capitol, this the Twentieth day of June, 2005

Exhibit "C"

Glenda E. Hood

Glenda E. Hood
Secretary of State

CR2EO22 (2-03)

ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
CONDOMINIUM II AT BARLETTA ASSOCIATION, INC.

FILED
05 JUN 16 AM 8:54
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Name of Corporation: Condominium II at Barletta Association, Inc.

Document Number: N05000002298

Pursuant to the provisions of section 617.1006, Florida Statutes, this ***Florida Not For Profit Corporation*** adopts the following amendment(s) to its Articles of Incorporation:

NEW CORPORATION NAME (if changing):

N/A

AMENDMENTS ADOPTED - (OTHER THAN NAME CHANGE) Indicate Article Number(s) and/or Article Title(s) being amended, added or deleted: (BE SPECIFIC)

ARTICLE IX

INITIAL DIRECTORS: The initial Directors of the Association shall be:

Andy Sorensen, President/Director	10481 Six Mile Cypress Parkway Fort Myers, FL 33912
Darin McMurray, Vice President/Director	10481 Six Mile Cypress Parkway Fort Myers, Florida 33912
John Hagan, Secretary/Treasurer/Director	10481 Six Mile Cypress Parkway Fort Myers, Florida 33912

The date of adoption of the amendment(s) was: June 13, 2005

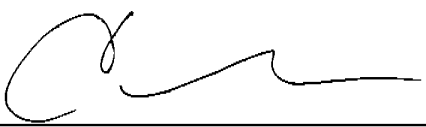
Effective date if applicable: June 13, 2005
(No more than 90 days after amendment file date)

Adoption of Amendment(s) **(CHECK ONE)**

_____ The amendment(s) was (were) adopted by the members and the number of votes case for the amendment was sufficient for approval.

__X__ There are no members or members entitled to vote on the amendment. The amendment(s) was (were) adopted by the board of directors.

Signed this 13 day of June, 2005.

Signature 

(By the chairman or vice chairman of the board, president or other Officer - if directors have not been selected, by an incorporator - If the hands of a receiver, trustee, or other court appointed Fiduciary, by that fiduciary.)

Christopher J. Shields
(Typed or printed name of person signing)

Incorporator
(Title of person signing)

F:\WPDATA\CJS\USHOME\Bella Terra\Condominium II at Barletta\Articles of amendment.wpd

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of CONDOMINIUM II AT BARLETTA ASSOCIATION, INC., a Florida corporation, filed on February 28, 2005, as shown by the records of this office.

The document number of this corporation is N05000002298.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capitol, this the Seventh day of March, 2005

Glenda E. Hood

Glenda E. Hood
Secretary of State

CR2EO22 (2-03)

ARTICLES OF INCORPORATION
OF
CONDOMINIUM II AT BARLETTA ASSOCIATION, INC.

Pursuant to Section 617.01201, Florida Statutes, these Articles of Incorporation are created by Christopher J. Shields, Esq, 1833 Hendry Street, Ft. Myers, Florida 33901, as sole incorporator, for the purpose set forth below.

ARTICLE I

NAME: The name of the corporation, herein called the "Association", is Condominium II at Barletta Association, Inc., and its address is 10481 Six Mile Cypress Pkwy., Ft. Myers, Florida 33912.

ARTICLE II

DEFINITIONS: The definitions set forth in Section 4 of the Declaration of Condominium shall apply to the terms used in these Articles.

ARTICLE III

PURPOSE AND POWERS: The purpose for which the Association is organized as to provide an entity pursuant to the Florida Condominium Act for the operation of Condominium iI at Barletta, a Condominium, located in Lee County, Florida. The Association is organized and shall exist upon a non-stock basis as a Florida corporation not for profit. No portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or Officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit except as specifically limited or modified by these Articles, the Declaration of Condominium or Chapter 718, Florida Statutes, as it may hereafter be amended, including without limitation the following powers and duties:

(A) To levy and collect assessments against members of the Association to defray the costs, expenses and losses of the Condominium, and to use the proceeds of assessments in the exercise of its powers and duties.

(B) To protect, maintain, repair, replace and operate the condominium property.

(C) To purchase insurance upon the condominium property for the protection of the Association and its members.

(D) To reconstruct improvements after casualty, and further improve the property.

(E) To make, amend and enforce reasonable rules and regulations governing the use of the common elements, and the operation of the Association.

(F) To approve or disapprove the transfer of ownership, leasing and occupancy of units, to the extent provided for in the Declaration of Condominium.

