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# DECLARATION OF CONDOMINIUM OF SORRENTO, A CONDOMINIUM

D.R. Horton, Inc., a Delaware corporation (the "Developer"), hereby declares:

#### 1. Introduction and Submission.

1.1 <u>The Land</u>. The Developer owns the fee title to certain land located in the City of Bonita Springs, Lee County, Florida, as more particularly described in Exhibit "1" annexed hereto (the "Land").

1.2 <u>Submission Statement</u>. The Developer hereby submits the Initial Phase, more particularly described in Exhibit "1.16" attached hereto and made a part hereof (hereinafter referred to as the Initial Phase) of the Land and all improvements erected or to be erected thereon and all other property, real, personal or mixed and all access easement rights and benefits, now or hereafter situated on or within, or benefiting the Land - but excluding all public or private (e.g. cable television) utility installations therein or thereon to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act (the "Act" as hereinafter defined) as it exists on the date hereof and as it may be hereafter renumbered. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Initial Phase as aforesaid shall for any purposes be deemed part of the Condominium Act or any rules or regulations promulgated pursuant thereto.

1.3 <u>Name</u>. The name by which this condominium is to be identified is SORRENTO, A CONDOMINIUM (hereinafter called the "Condominium").

1.4 <u>Phase Condominium</u>. The Land, which is anticipated to become a portion of the Condominium Property when and if Phases 1 – 38 are made part of the Condominium Property, is described on Exhibit "1" attached hereto and made a part hereof. The Condominium is intended to contain thirty eight (38) Phases on the Land and fourteen (14) Phases on the Additional Property, hereinafter defined in Section 3.3. The legal description of the Initial Phase of the Condominium is set forth on Exhibit "1.16". The legal description of the proposed Phases 2-38 are set forth on Exhibits "1.1" through "1.38" attached hereto and the legal descriptions of the proposed Phases 39-52 of the Condominium shall be set forth in Exhibits "1.39" through "1.52" to be attached by amendment to this Declaration in accordance with the provisions of Section 3.

2. <u>Definitions</u>. The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof and as it may be hereafter renumbered.

2.2 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as amended from time to time.

2.3 "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Unit Owner.

2.4 "Association" or "Condominium Association" means SORRENTO CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the sole entity responsible for the operation of the Condominium.

2.5 "Association Property" means any property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.

2.6 "Board of Directors" or "Board" means the Board of Directors of the Association, referred to in the Act as the "board of administration".

2.7 "Building" means the structure(s) in which the Units and the Common Elements are located, regardless of the number of such structures, which is located on the Condominium Property.

2.8 "By-Laws" mean the By-Laws of the Association, as amended from time to time.

2.9 "Common Elements" mean and include:

(a) The portions of the Condominium Property, which are not included within the Units.

(b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility, wastewater treatment and other services to Units and the Common Elements.

(c) An easement of support in every portion of a Unit, which contributes to the support of the Building.

(d) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and for the furnishing of wastewater treatment (sewer) services to the Units, provided that such property and installments are located within the Condominium Property.

(e) Any other parts of the Condominium Property designated as Common Elements in this Declaration.

2.10 "Common Expenses" mean all expenses incurred by the Association in the performance of its duties for the Condominium, including, but not limited to: (1) expenses of maintenance, operation, protection, repair or replacement of the Common Elements and Association Property; (2) expenses declared to be Common Expenses by the provisions of this Declaration or by the Articles, By-Laws or the Act; (3) all expenses and assessments due the Master Association for expenses of the Master Association pursuant to the terms of the Master Declaration; and (4) the costs of carrying out the powers and duties of the Association. Common Expenses also include insurance for directors and officers, in-house communications, security services, and pest control services to the Common Elements, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium, and the cost of a master antennae television system, duly franchised cable television service, broadband, telecommunications, satellite and/or internet services obtained pursuant to a bulk contract, if such a bulk contract is entered into by the Association. Common Expenses shall not include any separate obligations of individual Unit Owners.

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

2.12 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which are appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.

2.13 "Condominium Property" means the Land, Additional Property, Improvements and other property described in Section 1.2 hereof or submitted to the condominium by amendment or supplement to this Declaration, improvements and other property described in Section 2.21 hereof, subject to the limitations thereof and exclusions therefrom.

2.14 "County" means the County of Lee, State of Florida.

2.15 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.

2.16 "Developer" shall mean D.R. Horton, Inc., a Delaware corporation, its successors, assignees, nominees or affiliates as to which the rights of Developer hereunder are specifically assigned.

2.17 "Division" shall mean the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department Business and Professional Regulations or its successors.

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

2.19 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, or any other lender generally recognized as an

institutional lender, or the Developer, holding a first mortgage on a Unit or Units. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units to which at least fifty-one percent (51%) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are appurtenant.

2.20 "Master Association" means the Sorrento Master Association, Inc., a Florida notfor-profit corporation.

2.21 "Master Declaration" means the Declaration of Covenants, Conditions and Restrictions for Sorrento, to be recorded in the Public Records of Lee County, Florida, as such may be further amended from time to time.

2.22 "Limited Common Elements" mean those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

2.23 "Phase" or "Phases" shall mean that portion of the land and improvements thereon, as contemplated by Section 718.403, Florida Statutes, which may, at Developer's sole discretion become part of the Condominium Property by recording this Declaration or subsequent amendments thereto.

2.24 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.

2.25 "Residential Unit" or "Unit" shall mean a part of the Condominium Property which is subject to exclusive ownership.

2.26 "Unit Owner" or "Owner of a Unit" or "Owner" means the Record Owner of legal title to a Condominium Parcel according to the Public Records of the County.

3. <u>Description of Condominium</u>.

Identification of Units. If all of the Land and Additional Property become part of 3.1 the Condominium, the Condominium Property will consist of fifty two (52), four Unit condominium Buildings containing a total of two hundred eight (208) Residential Units. Each Phase will consist of one building having two stories. Each Phase shall also be designated by a unique physical address on Sosta Lane. Each Unit shall be identified by a separate numerical designation consisting of the Phase number, Building number and Unit Number. The designation of each Unit is set forth on Exhibit "4" attached hereto and made a part hereof. Exhibit "4" consists of a survey of the Land and Additional Property, a graphic description of the Improvements located or anticipated to be located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit "4", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions in the Initial Phase and the proposed Common Elements and Units in each subsequent Phase. The Developer reserves the right to modify the number of Units within the subsequent proposed Phases in accordance with the schedule set forth herein. There

shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) 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, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

3.2 Phase Plan. The Developer is developing the Land and Additional Property (to the extent the Developer acquires title to such Additional Property) as a phase condominium, as provided for by Section 718.403, Florida Statutes. The Initial Phase, as described in Exhibit "1.16" and Exhibit "4", shall be submitted to condominium ownership herewith, upon the recording of this Declaration in the Public Records of Lee County. At all times prior to and following the recording of this Declaration, the Developer shall not be obligated to add any property in the additional Phases described or to be described in Exhibits "1.1" through "1.52" to the Condominium or to construct any improvements, including Common Elements, on the proposed subsequent Phases as shown on Exhibit "4". Developer reserves the right at any time and in Developer's sole discretion to discontinue the phase condominium and at Developer's option to develop the adjacent land in any manner with any product type or to sell the adjacent land to a third party. Any and all proposed common areas within the subsequent Phases shall not become Common Elements of the Condominium Property if Developer makes such election. Developer further reserves all rights and obligations with respect to the property described as additional Phases until an amendment to this Declaration is recorded in the Public Records Lee County such additional Phases to the Condominium. If any subsequent Phase shall in fact be added to and made part of the Condominium, the Condominium Property shall be expanded to encompass and include all portions of such Phase, improvements constructed thereon, including Common Elements, Limited Common Elements, easements and rights thereto intended for use of the Phase property.

Developer is not obligated to construct any additional Phase or submit the land upon which a proposed subsequent Phase is described to condominium ownership. If the Phases are constructed and made part of this Condominium, the size and unit mix may be similar to that of the Initial Phase; however, Developer reserves the right to modify the configuration, mix or type, of the proposed Phase units. Units located on the first floor in the Initial Phase shall contain 1,652 square feet and Units located on the second floor in the Initial Phase shall contain 1,932 square feet, each exclusive of appurtenant Limited Common Elements. If the Developer modifies the configuration, mix or type of Units in any subsequent Phase, the smallest Unit shall not contain less than 1500 square feet and the largest Unit shall not contain more than 2250 square feet, in both cases exclusive of appurtenant Limited Common Elements. Additionally, the Developer reserves the right to modify the number of Units in any subsequent Phase in accordance with the following schedule:

Phases/Buildings	# of Residential Units <u>Anticipated</u>	Minimum <u># of Units</u>	Maximum <u># of Units</u>
1	4	-	-
2-52	4	4	5

Initially, the Condominium shall consist of 4 Units; however, if all additional Phases are constructed and made part of the Condominium, the total number of Units shall be not less than 152 Units and not more than 208 Units. Developer also reserves the right to vary the placement of the Buildings and Common Elements on the land and the height of the Buildings if necessary to accommodate other variations in subsequent Phases.

Developer reserves the right to unilaterally add subsequent Phases to the Condominium without the consent and/or joinder of any other party by amendment to this Declaration for seven (7) years after the earlier of (i) date of the recording of substantial completion pursuant to 718.104(4)(e) or (ii) the conveyance of title to a unit which is not accompanied by a recorded assignment of Developer's rights in favor of the grantee of such title unless unit owners vote to extend such period pursuant to 718.403 for the maximum amount of time allowable under applicable law. After the Developer's right to unilaterally add Phases has expired, the Developer may add Phases with the joinder and consent of the Association and Unit Owners in accordance with applicable laws.

Notwithstanding the numerical sequence of the Phases and/or Buildings or any inference that can be drawn therefrom or from any other provision of the Declaration, the Developer reserves the right to submit Phases to the Condominium Property in any sequence; provided, however, any Phases submitted to the Condominium Property shall have ingress and egress from and to all Phases of the Condominium Property and public rights of ways.

3.3 <u>Right to Add Additional Property</u>. The Developer shall have the right, in its sole discretion, to add additional property adjacent to the Land (the "Additional Property") to the description of the Land and to add additional Phases to the terms and provisions of this Declaration, without the joinder or consent of any Unit Owner or any other party, by recording a Supplement to this Declaration, adding such Additional Property to the description of the Land. Such Supplement shall identify the Phases that may be added to the Condominium Property pursuant to the provisions of this Declaration. Upon the recording of the Supplement, Additional Phases located in the Additional Property, may be added to the Condominium in accordance with the procedure set forth in Section 3.2 hereof. All of the terms and provisions of this Section 3 with respect to subsequent Phases and the description of the Residential Units shall be the same for the Additional Property.

3.4 <u>Unit Boundaries</u>. Each Unit shall include that part of the Condominium Property that lies within the following boundaries:

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

(i) <u>Upper Boundaries</u>. The upper boundary of a Unit shall be the unfinished lower surface of its concrete ceiling. The unit shall include any drywall attached to wood framing within the ceiling.

(ii) <u>Lower Boundaries</u>. The lower boundary of the Unit shall be the horizontal plane of the unfinished upper surface of the floor of the Unit.

(iii) <u>Interior Divisions</u>. Except as provided in subsections (i) and (ii) above, no part of the floor, stairwell adjoining floors or nonstructural interior walls shall be considered a boundary of the Unit.

(b) <u>Parametrical Boundaries</u>. The parametrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries except as provided below.

(c) <u>Apertures</u>. Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks, window casings and weather stripping thereof, together with exterior surfaces of glass thereof, provided however, the exterior surfaces of doors facing other Common Elements thereof shall be deemed Limited Common Elements for purposes of painting. Notwithstanding anything to the contrary, the structural components of the Building are expressly excluded from the Units and are hereby deemed Common Elements.

(d) <u>Garages and Storage</u>. Each Unit includes a space labeled as garage on Exhibit "4" hereto. Each garage shall be part of the Unit; however, no portion of a garage intended for the parking of a motor vehicle and incidental storage, shall be converted to air conditioned living space. The Unit Owner shall maintain the garage door, floor and the interior of the garage and appurtenant equipment. The Association shall maintain the exterior of the Garage. The storage area located adjacent to the covered lanai shall be part of the Unit and maintained solely by the Unit Owner as part of the Unit.

(e) <u>Exceptions</u>. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as Exhibit "4" hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 3.3(c) above shall control unless specifically depicted otherwise on such survey.

3.5 <u>Limited Common Elements</u>. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

(a) Patios, Balconies, Terraces, and Lanais appurtenant to Residential Units. Any patio, balcony, terrace and/or lanai (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others, if any, shall be a Limited Common Element of such Unit(s). The Association shall be responsible for the maintenance of the structural elements of any such Limited Common Elements, with the costs of same being a part of the Common Expenses. Each Owner shall, however, be responsible for the general cleaning and upkeep of the appearance of the area(s) and, for the repair and replacement of mechanical elements and any floor coverings placed or installed in the garage or on any patio, balcony terrace and/or lanai, if applicable. A Unit Owner using a patio, balcony, terrace and/or lanai or making or causing to be made any additions, alterations or improvements thereto agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Developer and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium and/or Association Property and expenses arising therefrom.

(b) <u>Entry</u>. Each stairwell and entry of a Unit as shown on Exhibit "4" shall be a Limited Common Element of each Unit for the exclusive use of the Unit Owner of the Unit which it serves. Such entry and stairwell shall be maintained by the Association.

(c) <u>Miscellaneous Areas, A/C Pad and Equipment</u>. Any areas, including an air conditioning pad, upon which fixtures or equipment (e.g., an air conditioning unit located adjacent to the Unit and related lines and equipment) serving a Unit or Units exclusively are located shall be Limited Common Elements of such Unit(s) being served by the fixtures or equipment. Additionally, any other area labeled "L.C.E." on Exhibit "4" hereto shall be deemed a Limited Common Element of the Unit to which such area is pertinent. The maintenance, repair and replacement of any such equipment and/or areas shall be the sole responsibility of the Owner(s) of the Unit to which the equipment and/or areas are appurtenant. Air conditioning equipment, including but not limited to compressors, lines, and handlers, shall be owned, maintained and replaced by the Unit Owner whose Unit it serves exclusively.

(d) <u>Driveways</u>. Each are labeled as "Drive" on Exhibit "4" shall be a Limited Common Element reserved for the exclusive use of the Unit Owner of the adjacent Unit to which it serves. The Driveway shall be maintained by the Association. Any space located between driveways shall be Common Elements.