(G) To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws and any Rules and Regulations of the Association.

(H) To contract for the management and maintenance of the condominium property, and to delegate any powers and duties of the Association in connection therewith, except such as are specifically required by law or by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.

(I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium.

(J) To enter into agreements, or acquire leaseholds, memberships, and other possessory, ownership or use interests in lands or facilities, if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners.

(K) To borrow money if necessary to perform its other functions hereunder.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws.

ARTICLE IV

MEMBERSHIP:

(A) The members of the Association are all owners of record legal title to one or more units in the Condominium, as further provided in the Bylaws.

(B) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his unit.

(C) The owners of each unit, collectively, shall be entitled to one indivisible vote in Association matters, as further set forth in the Declaration of Condominium and the Bylaws. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE V

TERM: The term of the Association shall be perpetual.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended, or rescinded as provided.

ARTICLE VII

DIRECTORS AND OFFICERS:

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.

(B) Directors shall be elected by the members in the manner determined by the Bylaws. Directors may be removed, and vacancies on the Board of Directors filled, in the manner provided in the Bylaws.

(C) The business of the Association shall be conducted by the Officers designated in the Bylaws. The Officers shall be elected each year by the Board of Directors, and they shall serve at the pleasure of the Board.

ARTICLE VIII

AMENDMENTS: Amendments to these Articles may be proposed and adopted in the following manner:

(A) Proposal. Amendments to these Articles may be proposed by a majority of the Directors, or by written petition to the Board signed by the owners of at least one-fourth (1/4) of the units.

(B) Procedure. If any amendment to these Articles is so proposed, the proposed amendment shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

(C) Vote Required. Except as otherwise required by law, a proposed amendment to these Articles of Incorporation shall be adopted if it is approved by a majority of the total voting interests at any annual or special meeting called for the purpose, or if it is approved in writing by a majority of the voting interests without a meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that the notice contains the text of the proposed amendment.

(D) Effective Date. An amendment which is duly adopted shall become effective upon filing with the Secretary of State, and subsequently recording a certified copy in the Public Records of Lee County, Florida, with the same formalities as required for the recording of an amendment to the Bylaws.

ARTICLE IX

INITIAL DIRECTORS: The initial Directors of the Association shall be:

Andy Sorensen, President/Director	10481 Six Mile Cypress Parkway Fort Myers, FL 33912
Darin McMurray, Vice President/Director	10481 Six Mile Cypress Parkway Fort Myers, Florida 33912
Alan Burns, Secretary/Treasurer/Director	10481 Six Mile Cypress Parkway Fort Myers, Florida 33912

ARTICLE X

INITIAL REGISTERED AGENT:

The initial registered office of the Association shall be at:

1833 Hendry Street
Fort Myers, Florida 33901

The initial registered agent at said address shall be:

Christopher J. Shields

ARTICLE XI

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every Officer of the Association against all expenses and liabilities, including attorney's fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be made a party because of his being, or having been, a Director or Officer of the

Association. The foregoing right to indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or Officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

(C) A transaction from which the Director or Officer derived an improper personal benefit.

(D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and wilful disregard for human rights, safety or property, in an action by or in the right of someone other than the Association or a member.

(E) Wrongful conduct by Directors or Officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.

In the event of a settlement, the right to indemnification shall not apply unless a majority of the disinterested Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which a Director or Officer may be entitled.

WHEREFORE the incorporator has caused these presents to be executed this 25th day of February, 2005.

By: _____
Christopher J. Shields

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 25th day of February, 2005, by Christopher J. Shields, who is personally known to me and did not take an oath.

(Seal)

DONNA IPP
MY COMMISSION # DD 105688
EXPIRES: April 16, 2006
Bonded Thru Notary Public Underwriters

_____
Notary Public

_____
Printed Name of Notary Public

CONDOMINIUM II AT BARLETTA - ARTICLES

ACCEPTANCE BY REGISTERED AGENT

Having been named to accept service of process for Condominium II at Barletta Association, Inc., at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and agree to comply with the laws of the State of Florida in keeping open said office.

Christopher J. Shields

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2/25/05

BYLAWS
OF
CONDOMINIUM II AT BARLETTA ASSOCIATION, INC.

1. GENERAL. These are the Bylaws of Condominium II at Barletta Association, Inc., hereinafter the "Association", a Florida corporation not for profit organized for the purpose of operating a residential condominium pursuant to the Florida Condominium Act.