(e) <u>Exterior Door Surfaces</u>. The exterior surface materials of the doors and garage doors serving a Unit shall be a Limited Common Element thereof, to be painted by the Association; however, each Unit owner shall be responsible for the maintenance and repair of the door and door hardware itself.

(f) <u>Conveyance of a Unit</u>. All Limited Common Elements appurtenant to that Unit shall be conveyed as part of that Unit unless alternative means of conveyance are specifically provided for in this Declaration.

3.6 <u>Common Elements</u>. The land, landscaping and other improvements in the Condominium Property but not part of any Unit shall be Common Elements of the Condominium. The Developer may, but shall not be required to, add additional facilities,

amenities, surface parking, and roadways in it sole discretion. The Developer also reserves the right to modify, amend, relocate, or substitute Common Elements, as may be required by governmental authorities or in their sole discretion for any purpose to preserve the character of the property. If the Developer elects to discontinue the phase plan and not add proposed subsequent Phases to the Condominium Property or Additional Property, the Developer reserves the right to grant necessary or desirable access and use easements over any portion of the Common Elements, in favor of the Developer, its successors and assigns, and owners of residential units or lots constructed on the land which was not added to the Condominium in accordance with Section 3.7(j).

3.7 <u>Easements</u>. The following easements are hereby created (in addition to any easements created under the Act and any easements recorded in the Public Records of Lee County affecting the Condominium Property):

(a) <u>Support</u>. Each Unit and any structure and/or improvement hereafter constructed shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

(b) <u>Utility and Other Services; Drainage</u>. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, fiber optics, other communications and security systems, and other services and drainage in order to serve the Condominium. The Association shall have a right of access to each Unit during reasonable hours when necessary for 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 Units. All drainage easements dedicated or reserved hereunder in accordance with the WMD permit shall be permanent in nature unless modification of the location of any drainage easement is required or approved by the WMD. A permanent easement over those Common Elements providing access to any CDD (as hereinafter defined) property is dedicated and reserved in favor of the Parklands West Community Development District (the "CDD") for the purpose of allowing the CDD to carry out is obligations under the CDD Charter on property which is owned and to be maintained by the CDD.

(c) <u>Encroachments</u>. If (a) any portion of the Common Elements encroaches upon any Unit (or Limited Common Elements appurtenant thereto); (b) any Unit encroaches upon any other Unit (or Limited Common Elements appurtenant thereto) or upon any portion of the Common Elements or Association Property; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements or Association Property made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements or Association Property, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand. (d) <u>Ingress and Egress</u>. A non-exclusive easement in favor of each Unit Owner and resident, their guests, tenants and invitees shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements or Association Property 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, Association Property-or Master Association Property as from time to time may be paved and intended for such purposes. None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

(e) <u>Construction; Maintenance</u>. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property or Association Property and take any and all action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance purposes or where the Developer, in its sole discretion, determines that it is required or desires to do so.

(f) <u>Exterior Building Maintenance</u>. An easement is hereby reserved on, through and across each Unit and all Limited Common Elements appurtenant thereto in order to afford access to the Association (and its contractors) to perform roof repairs and/or replacements, repair, replace, maintain and/or alter rooftop mechanical equipment, to perform washing and/or any other exterior maintenance and/or painting of the Building.

(g) <u>Sales and Leasing Activity</u>. Until such time as Developer (or any of its affiliates) is no longer offering Units for sale in the ordinary course of business, the Developer, its designees, affiliates, successors and assigns, hereby reserves and shall have the right to use any Units and parts of the Common Elements or Association Property for guest accommodations, model apartments and sales, leasing, management resales and construction offices, to show model Units and the Common Elements and/or other portions of the Condominium Property or the adjacent property to prospective purchasers and tenants of Units and/or units or improvements intended to be constructed on any adjacent properties or on the Condominium Property of the Developer or its designees or affiliates, and to erect on the Condominium Property or Association Property signs and other promotional material to advertise Units (or the other aforesaid units) for sale or lease. An easement is hereby reserved for all such purposes and without the requirement that any consideration be paid by the Developer to the Association or any Unit Owner.

(h) <u>Warranty</u>. For as long as Developer remains liable under any warranty, whether statutory, express or implied, for acts or omissions of Developer in the development, construction, sale, resale, leasing, financing and marketing of the Condominium, then Developer and its contracts, agents and designees shall have the right, in Developer's sole discretion and from time to time and without requiring prior approval of the Association and/or any Unit Owner and without requiring any consideration to be paid by the Developer to the Unit Owners and/or Condominium Association (provided, however, that absent an emergency situation, Developer

shall provide reasonable advance notice), to enter the Condominium Property, including the Units, Common Elements and Limited Common Elements, for the purpose of inspecting, testing and surveying same to determine the need for repairs, improvements and/or replacements, and effecting same, so that Developer can fulfill any of its warranty obligations. The failure of the Association or any Unit Owner to grant, or to interfere with, such access, shall alleviate the Developer from having to fulfill its warranty obligations and the costs, expenses, liabilities or damages arising out of any unfulfilled Developer warranty will be the sole obligation and liability of the person or entity who or which impedes the Developer in any way in Developer's activities described in this Subsection 3.7(i). The easements reserved in this Section shall expressly survive the transfer of control of the Association to Unit Owners other than the Developer and the issuance of any certificates of occupancy for the Condominium Property (or portions thereof). Nothing herein shall be deemed or construed as the Developer making or offering any warranty, all of which are disclaimed (except to the extent same may not be or are expressly set forth herein) as set forth in Section 23 below.

(i) <u>Construction Easement</u>. Developer hereby reserves to itself and its successors, assigns and designees a non-exclusive easement over such portions of the Common Elements or Association Property as are necessary to afford access between any public road and any and all lands adjacent to the Condominium which are owned by Developer or its successors or assigns. The purpose of such easement shall be for the development, construction, sale and administration of any condominium or other development Developer elects to construct on said adjacent land. Developer shall be responsible for any damage caused to the Common Elements or Association Property as a result of the use of such easement by construction and other vehicles and persons, ordinary wear and tear excepted.

(j) <u>Master Association Easement</u>. The Master Association and its agents, contractors, designees, employees, successors and assignees shall have a non-exclusive easement for access over, upon and through all Common Elements for the purpose of performing its duties and obligations as set forth in the Master Declaration. The Master Association shall also have an easement for access over, upon and through the Condominium Property for the purpose of performing its duty and obligation to maintain the landscaping and surface water management systems located on the Condominium Property.

(k) Additional Easements. The Association, by and through the Board of Directors on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities, in any portion of the Condominium Property or Association Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes. In addition, if the Developer elects to discontinue the phase plan and not add proposed subsequent Phases to the Condominium Property or Additional Property, the Developer reserves the right to grant necessary or desirable access and use easements over any portion of the Common Elements, in

favor of the Developer, its successors and assigns, and owners of residential units or lots constructed on the land which was not added to the Condominium in accordance with this Declaration.

3.8 <u>Water Management System</u>. It shall be the responsibility of the Master Association to operate and maintain the surface and storm water management systems in accordance with the permit issued by the WMD for the Condominium. The Master Association shall collect any necessary assessments as operating expenses of the Master Association from the members to operate and maintain the surface and storm water management systems in accordance with the permit.