1.1 Principal Office. The principal office of the Association shall be at the Condominium or at such other place in Lee County, Florida, as the Board of Directors may determine.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "corporation not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 Definitions. The terms used herein shall have the same definitions as stated in the Declaration of Condominium to which these Bylaws are attached as an Exhibit.

2. MEMBERS. The members of the Association shall be the record owners of legal title to the units. In the case of a unit subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the unit solely for purposes of determining voting and use rights.

2.1 Qualification. Membership becomes effective upon the recording in the Public Records of a Deed or other instrument evidencing legal title to the unit in the member.

2.2 Voting, Rights; Voting Interests. The members of the Association are entitled to one (1) vote for each unit owned by them. The total number of votes ("voting interests") is equal to the total number of units. The vote of a unit is not divisible. The right to vote may not be denied because of delinquent assessments. If a condominium unit is owned by one natural person, that person may vote. If a unit is owned jointly by two or more persons, that unit's vote may be cast by any one of the record owners. If two or more owners of a unit do not agree among themselves as to how their one vote shall be cast on any question, that vote shall not be counted on that question. If the owner of a unit is a corporation, the vote of that unit may be cast by the president or a vice-president of the corporation. If a unit is owned by a partnership, its vote may be cast by any general partner.

EXHIBIT "D"

CONDOMINIUM II AT BARLETTA - BYLAWS

2.3 Approval or Disapproval of Matters. Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such unit at an Association meeting as stated in Section 2.2 above, unless the written joinder of all record owners is specifically required.

2.4 Termination of Membership. Termination of membership in the Association does not relieve or release any former member from liability or an obligation incurred under, or in any way connected with, the Condominium during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS; VOTING.

3.1 Annual Meeting. The annual meeting of the members shall be held in Lee County, Florida, each calendar year not later than the month of March, at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members. At the time of the annual meeting all ballots cast in the annual election of Directors shall be counted and the election results announced.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Board of Directors. Special meetings may also be called by members having at least ten percent (10%) of the votes of the entire membership, provided that the notice of the meeting is signed by all the members calling the meeting. Business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings. Notice of all members' meetings must state the time, date, and place of the meeting and include an agenda for the meeting. The notice must be mailed to each member at the most recent address which appears on the books of the Association, or may be furnished by personal delivery. Notice may also be furnished by electronic transmission to any member who has consented to receive notice by electronic transmission. Consent by a member to receive notice by electronic transmission shall be revocable by the member by written notice to the Association. Such consent shall be deemed revoked if the Association is unable to deliver by electronic transmission two (2) consecutive notices and such inability becomes known to the Association. The inadvertent failure to treat such inability as a revocation, however, does not invalidate any meeting or other action. The member bears the responsibility of notifying the Association of any change of address or contact information provided for the purpose of electronic transmission. The notice must be mailed, delivered or electronically transmitted at least fourteen (14) days before the meeting. Notice of any meeting may be waived in writing by any person entitled to receive such notice.

3.4 Notice of Annual Meeting; Special Requirements. Notice of the annual meeting, together with an agenda, shall be posted in a conspicuous place on the condominium property for at least fourteen (14) continuous days prior to the annual meeting. In lieu of or in addition to the physical posting of notice of any meeting of the members, including the annual meeting, the Association may conspicuously post and repeatedly broadcast the notice and the agenda on a closed-circuit cable

television system serving the Association. In the event the Association decides to use broadcast notice in lieu of physical posting on the condominium property, the notice and agenda shall be broadcast at least four (4) times every broadcast hour of each day that a posted notice is otherwise required by law. When broadcast notice is provided, the notice and agenda shall be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. The notice and agenda of the annual meeting shall also be sent by first class mail to each owner, and an affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Notice of the annual meeting may also be delivered in person to any unit owner, instead of by mail, if a written waiver of mailing is obtained, or furnished by electronic transmission to any member who has consented to receive notice by electronic transmission.

3.5 Quorum. A quorum at a members' meeting is attained by the presence, either in person or by proxy, of persons entitled to cast at least one-third (1/3rd) of the votes of the entire membership. Once a quorum has been attained, the subsequent withdrawal of members from a meeting does not affect the existence of a quorum for the remainder of that meeting.

3.6 Vote Required. The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all unit owners for all purposes, except where a greater or different number of votes is required by law or by any provision of the condominium documents.

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. Proxies may not be used in electing Directors, unless this is a recall election in which case limited proxies may be used to elect or replace Board Members in case of a recall. Limited proxies shall be used for votes taken to waive reserves or financial statement requirements, to amend the condominium documents, to elect or replace Board Members in the case of a recall, and for all other matters for which the Condominium Act requires or permits a vote of the members. General proxies may be used to establish a quorum, for procedural votes, and for non-substantive amendments to proposals for which a limited proxy is being used. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a specific later time and place by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

3.9 Order of Business. The order of business at members' meetings shall be substantially as follows:

(A) Collection of Ballots not yet cast
(B) Counting of Ballots in annual election (if necessary)
(C) Call of the roll or determination of quorum
(D) Reading or waiver of reading the minutes of the last members meeting
(E) Reports of Officers
(F) Reports of Committees
(G) Unfinished Business
(H) New Business
(I) Adjournment

3.10 Minutes. Minutes of all meetings of the members, and of the Board of Directors, shall be kept in a businesslike manner, available for inspection by members or their authorized representatives at all reasonable times, and for at least seven (7) years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting at which they were taken.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a Parliamentarian to advise on matters of procedure, but the decision of the Presiding Officer on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.12 Action by Members Without Meeting. Except the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents or other instruments expressing approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the members at a meeting of the members held on the sixtieth (60th) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 3.2 above, or by law. If the vote is taken by the method described in this Section 3.12, the list of unit owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the unit owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be three (3). In order to provide for a continuity of experience by establishing a system of staggered terms of office, in the first election in which unit owners other than the Developer elect a majority of the Directors, the two (2) candidates receiving the highest number of votes shall each be elected for a term which expires at the annual election after the next annual election. The candidate receiving the next highest number of votes shall each be elected for a term which expires at the next annual election. Thereafter, all Directors shall be elected for two (2) year terms. A Director's term ends at the annual election at which his successor is to be duly elected, or at such other time as may be provided by law. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided in 4.4 below.

4.2 Qualifications. Except for Directors appointed by the Developer, each Director must be a member or the spouse of a member.

4.3 Elections. In each annual election the members shall elect, by written secret ballot, as many Directors as there are vacancies to be filled, unless the balloting is dispensed with as provided for by law.

(A) First Notice; Candidates. Not less than sixty (60) days before the election, the Association shall mail, deliver, or electronically transmit to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person wishing to be a candidate may qualify as such by giving written notice to the Association at least forty (40) days before the annual election.

(B) Second Notice; Candidate Information Sheets. If there are more candidates than there are Directors to be elected, balloting is required within the time prescribed by law. The Association shall mail, deliver or electronically transmit a second notice of election, together with the notice of the annual meeting, to all unit owners entitled to vote in the contested election, together with a ballot listing all qualified candidates in alphabetical order, by surname. Upon timely request of a candidate, the Association shall also include an information sheet (no larger than 8-1/2 inches by 11 inches, furnished by the candidate not less than thirty-five (35) days before the election) in the mailing, delivery or electronic transmission. The costs of mailing and copying the candidate information sheet are borne by the Association.

(C) Balloting. Where balloting is required, Directors shall be elected by a plurality of the votes cast, provided that at least twenty percent (20%) of the eligible voters cast ballots. Proxies may not be used in the election. In the election of Directors, each unit shall have as many votes as there are Directors to be elected, but no unit may cast more than one vote for

any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, or by any other method required or permitted by law.

(D) If for any reason there arise circumstances in which one or more Directors must be elected for a two-year term at the same time as another Director must be elected for a one-year term, the candidate receiving the most votes shall be elected to the longest term.

4.4 Vacancies on the Board. Except as otherwise provided by law for the filling of vacancies during the time when the Developer is entitled to appoint at least one Director, if the office of any Director becomes vacant for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

(A) If a vacancy is caused by the death, disqualification or resignation of a Director, a majority of the remaining Directors, though less than a quorum, shall appoint a successor, who shall hold office until the next regularly scheduled election, unless otherwise provided by law.

(B) If a vacancy occurs as a result of an increase in the number of Directors, or a recall, and less than a majority of the Directors are removed, the vacancy may be filled by appointment by a majority of the remaining Directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the Directors are removed, the vacancies shall be filled in accordance with procedural rules of the Division of Florida Land Sales, Condominiums and Mobile Homes governing the method of selecting successors, and providing procedures for the operation of the Association during the period after the recall, but prior to the designation of successor Directors sufficient to constitute a quorum.