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

5. <u>Ownership of Common Elements and Common Surplus and Share of Common Expenses;</u> Voting Rights.

5.1 <u>Percentage Ownership and Shares in Common Elements</u>. The undivided percentage interest in the Common Elements and Common Surplus, and the percentage share of the Common Expenses, appurtenant to each Unit, are set forth in <u>Exhibit "5"</u> attached hereto and made a part hereof, shall be equal for all Units in the Condominium. The share of Common Elements and Common Surplus for each Unit may be reduced as Units are added to the Condominium; however, all Units shall always have an equal share of Ownership on the Common Elements and Common Surplus. The Developer shall retain the unilateral right to modify the percentage ownership appurtenant to each Unit in accordance with Exhibit "5" so long as the Developer has the unilateral right to add Phases to the Condominium in accordance with this Declaration and Florida Law.

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

6. <u>Amendments</u>. Except as elsewhere provided herein, amendments may be effected as follows:

6.1 <u>By the Association</u>. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either by a majority of the Board of Directors of the Association or by one-third (1/3) members of the Association. Except as elsewhere provided,

approvals of proposed amendments must be by affirmative vote of no less than sixty-seven percent (67%) of the Unit Owners. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the secretary at or prior to the meeting; however, the same may not be counted as a vote on the action taken and may not be used for the purpose of creating a quorum.

6.2 By the Developer. The Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or effect any other amendment, except that this procedure for amendment cannot be used if (i) such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent thereto; or (ii) the amendment purports to change the configuration or size of a Unit in any material fashion; materially alters or modifies the appurtenance to a Unit, changes the share of a Unit as set forth in Section 5.1 above, or purports to permit the creation of time-share estates. Any amendments described in clause (ii) shall require the joinders set forth in Section 718.110(4) or (8), Florida Statutes, as applicable. Notwithstanding the foregoing, the Developer shall also have the right to amend this Declaration as provided in Sections 3.2 and 3.3 hereof without the joinder or consent of any Unit Owner or the Association and to unilaterally amend this Declaration to add additional Phase property to the Condominium in accordance with Section 3.2 and applicable law. Thereafter the proposed phases may be added to the Condominium with the proper vote of the Association and Unit Owners in accordance with applicable law.

6.3 <u>Water Management District</u>. No amendment may be adopted which would affect the surface water management and/or drainage systems, including environmental conversation areas, without the consent of the applicable water management district ("WMD"). The WMD shall determine whether the amendment necessitates a modification of the current surface water management permit. If a modification is necessary, the WMD will advise the Association.

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

6.5 <u>Proviso</u>. Unless otherwise provided specifically to the contrary in this Declaration (e.g., in Section 3 and 10 hereof), no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus after the applicable Phases have been added to the Condominium by amendment to this Declaration or the Developer has given notice to the Unit Owners that no additional Phases will be added to the Condominium Property, unless the record Owner(s) thereof, all record owners of mortgages or other liens thereon and the Owners of a majority of all other Units, shall join in the execution of the amendment. No amendment may

be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance; nor shall an amendment make any change in the sections hereof entitled "Insurance", "Reconstruction or Repair after Casualty", or "Condemnation" unless the Primary Institutional First Mortgagee shall join in the amendment, such joinder not to be unreasonably withheld. The provisions of this Section 6.5 may not be amended without the joinder and consent of the Developer and affected mortgagee.

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

#### 7. Maintenance and Repairs.

7.1 Units and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural (except as provided below), ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, water heaters, fixtures and outlets, appliances, built-in cabinets, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements (or dividing a Unit from its Limited Common Elements) or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. In the event of casualty or other acts of God, the Association shall have the responsibility to replace and repair any such items that may be required to be caused by the Association's insurance policy under applicable law.

7.2 <u>Common Elements or Association Property</u>. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefore, all maintenance, repairs and replacements in or to the Common Elements or Association Property(other than Limited Common Elements as provided above) shall be performed by the Association and the cost and expense thereof shall be assessed to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners in the form of a Special Assessment levied by the Association.

7.3 <u>Specific Unit Owner Responsibility</u>. The obligation to maintain and repair any equipment, all air conditioning equipment, plumbing or electrical feed, fixtures, screens, enclosures and doors or other items of property which service a particular Unit or Units (to the exclusion of other Unit Owners) shall be the responsibility of the applicable Unit Owner(s), individually, and not the Association, without regard to whether such items are included within the boundaries of the Units, provided that if not within the boundaries of a Unit, same must constitute or lie within a Limited Common Element appurtenant thereto.

8. Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of 10% of the then applicable budget of the Association in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate of 10% of the then applicable budget of the Association or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

#### 9. Additions, Alterations or Improvements by Unit Owner.

9.1 Consent of the Board of Directors. No Residential Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, the Condominium Property, any structural addition, alteration or improvement in or to his or her Unit, the Common Elements or any Limited Common Element or any change to his or her Unit which is visible from any other Unit, the Common Elements and/or the Condominium Property, without, in each instance, the prior written consent of the Board of Directors of the Association. Without limiting the generality of this Subsection 9.1, no Unit Owner shall cause or allow improvements or changes to his or her Unit, or to any Limited Common Elements, Common Elements or any property of the Condominium Association which does or could in any way affect, directly or indirectly, the structural, electrical, plumbing, or mechanical systems, or any landscaping or drainage, of any portion of the Condominium Property without first obtaining the written consent of the Board of the Association. The Board shall have the obligation to answer, in writing, any written request by a Residential Unit Owner for approval of such an addition, alteration or improvement within forty-five (45) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The Board may condition the approval in any manner, including, without limitation, retaining approval rights of the contractor, or others, to perform the work, imposing conduct standards on all such workers, establishing permitted work hours and requiring the Unit Owner to obtain insurance naming the Developer and the Association as additional named insureds. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction,

and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked.

A Residential Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Unit Owner, and such Owner's heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Developer and all other Unit Owners harmless from and to indemnify them against any liability or damage to the Condominium and/or Association Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither the Developer, the Association nor any of its officers, directors, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or non-feasance arising out of or in connection with the approval or disapproval of any plans or submissions. Anyone submitting plans hereunder by the submission of same, and any Owner, by acquiring title to same, agrees not to seek damages from the Developer and/or the Association arising out of the Association's review of any plans hereunder. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Owner (including the successors and assigns) agrees to indemnify and hold the Developer and the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association hereunder. Without limiting the generality of the foregoing, inasmuch as the Condominium has been constructed with post tensioned cables and/or rods, absolutely no penetration shall be made to any floor, roof or ceiling slabs without the prior written consent of the Board of Directors and review of the asbuilt plans and specifications for the Building to confirm the approximate location of the post tensioned cables and/or rods. The plans and specifications for the Building shall be maintained by the Association as part of its official records. Each Owner hereby releases Developer, its members, contractors, architects, engineers, and its and their officers, directors, shareholders, employees and agents from and against any and all liability that may result from penetration of any of the post tensioned cables and/or rods.