4.5 Removal of Directors from Office. Any or all Directors, except those appointed by the Developer, may be removed with or without cause by a majority vote of the entire membership, either by a written petition or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given. Electronic transmission may not be used as a method of providing notice of a meeting called in whole or in part for the purpose of recall.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors at such place and time as may be fixed and announced by the Directors at the meeting in conjunction with which they were elected.

4.7 Other Meetings. Meetings of the Board may be held at such time and place in Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors.

Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least two (2) days prior to the day named for such meeting.

4.8 Notice to Owners. All meetings of the Board of Directors shall be open to the members. A notice and agenda for each Board meeting shall be posted conspicuously on the condominium property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In lieu of or in addition to the physical posting of notice of any meeting of the Board of Directors on the condominium property, the Association may conspicuously post and repeatedly broadcast the notice and the agenda on a closed-circuit cable television system serving the Association. In the event the Association decides to use broadcast notice in lieu of physical posting on the condominium property, the notice and agenda shall be broadcast at least four (4) times every broadcast hour of each day that a posted notice is otherwise required by law. When broadcast notice is provided, the notice and agenda shall be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of any Board meeting at which a non-emergency special assessment will be considered shall be mailed, delivered or electronically transmitted to each owner at least fourteen (14) days before the meeting, and an affidavit of compliance shall be retained in the Association's official records as proof that notice was furnished. Notice of any Board meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. The right of owners to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Association governing the manner, duration and frequency of doing so.

4.9 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum at a Board meeting exists only when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation in a meeting by such means is equivalent to presence in person. Directors may not vote or participate in Board meetings by proxy or by secret ballot, except that officers may be elected by secret ballot.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the condominium documents or by applicable statutes. A Director who is present at a meeting of the Board shall be deemed to have voted with the prevailing point of view on every question, unless he voted against the question or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.12 Adjourned Meetings. The majority of the Directors present at any duly called meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting originally as called.

4.13 Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.14 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. To the extent required by law, committee meetings shall be noticed and conducted in the same manner as provided for Board meetings in Section 4.8 above.

4.16 Emergency Powers. In the event of any "emergency" as defined in Section 4.16(G) below, the Board "of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes (2002), as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

(E) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) For purposes of this Section only, an "emergency" exists only during a period of time that the condominium, or the immediate geographic area in which the condominium is located, is subjected to:

(1) a state of emergency declared by local civil or law enforcement authorities;

(2) a hurricane warning;

(3) a partial or complete evacuation order

(4) federal or state "disaster area" status; or

(5) a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the condominium, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism.

An "emergency" also exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence of a catastrophic event, such as a hurricane, earthquake, act of war or terrorism, or other similar event. A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

5. OFFICERS. The executive officers of the Association shall be a President and a Vice-President, who must be Directors, and a Treasurer and a Secretary, all of whom shall be elected by a majority vote of the Board of Directors. Any officer may be removed with or without cause at any meeting by vote of a majority of the Directors. Any person except the President may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President. Any officer may resign at any time by giving written notice to the Association and unless otherwise specified therein, the resignation shall become effective upon receipt.

5.1 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Directors; shall be ex officio a member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute

bonds, mortgages and other contracts requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.2 Vice-Presidents. The Vice-Presidents, in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.3 Secretary. The Secretary shall attend meetings of the Board of Directors and of the members and cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the members, and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the condominium documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one is elected.

5.4 Treasurer. The Treasurer shall be responsible for Association funds and securities, budget preparation, the keeping of full and accurate accounts in books belonging to the Association. The Treasurer is responsible for the deposit of all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board. The Treasurer shall oversee the disbursement of Association funds, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one is elected.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following:

6.1 Depository. The Association shall maintain its funds in federally insured accounts in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of funds from such accounts shall be only by persons authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget, and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted, shall be provided to the owners of each unit by mail, delivery or electronic transmission to the location furnished by the unit owner for that purpose not less than fourteen (14) days before that meeting. The proposed budget must be detailed, and must show the amounts budgeted by income and expense classifications, including without limitation those specified in Section 718.504(21)(c) of the Condominium Act.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to operating expenses, the proposed budget must include provisions for funding reserve accounts for capital expenditures and deferred maintenance, as required by law. These accounts shall include roof replacement, building painting, and pavement resurfacing. They shall also include any other planned or foreseeable capital expenditure or deferred maintenance item with a current estimated cost of $10,000 or more. The amount to be reserved for each item shall be computed by a formula based on the estimated remaining useful life and replacement cost of the item. These reserves must be funded unless the members of the Association have, by a majority of the voting interests present in person or by proxy and voting at a duly called meeting of the Association, determined to fund no reserves, or less than adequate reserves, for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the unit owners as required in Section 6.2 above. The funds in a reserve account established under this Section 6.3, and all interest earned on the account, shall be used only for the purposes for which the reserve account is established, unless use for another purpose is approved in advance by a majority of the voting interests, voting in person or by limited proxy at a meeting of the Association called for the purpose.

6.4 Operating Reserves. In addition to the statutory reserves described in Section 6.3 above, or in place of them if the members so vote, the Board may establish one or more additional reserve accounts in the operating budget for contingencies, operating expenses, repairs, minor improvements or special projects. These reserves offset cash flow shortages, provide financial stability, and avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be included in the proposed annual budget. These funds may be spent for any purpose approved by the Board.

6.5 Assessments; Installments. Regular annual assessments based on an adopted budget shall be payable in quarterly installments, in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fifteen (15) days prior to the due date, but failure to send (or receive) the notice does not excuse the obligation to pay. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last quarterly payment, and payments shall be continued at such rate until a budget is adopted and new quarterly installments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each unit's next due quarterly installment.

6.6 Special Assessments. Special assessments may be imposed by the Board of Directors to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 4.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. The funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

6.7 Fidelity Bonds. To the extent required by law, fidelity bonds shall be required for those persons who control or disburse funds of the Association in the amount(s) required by the Condominium

Act and the President, Secretary and Treasurer of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. The premiums on such bonds shall be paid by the Association as a Common Expense.

6.8 Financial Reports. In accordance with Section 718.111(13) of the Condominium Act, not later than ninety (90) days after the close of each fiscal year, the Association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within twenty-one (21) days after the final financial report is completed by the Association or received from the third party, but not later than one hundred twenty (120) days after the end of the fiscal year, the Association shall mail, deliver or electronically transmit to each unit owner at the address last furnished to the Association by the unit owner, a copy of the financial report or a notice that a copy of the financial report shall be mailed, delivered or electronically transmitted to the unit owner, without charge, upon receipt of a written request from the unit owner.

6.9 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may adopt a different fiscal year in accordance with law and the regulations of the Internal Revenue Service.

7. RULES AND REGULATIONS. The Board of Directors may, from time to time, adopt and amend administrative Rules and Regulations governing the use, maintenance, management and control of the common elements and the operation of the Association. Copies of such initial Rules and Regulations are attached as an exhibit to this Declaration. Any Rule or Regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the unit owners, and uniformly applied and enforced.

8. COMPLIANCE AND DEFAULT; REMEDIES. In addition to the remedies provided in Section 19 of the Declaration of Condominium, the following shall apply:

8.1 Fines. The Board of Directors may levy fines against units whose owners commit violations of any provision of the Declaration, the Bylaws or reasonable rules and regulations, or who condone such violations by their family members, guests or lessees. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law (currently defined as not to exceed $100.00 per violation or $1,000.00 in the aggregate), and no fine may be levied against an unoccupied unit. The procedure for imposing fines shall be as follows:

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

(1) A statement of the date, time and place of the hearing;

(2) A specific designation of the provisions of the Declaration, Bylaws or rules which that are alleged to have been violated;

(3) A short and plain statement of the specific facts giving rise to the alleged violation(s); and

(4) The possible amounts of any proposed fine.

(B) Hearing: At the hearing the party sought to be fined shall have a reasonable opportunity to respond, to present evidence, to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a panel of three (3) unit owners appointed by the Board, none of whom may then be serving as Directors. If the panel, by majority vote does not agree with the fine, it may not be levied.

8.2 Mandatory Non-Binding, Arbitration. In the event of any dispute as defined in Section 718.1255(1) of the Condominium Act, between a unit owner and the Association arising from the operation of the Condominium, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes before filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

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

9. TRANSFER OF ASSOCIATION CONTROL; DEVELOPER'S RIGHTS.

9.1 Members' Rights to Elect Directors. When owners other than the Developer own fifteen percent (15%) or more of the units, the owners other than the Developer shall be entitled to elect one-third (1/3rd) of the members of the Board of Directors. Unit owners other than the Developer become entitled to elect a majority of the members of the Board of Directors upon the first of the following events to occur:

(A) Three years after fifty percent (50%) or more of the units that will be operated ultimately by the Association have been conveyed to purchasers;

(B) Three months after ninety percent (90 %) or more of the units that will be operated ultimately by the Association have been conveyed to purchasers;

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

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

(E) Seven (7) years after the Declaration of Condominium was recorded.