9.2 Improvements, Additions or Alterations by Developer. Anything to the contrary notwithstanding, the foregoing restrictions of this Section 9 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Association, the Board of Directors or other Unit Owners, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it or them and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, windows, doors, sliding glass doors, floors, ceilings and other structural portions of the Improvements and/or the installation of divider walls

and/or signs). Further, Developer reserves the right, without the consent or approval of the Board of Directors or other Unit Owners, to expand, alter or add to all or any part of the commonly used facilities. Any amendment to this Declaration required by a change made by the Developer pursuant to this Section 9 shall be adopted in accordance with Section 3, Section 6, and Section 10 of this Declaration.

Changes in Developer-Owned Units. Without limiting the generality of the provisions of 10. Subsection 9.2 above, and anything to the contrary notwithstanding, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Developer-owned Units; (iii) change the size of Developer-owned Units by combining separate Developer-owned Units into a single apartment (although being kept as two separate legal Units), or otherwise; and (iv) reapportion among the Developer-owned Units affected by such change in size pursuant to the preceding clause, their appurtenant interests in the Common Elements and share of the Common Surplus and Common Expenses; provided, however, that the percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units (other than the affected Developer-owned Units) shall not be changed by reason thereof unless the Owners of such Units shall consent thereto and, provided further, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to or near such Units, incorporate portions of the Common Elements into adjacent Units and incorporate Units, or portions thereof, into adjacent Common Elements, provided that such relocation and alteration does not materially adversely affect the market value or ordinary use of Units owned by Unit Owners other than the Developer. Any amendments to this Declaration required by changes of the Developer made pursuant to this Section 10, shall be effected by the Developer alone pursuant to Subsection 6.5, without the vote or consent of the Association or Unit Owners (or their mortgagees) required, except to the extent that any of same constitutes a Material Amendment, in which event, the amendment must be approved as set forth in Subsection 6.2 above. Without limiting the generality of Subsection 6.5 hereof, the provisions of this Section may not be added to, amended or deleted without the prior written consent of the Developer.

## 11. Operation of the Condominium by the Association; Powers and Duties.

11.1 <u>Powers and Duties</u>. The Association shall be the entity responsible for the operation of the Condominium and the Association Property. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and By-Laws of the Association (respectively, Exhibits "2" and "3" annexed hereto), as amended from time to time. In addition, the Association shall have all the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, without limitation:

(a) The irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any

Common Elements therein or elsewhere, or at any time and by force, if necessary, for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit or Units.

(b) The power to make and collect Assessments and other charges against Unit Owners and to lease, maintain, repair and replace the Common Elements.

(c) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.

(d) The power to contract for the management and maintenance of the Condominium Property or any Association Property and the Association and to authorize a duly licensed management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements and any Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

(e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefore mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.

(f) The power to charge a fee for the exclusive use of any Common Elements or Association Property by an Owner having a right to such use.

(g) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property and any Association Property.

(h) All of the powers which a corporation not for profit in the State of Florida may exercise pursuant to Florida Statutes and the Act.

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

11.2 <u>Limitation upon Liability of Association</u>. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to Section 9 hereof.

11.3 <u>Restraint upon Assignment of Shares in Assets</u>. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

11.4 <u>Approval or Disapproval of Matters</u>. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.

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

11.6 <u>Effect on Developer</u>. So long as Developer holds a Unit for sale in the ordinary course of business, none of the following actions may be taken by the Association (subsequent to control thereof being assumed by Unit Owners other than the Developer) without the prior written approval of the Developer:

- (a) Assessment of the Developer as a Unit Owner for capital improvements;

or

(b) Any action by the Association that would be detrimental to the sales of Units by the Developer or the assignment of Limited Common Elements by the Developer for consideration; provided, however, that an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units.

# NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE

ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM PROPERTY INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, TENANTS, EMPLOYEES, PATRONS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(c) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the Condominium Property have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof;

(d) The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County, and/or any other jurisdiction or the prevention of tortuous activities; and

(e) Any provisions of the Association Documents setting forth the uses of Assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of Association funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Association funds are chosen to be used for any such reason.

EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION, EXCEPT THOSE RIGHTS WHICH ARE NOT WAIVEABLE PURSUANT TO THE ACT AND OTHER APPLICABLE LAW.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, MANAGERS, CONTRACTORS, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS AND SHALL ALSO INCLUDE THE DEVELOPER, WHICH SHALL BE FULLY PROTECTED HEREBY.

12. <u>Determination of Common Expenses and Fixing of Assessments Therefore</u>. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium

and the Association, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses and Limited Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserves for (if required by law and not lawfully waived) the operation, maintenance, repair and replacement of the Common Elements, Limited Common Elements, to the extent applicable, and Association Property costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, applicable rules and regulations or by the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted in a manner consistent with the provisions of the By-The Master Association shall also promulgate annual budgets in accordance with the Laws. Master Declaration and each Unit Owner shall be obligated to pay assessments to the Master Association has provided for in the Master Declaration. Master Association assessments shall be remitted by each Unit Owner directly to the Master Association.

## 13. <u>Collection of Assessments</u>.

13.1 <u>Liability for Assessments</u>. A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while he or she is the Unit Owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for his share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

13.2 <u>Special and Capital Improvement Assessments</u>. In addition to Assessments levied by the Association to meet the Common Expenses of the Condominium and the Association, the Board of Directors may levy "Special Assessments" and "Capital Improvement Assessments" upon the following terms and conditions:

(a) "Special Assessments" shall mean and refer to an Assessment against each Owner and his Unit, representing a portion of the costs incurred by the Association for specific purposes of a nonrecurring nature which are not in the nature of capital improvements.

(b) "Capital Improvement Assessments" shall mean and refer to an Assessment against each Owner and his or her Unit, representing a portion of the costs incurred by the Association for the acquisition, installation, construction or replacement (as distinguished from repairs and maintenance) of any capital improvements located or to be located within the Common Elements or Association Property.

Special Assessments and Capital Improvement Assessments may be levied by the Board and shall be payable in lump sums or installments, in the discretion of the Board; provided that, if such Special Assessments or Capital Improvement Assessments, in the aggregate in any year, exceed ten percent (10%) of the then estimated operating budget of the Association, the Board must obtain approval of a majority of the voting interests represented at a meeting at which a quorum is attained.

Default in Payment of Assessments for Common Expenses. If any Assessments 13.3 and installments thereof are not paid within ten (10) days from the date when they are due, a late fee of the greater of Twenty-Five and No/100 Dollars (\$25.00) or five percent (5%) of each installment that is late shall be due and payable. Such late fee may be changed by the Board, from time to time, but such late fee shall not exceed the maximum amount allowed under the Act (as amended from time to time). If any Assessments or installments thereof are not paid within thirty (30) days from the date they are due, interest shall accrue at the rate of eighteen percent (18%) per annum, commencing on the date when due, and shall be due and payable to the The Association has a lien on each Condominium Parcel for any unpaid Association. Assessments on such Parcel, with interest, late fees and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. No lien may be filed by the Association until 30 days after the date the owner is provided with notice of the Association's intent to file a lien. Such notice shall be delivered by registered or certified mail, return receipt requested, and by first class mail to the Owner at the address reflected in the records of the Association. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record Owner, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorneys fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien.

As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner, the Association may declare the Assessment installments for the remainder of the budget year to be accelerated and shall be due and payable upon the recording of the claim of lien for same. In the event that the amount of such installments changes during the twelve (12) month period, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

13.4 <u>Notice of Intention to Foreclose Lien</u>. No foreclosure action shall be filed until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty

(30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

13.5 <u>Appointment of Receiver to Collect Rental</u>. If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.