9.2 Developer's Right to Designate Directors. Except as provided above, the Developer shall be entitled to designate at least one Director as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the units.

9.3 Notice of Election. Within seventy-five (75) days after unit owners other than the Developer are entitled to elect one or more Directors, the Association shall call, upon not less than sixty (60) days notice, a meeting of the members, and an election in which the unit owners shall elect the Directors that the unit owners are entitled to elect. The election, and the meeting in conjunction with which the election is to be held, may be called, and the notice given, by any unit owner if the Association fails to do so. All non-developer unit owners may vote in the election of Directors. The meeting in conjunction with which unit owners other than the Developer first elect a majority of the Directors is commonly referred to as the "turnover meeting."

9.4 Transfer of Association Control. By electing at least a majority of the Directors of the Association, the unit owners other than the Developer assume control. At that time the Developer must deliver to the Association all property of the unit owners, and of the Association, held or controlled by the Developer, and all items and documents that the Developer is required to deliver or turn over to the Association under Florida law. The Developer may turn over control of the Association to unit owners other than the Developer before the times mentioned in Section 9.1 above, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it becomes the affirmative obligation of unit owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days notice of the Developer's decision to cause its appointees to resign is given to unit owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations, even if unit owners other than the Developer refuse or fail to assume control.

10. AMENDMENT OF BYLAWS. Except as otherwise provided in the Declaration of Condominium, amendments to these Bylaws may be proposed and adopted in the following manner:

10.1 Proposal. Amendments to these Bylaws may be proposed by a majority of the Board, or by written petition to the Board signed by at least one-fourth (1/4th) of the voting interests.

10.2 Procedure. Upon any amendment to these Bylaws being proposed by said Board or unit owners, the proposed amendment shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can be given.

10.3 Vote Required. Except as otherwise provided by law, or by specific provision of the condominium documents, these Bylaws may be amended if the proposed amendment is approved by at least two-thirds (2/3rds) of the voting interests of the Association present in person or by proxy and voting at any annual or special meeting called for the purpose, provided that notice of the amendment has been given to the members in accordance with law.

10.4 Recording Effective Date. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment is effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida. The certificate must identify the book and page of the Public Records where the Declaration of Condominium is recorded.

11. MISCELLANEOUS.

11.1 Gender; Number. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.

11.4 Common Elements; Limited Power to Convey. The Association has a limited power to convey portions of the common elements as provided for in Section 73.073, Florida Statutes.

11.5 Compliance of Condominium Units to Applicable Fire and Life Safety Code. A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Association's Board of Directors as evidence of the compliance of the condominium units with the applicable fire and life safety code. Neither the Association nor the unit owners, however, are obligated to retrofit the common elements or units with a fire sprinkler system or other engineered life safety system in a building that has already been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting and engineered life safety system by the affirmative vote of two-thirds of all voting interests. A vote to forego retrofitting may not be obtained by general proxy or limited proxy, but shall be obtained by a vote personally cast at a duly called membership meeting, or by execution of a written consent by the

member, and shall be effective upon the recording of a certificate attesting to such vote in the public records of the county. The Association shall provide each unit owner written notice of the vote to forego retrofitting of the required fire sprinkler system, in at least 16-point bold type, by certified mail, within twenty (20) days after the Association's vote. Thereafter, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to execution of a lease. As part of the information provided annually to the division, the Association shall report the membership vote and recording of a certificate and, if retrofitting has been undertaken, the per-unit cost of such work.

The foregoing constitute the first Bylaws of Condominium II at Barletta Association, Inc., and were duly adopted at a meeting of the Board of Directors held on March 7th, 2005.

Date: June 29, 2005.

CONDOMINIUM II AT BARLETTA ASSOCIATION, INC.

John P. Hogan
Secretary

(SEAL)

Attest:

President

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2/22/05

CONDOMINIUM II AT BARLETTA ASSOCIATION, INC.

INITIAL RULES AND REGULATIONS

The Rules and Regulations hereinafter enumerated as to the Association properties, condominium property, the common elements, the limited common elements, and the units, shall be deemed in effect until amended by the Board of Directors of the Association, and shall apply to and be binding upon all unit owners. The unit owners shall, at all times, obey said Rules and Regulations and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees, servants, lessees, and persons over whom they exercise control and supervision. The initial Rules and Regulations are as follows:

1. **BUILDING APPEARANCE AND MAINTENANCE:**

(a) The streets, sidewalks, walkways, entrances, and stairs must not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the units, nor shall any carriages, bicycles, wagons, shopping carts, chairs, benches, tables, or any other object of a similar type and nature be left therein or thereon.

(b) Personal property of unit owners shall not be stored outside their units.

(c) No garbage cans, supplies, containers, or other articles shall be placed in or on the walkways, hallways, and entry ways, nor shall any linens, cloths, clothing, curtain, rugs, mops, or laundry of any kind, or other articles be shaken or hung from any of the windows, doors, walkways, or entry ways, or exposed on any part of the limited common elements or common elements. The limited common elements and the common elements shall be kept free and clear of refuse, debris and other unsightly material.

Any unit owner may display one (1) portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than 4 ½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

(d) No person shall allow anything whatsoever to fall from the windows, walkways, entry ways or doors of the premises, nor sweep or throw any dirt, waste or other substances out of the unit or on the common elements of the Condominium.

EXHIBIT "E"

CONDOMINIUM II AT BARLETTA - RULES

(e) Refuse and garbage shall be deposited only in the area provided therefor. All garbage must be bagged.

(f) No unit owners shall make or permit any disturbing noises by himself, his family, servants, employees, agents, visitors, or licensees, nor do or permit anything by such persons that will interfere with the rights, comforts or convenience of other unit owners. No unit owner shall play upon or permit to be operated a phonograph, television, radio or musical instrument in such a manner as to unreasonably disturb or annoy other occupants of the Condominium.

(g) No exterior radio or television antenna installation, or other wiring, shall be made without the prior written consent of the Board of Directors, except as otherwise provided by law.

(h) No sign, advertisement, notice or other similar material shall be exhibited, displayed, inscribed, painted or affixed, in or upon any part of the units, limited common elements or common elements by any unit owner or occupant without written permission of the Association.

(i) No inflammable, combustible, or explosive fluid, chemical or substance, shall be kept in any unit or limited common element, except those necessary and suited for normal household use.

(j) Unit owners, residents, their families, guests, servants, employees, agents, or visitors shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of the building.

2. **ALTERATION OF CONDOMINIUM:** Unit owners are specifically cautioned that their right to make any addition, change, alteration, or decoration to the exterior appearance of any portion of the Condominium is subject to the provisions of the Declaration of Condominium, and is also subject to prior approval of the ARC. For example, no unit owner may install screen doors, or apply any type of film or covering to the inside or outside of window or door glass without the prior approval of the Association and the ARC. All such additions, changes or alterations must be presented in writing to the board of Directors for approval, accompanied by written plans when requested or drawings and specifications. The Board of Directors shall approve such requests only if the Association is protected against, or indemnified as to construction liens and/or claims arising from such work.

3. **EMERGENCIES IN OWNER'S ABSENCE:** In order that proper steps and procedures may be taken in a minimum amount of time during an emergency situation, the Association shall retain pass-keys to all units. The locks of each unit are not to be changed or altered without providing the Association with a duplicate key.

Any unit owner who plans to be absent from his unit for an extended period of time must prepare his unit prior to his departure in the following manner:

(a) By removing all furniture, plants and other objects from around the outside of the unit; and

(b) By designating a responsible caretaker to care for his unit should his unit suffer any damage caused by storms, hurricanes, winds or other violent acts of nature. The Manager and the Association shall be provided with the name of each unit owner's aforesaid designated caretaker. Such caretaker will notify the Association prior to making any entry to the unit during the owner's absence.

4. **PETS:** The Board may impose reasonable restrictions upon how and where pets may be permitted upon the common elements.

5. **PARKING OF VEHICLES:** Covered and uncovered parking spaces have been provided for the parking of private passenger automobiles of owners and their guests. Covered parking spaces are not intended for the storage of boats, motorcycles, recreational vehicles, motor homes, trailers, semitrailers, house trailers, campers, truck campers, trucks, non-operational or invalidly licensed automobiles. Parking of such vehicles on the condominium property outside of parking spaces is not permitted, except for service vehicles temporarily present on business. No repairs or maintenance of vehicles may be performed except emergency repairs. Because there are limited parking spaces, each owner is specifically cautioned that the Board of Directors may prohibit owners from keeping more than two motor vehicles on the premises on a permanent basis. Any vehicles parked in violation of the parking restrictions are subject to towing, with the owner of the vehicle responsible for all costs of towing.