13.6 Institutional First Mortgagee. In the event an Institutional First Mortgagee shall obtain title to a Unit as a result of foreclosure of a mortgage thereon, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such first mortgagee shall be liable for the share of Assessments imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due prior to acquisition of title as well as all Assessments and charges coming due after the date of acquisition. However, the liability of an Institutional First Mortgagee or its successor or assignee, who acquires title as aforesaid, for Assessments which became due prior to the date of acquisition of title, shall be limited to the lesser of (a) the unpaid regular periodic Assessments which accrued or came due with respect to the Unit during the twelve (12) months immediately preceding acquisition of such title for which payment in full has not been received by the Association, or (b) one percent (1%) of the original mortgage debt secured by such Unit; provided that, except as provided by applicable law, the Association was joined as a defendant in the foreclosure action. Any unpaid Assessment which cannot be collected as a lien against any Unit(s) by reason of the provisions of this Section shall be deemed to be an Assessment divided equally among and payable by all Unit(s) subject to assessment by the Association, including the Unit(s) as to which the foreclosure (or conveyance in lieu of foreclosure) took place. The provisions of this Section are provided for in accordance with the Act, as the same may be amended from time to time.

Developer's Liability for Assessments. Developer guarantees to each Unit Owner that Condominium Association Assessment for each Unit shall not exceed \$400.00 per month beginning on the date of recordation of this Declaration and ending six (6) months following the date on which the closing on the purchase and sale of the first Unit in Phase 1 of the Condominium occurs (the "Guarantee Period). During the Guarantee Period, the Developer shall be excused from the payment of the Developer's share of the Common Expenses for Units owned by the Developer; provided, however, if at any time during the Guarantee Period the Assessments receivable from Unit Owner Assessments up to the guaranteed level of Assessments are not sufficient to provide payment, on a timely basis, of all Common Expenses, including the full funding of the reserves, unless the funding of reserves has been properly waived, the Developer shall advance money to the Association at the time such payments are due so that there is no deficit. For purposes of this subsection, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer. The Developer shall have the option of extending the Guarantee Period by an unlimited amount of extensions of six (6) months each, in Developer's sole discretion, on the same terms provided herein by providing the Association notice of the Developer's intent to extend the Guarantee Period prior to the expiration of the then current Guarantee Period, or paying the share of Common Expenses and Assessments attributable to Units it is then offering for sale; provided, however, the Developer, in its sole discretion, may elect for the Guarantee Period to expire at such time during the Guarantee Period as the Developer elects not to add additional Phases to the Condominium or the Guarantee Period shall expire automatically upon the turnover of control of the Association to Unit Owners other than the Developer. No funds receivable from Unit purchasers or Unit Owners payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget of the Association, shall be used for the payment of Common Expenses during any period in which the Developer is excused from payment of Assessments. This restriction shall apply to funds, including, but not limited to, capital contributions or start-up funds, collected from Unit purchasers at closing. The guarantee of Condominium Assessments provide for herein shall not relate to the Master Common Expenses, which shall be governed by Master Association and Master Declaration.

Notwithstanding the above and as provided in Section 718.116(9)(a)(2) of the Act, in the event of an Extraordinary Financial Event (hereinafter defined), the cost necessary to effect restoration shall be assessed against all Unit Owners owning Units on the date of such Extraordinary Financial Event, and their successors and assigns, including the Developer (with respect to Units owned by the Developer). As used in this subsection, an "Extraordinary Financial Event" shall mean a casualty loss affecting the Condominium resulting from a natural disaster or Act of God, which is not covered by insurance proceeds from the insurance maintained by the Association as required by Section 718.111(11)(a) of the Act.

13.7 <u>Certificate of Unpaid Assessments</u>. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

13.8 <u>Installments</u>. Regular Assessments shall be collected monthly or quarterly (as determined by the Board of Directors), in advance. Initially, assessments will be collected monthly, due on the first calendar day of the month for the month in which they are due.

13.9 <u>Application of Payments</u>. Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued on the delinquent installment(s) as aforesaid, then to any administrative late fees, then to any costs and reasonable attorneys' fees incurred in collection and then to the delinquent and any accelerated Assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment.

13.10 <u>Assessments Payable to Master Association</u>. Pursuant to Section 12 of this Declaration, each Unit Owner shall be responsible for the payment of assessments for the Common Expenses payable to the Master Association. The Master Association shall collect from each Unit Owner their share of assessments payable to the Master Association pursuant to the terms of the Master Declaration and the Master Association operations budget. Each Unit Owner shall remit such assessments directly to the Master Association. The Master Association shall lien rights allocated to the Master Association in the Master Declaration and under applicable law against such Unit Owner's Unit for the failure of a Unit Owner to make payment(s) of such Unit Owners applicable share of the assessment(s) when due to the Master Association.

13.11 <u>Working Capital Contribution</u>. Upon each conveyance of a Unit, including the initial conveyance of Units from the Developer and all subsequent conveyance, at the time of the closing, the Unit purchaser shall pay to the Association the sum of \$100.00 as a working capital contribution. These funds shall be deposited in the Association's accounts for the purpose of establishing working capital and operating funds to be used in the Association's discretion in accordance with the Act. Such contributions shall not be credited to any Assessments owed by an Owner and no refund of the working capital contribution will be made on re-sale.

14. <u>Insurance</u>. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:

14.1 Purchase, Custody and Payment.

(a) <u>Purchase</u>. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

(b) <u>Approval</u>. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance, if requested thereby.

(c) <u>Named Insured</u>. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.

(d) <u>Custody of Policies and Payment of Proceeds</u>. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).

(e) <u>Copies to Mortgagees</u>. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.

(f) <u>Personal Property and Liability</u>. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith. Each Unit Owner shall, at minimum, obtain personal property and liability insurance for their Unit in accordance with the Law.

14.2 <u>Coverage</u>. The Association shall maintain insurance covering the following:

(a) <u>Casualty</u>. The Building, including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), but excluding the items listed in the second sentence of this paragraph, and all insurable Improvements located on the Common Elements and Association Property from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, if reasonably available, excluding foundation and excavation costs. Casualty insurance shall not be required to insure unit floor, wall or ceiling coverings or the following equipment if it is (i) located within a Unit and (ii) the repair and replacement obligation of the Unit Owner: electrical fixtures, appliances, water heaters, water fillers, countertops, window treatments or built-in cabinets. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

(ii) Reconstruction expenses caused by intervening changes in laws, codes, ordinances or regulations; and

(iii) Such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(b) <u>Liability</u>. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 per occurrence with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa, if reasonably available.

(c) <u>Worker's Compensation</u>. Worker's compensation and other mandatory insurance, when applicable.

(d) <u>Flood Insurance</u>. Flood insurance if required by the Primary Institutional First Mortgagee or if the Association so elects.

(e) <u>Fidelity Insurance</u>. Fidelity insurance, if required by the Act or if so desired by the Board of Directors, covering all persons who control or disburse Association funds and the President, Secretary and Treasurer of the Association, such insurance to be in an amount which is the greater of that required by the Act or as determined by the Board.

(f) <u>Association Property</u>. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.

(g) <u>Other Insurance</u>. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, a committee of the Board of Directors or members of any such committee, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

Every casualty insurance policy obtained by the Association, if required by FNMA/FHLMC and, if generally available, shall have endorsements covering (i) agreed amount and inflation guard and (ii) steam boiler coverage (at least \$50,000 coverage for each accident at each location, if applicable).

14.3 <u>Additional Provisions</u>. All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors may (or shall if required by FNMA/FHLMC, if applicable) obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.

14.4 <u>Premiums</u>. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the costs of fidelity bonding for any management company employee may be paid by such company pursuant to its contract with the Association. Premiums may be financed in such manner as the Board of Directors deems appropriate.

14.5 <u>Insurance Trustee; Share of Proceeds</u>. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering

property losses shall be paid to the Insurance Trustee which may be designated by the Board of Directors and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida or one or more of the Directors of the Association. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

(a) <u>Insured Property</u>. Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in paragraph (b) below.

(b) <u>Optional Property</u>. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

(c) <u>Mortgagees</u>. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

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

(a) <u>Expenses of the Trust</u>. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefore.

(b) <u>Reconstruction or Repair</u>. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.

(c) <u>Failure to Reconstruct or Repair</u>. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be

reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.5 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.

(d) <u>Certificate</u>. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

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

14.8 <u>Unit Owners' Personal Coverage</u>. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, in accordance with the Act, to purchase and pay for insurance as to all such risks and others not covered by insurance carried by the Association, including risk of special assessment. The Association shall require each Owner to provide evidence of insurance not more than once a year. The Association shall be named as an additional insured and loss payee on all owners' casualty insurance policies.

14.9 <u>Benefit of Mortgagees</u>. Certain provisions in this Section 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.

14.10 <u>Board Acting as Insurance Trustee</u>. The Board of Directors of the Association shall have the option, in its discretion, of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.

14.11 <u>Presumption as to Damaged Property</u>. In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.

## 15. <u>Reconstruction or Repair after Fire or Other Casualty</u>.

15.1 <u>Determination to Reconstruct or Repair</u>. Subject to the immediately following paragraph, in the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Optional Property, if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

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

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

15.2 <u>Plans and Specifications</u>. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered.

15.3 <u>Special Responsibility</u>. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or

reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

(a) <u>Disbursement</u>. The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(i) <u>Association - Lesser Damage</u>. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

(ii) <u>Association - Major Damage</u>. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work.

(iii) <u>Unit Owners</u>. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

(iv) <u>Surplus</u>. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

(v) <u>Certificate</u>. Notwithstanding the provisions herein, the Insurance Trustee (if appointed) shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee (if appointed) may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

15.4 <u>Assessments</u>. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements.

15.5 <u>Benefit of Mortgagees</u>. Certain provisions in this Section 15 are for the benefit of mortgagees of Units and may be enforced by any of them.

## 16. <u>Condemnation</u>.

16.1 <u>Deposit of Awards with Insurance Trustee</u>. The taking of portions of the Condominium Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, the amount of that award shall be set off against the sums hereafter made payable to that Owner.

16.2 <u>Determination Whether to Continue Condominium</u>. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.

16.3 <u>Disbursement of Funds</u>. If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and

shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Section 16 specifically provided.

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

(a) <u>Restoration of Unit</u>. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be payable by the Owner of the Unit.

(b) <u>Distribution of Surplus</u>. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.

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

(a) <u>Payment of Award</u>. The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.

(b) <u>Addition to Common Elements</u>. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefore shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.

(c) <u>Adjustment of Shares</u>. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units), each Unit to receive a fractional interest equal to one (1) over the remaining number of Units.

(d) <u>Assessments</u>. If the balance of the award (after payments to the Unit Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

(e) <u>Arbitration</u>. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Units Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

16.6 <u>Taking of Common Elements</u>. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

16.7 <u>Amendment of Declaration</u>. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

17. <u>Occupancy and Use Restrictions</u>. In order to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

17.1 <u>Occupancy</u>. Each Unit shall be occupied and used only in accordance with zoning and other land use regulations applicable thereto, as same may be amended from time to time (and including any variance granted for a particular Unit), with all applicable local, state and federal regulations and in accordance with the terms of the Master Declaration.

17.2 <u>Pets</u>. Not more than two (2) domestic pets (limited to either dogs, cats or other common household pets) may be kept in a Unit, provided said pets: (i) are not kept, bred, or maintained for any commercial purpose; (ii) are not a nuisance or annoyance to neighbors; (iii) are not left unattended on balconies or outside the Units; and (iv) comply with the restrictions set forth in the Master Declaration. Unit Owners must pick up all solid wastes of their pets and

dispose of such waste appropriately. All pets, including cats, must be leashed at all times when outside the Unit. Pets may not be kept in or on a Limited Common Element. Neither the Developer, Board of Directors, nor the Association shall be liable for any personal injury, death or property damage resulting from a violation of this subsection, and any occupant of a Unit committing such a violation shall fully indemnify and hold harmless the Developer, the Board of Directors, the Association, and each Unit Owner in such regard. Further, any Unit Owner maintaining a pet within a Unit shall carry necessary liability insurance coverage for such pet, naming the Association as an additional insured. The Association shall have the right to request proof of such insurance on an annual basis. If any Owner fails to comply with the insurance requirements herein, the Association shall have the right to require any pet be removed from occupancy of a Unit until proper insurance is obtained. Without limiting the generality of Section 17 hereof, a violation of the provisions of this subsection shall entitled the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in the By-Laws and Rules and Regulations) and/or to require, through order of the Board, any pet to be permanently removed from the Condominium Property.

17.3 <u>Alterations</u>. Without limiting the generality of Subsection 9.1 hereof, but subject to Section 11 hereof, no Residential Unit Owner shall cause or allow improvements or physical or structural changes to any Unit, Limited Common Elements appurtenant thereto, Common Elements or Association Property, including, but not limited to, painting or other decorating of any nature, installing or altering any electrical wiring or plumbing systems, installing television antennae, satellite dishes, electronic devices, transmitting and/or receiving equipment, machinery, or air-conditioning units, which in any manner change the appearance of any portion of the Building or the exterior of said Residential Unit, without obtaining the prior written consent of the Association (in the manner specified in Subsection 9.1 hereof).

Curtains, blinds, shutters, levelors, or draperies (or linings thereof) which face the exterior windows or glass doors of Residential Units shall be white or off-white in color and shall be subject to disapproval by the Association, in which case unapproved window coverings shall be removed and replaced by the Residential Unit Owner, upon the Board's written request, with items acceptable to the Association, all at the Residential Unit Owner's sole expense.

17.4 <u>Use of Common Elements and Association Property</u>. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units. In that regard, each Unit Owner, by acceptance of a deed for a Unit, thereby covenants and agrees that it is the intention of the Developer that the stairwells of the Building are intended primarily for ingress and egress, and as such may be constructed and left unfinished solely as to be functional for said purpose, without regard to the aesthetic appearance of said stairwells. Similarly, the parking areas and utility pipes serving the Condominium are intended primarily for functional purposes, and as such may be left unfinished without regard to the aesthetic appearance of said stairwells. The foregoing is not intended to prohibit the use of the stairwells, parking areas and utility pipes for any other proper purpose.

17.5 <u>Garages</u>. Garages shall be utilized for the parking of motor vehicles and incidental storage only. No garage shall be converted in air conditioned living space, offices, business or other uses which would prohibit the parking of a vehicle therein.

17.6 <u>Nuisances</u>. No nuisances (as reasonably determined by the Association) shall be allowed on the Condominium Property or Association Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its residents or occupants. No activity specifically permitted by this Declaration shall be deemed a nuisance.

17.7 <u>No Improper Uses</u>. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or Association Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property or Association Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property or Association Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 17.7. No activity specifically permitted by this Declaration shall be deemed a violation of this Section.

17.8 <u>Hurricane Protection</u>. No type of hurricane protection may be installed in or around the Units other than hurricane shutters meeting the specifications (including as to location) adopted by the Board of Directors as required by the Act and applicable building code (provided that, if laminated impact glass is installed, no shutters shall also be installed). No hurricane shutters shall be installed or affixed across entrance areas of the Units.

Exterior Improvements; Landscaping, Window Treatments, Signs. 17.9 Without limiting the generalities of Sections 9.1 or 17.3 hereof, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior doors, walls or windows of the Building (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment) except any Unit Owner may display one 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 1/2 feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard and any owner may attach to the mantel or door frame a religious object not to exceed 3 inches wide, 9 inches high and 1.5 inches deep; nor shall any Unit Owner plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit unless same is approved by the Board of Directors. The Developer and subsequently the Board of Directors shall adopt standards for uniform signage for Units. The Board of Directors may also permit landscape planters, awnings and the like which are (i) specifically approved for the particular Unit or (ii) in accordance with uniform standards adopted by the Board of Directors. Any such exterior items or additions shall be the sole maintenance responsibility of the applicable Unit Owner, and the Board of Directors shall have all rights and remedies provided in this Declaration should such Owner fail to maintain same in a neat, clean and attractive fashion.

17.10 <u>Commercial/Recreational Vehicles and Trailers</u>. Except as permitted below, no commercial trucks, other commercial vehicles, campers, mobile homes, recreational vehicles or boats or other trailers shall be kept on the Condominium Property other than in a Unit garage

provided that a sport utility vehicle, passenger truck or van shall not be considered a commercial truck. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall be dispositive as to whether same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the occupants thereof or the Association, (ii) unmarked pick-up trucks, (iii) vans with windows along the entirety of both sides and which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics or (iv) vehicles expressly approved by the Board of Directors, even if such vehicles would otherwise be in violation of this Section or the parking of any vehicles within the enclosed garage. In addition, commercial vehicles that are also utilized as a primary personal vehicle shall be permitted on the Condominium Property so long as the owner of such vehicle registers the commercial vehicle as a primary personal vehicle with the Association. The Association may elect to issue vehicle decals for such registered commercial vehicles and the Association reserves the right to require that a decal be displayed on the vehicle while it is parked on the Condominium Property. All vehicles kept on the Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Section, the good-faith determination of the Board shall be binding and conclusive.

17.11 Weight and Sound Restrictions. Unless installed by the Developer or otherwise first approved by the Board, hard and/or heavy surface floor coverings, such as tile, marble, wood and the like must be submitted to and approved, in writing, by the Board, which approval may be conditioned upon the use of appropriate soundproofing materials under such floor coverings, and must meet applicable structural requirements. Also, the installation of any improvement or heavy object must be submitted to and approved by the Board, and be compatible with the overall structural design of the Building. The Board may require a structural engineer to review certain of the proposed improvements, with such review to be at the Owner's sole expense. No tile shall be permitted on balconies and the Board will have the right to specify the exact material to be used on balconies. These use guidelines are consistent with good design practices for waterproofing and structural design. Owners will be held strictly liable for violation of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations. APPLICABLE WARRANTIES OF THE ANY, SHALL BE VOIDED BY VIOLATIONS DEVELOPER, IF OF THESE RESTRICTIONS AND REQUIREMENTS. FURTHER, EACH OWNER, BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE OF THEIR UNIT, HEREBY ACKNOWLEDGES AND AGREES THAT SOUND TRANSMISSION IS VERY DIFFICULT TO CONTROL. AND THAT NOISES FROM ADJOINING OR NEARBY UNITS AND/OR MECHANICAL EOUIPMENT CAN OFTEN BE HEARD IN ANOTHER UNIT. THE DEVELOPER DOES NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE LEVEL OF SOUND TRANSMISSION BETWEEN AND AMONG UNITS AND THE OTHER PORTIONS OF THE CONDOMINIUM PROPERTY, AND EACH UNIT OWNER HEREBY WAIVES AND EXPRESSLY RELEASES ANY SUCH WARRANTY AND CLAIM FOR LOSS OR DAMAGES RESULTING FROM SOUND TRANSMISSION.

17.12 <u>Mitigation of Dampness and Humidity</u>. No Unit Owner shall install, within his or her Unit, or upon the Common Elements or Association Property, non-breathable wall-coverings

or low-permeance paints. Additionally, any and all built-in casework, furniture, and or shelving in a Unit must be installed over floor coverings to allow air space and air movement and shall not be installed with backboards flush against any gypsum board wall. Additionally, all Unit Owners, whether or not occupying the Unit, shall periodically run the air conditioning system to maintain the Unit temperature, whether or not occupied, at not more than 78°F, to minimize humidity in the Unit. While the foregoing are intended to minimize the potential development of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of molds or mycotoxins. The Developer does not make any representations or warranties regarding the existence or development of molds or mycotoxins and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of same. In furtherance of the rights of the Association as set forth in the Declaration, in the event that the Association reasonably believes that these provisions are not being complied with, then, the Association shall have the right (but not the obligation) to enter the Unit (without requiring the consent of the Owner or any other party) to turn on the air conditioning in an effort to cause the temperature of the Unit to be maintained as required (with all utility consumption costs to be paid and assumed by the Unit Owner). To the extent that electric service is not then available to the Unit, the Association shall have the further right, but not the obligation (without requiring the consent of the Owner or any other party) to connect electric service to the Unit (with the costs thereof to be borne by the Unit Owner, or if advanced by the Association, to be promptly reimbursed by the Owner to the Association, with all such costs to be deemed Charges). The Association agrees to notify Unit Owner and Unit Owner agrees to notify Association of the discovery of mold, mildew and/or water intrusion and/or damage pertaining to the property of the Condominium they respectively maintain.

The Association and each Unit Owner shall agree to: (i) regularly inspect the parts of the Condominium that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion (except when the water intrusion is part of the normal functioning of improvements and appliances such as showers, sinks, dishwashers, and other similar appliances and improvements) and/or damage; (ii) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Condominium that they respectively maintain; (iii) remediate or replace any building material located in the parts of the Condominium that they respectively maintain that has absorbed water or moisture as a result of water intrusion; and (iv) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Condominium that they respectively maintain in accordance with current industry-accepted methods.

17.13 Effect on Developer. Subject to the following exceptions, the restrictions and limitations set forth in this Section 17 and Section 18 shall not apply to the Developer or to Units owned by the Developer. The Developer shall not be exempt from the restrictions, if any, relating to requirements that leases or lessees be approved by the Association, pet restrictions, occupancy of Units based on age and vehicular restrictions, except as such vehicular restrictions relate to the Developer's construction, maintenance, sales, re-sales, leasing and other marketing and financing activities, which activities the Developer can perform without the prior consent of the Unit Owners. Further, notwithstanding anything herein contained to the contrary, the

provisions of this Section 17 shall not be amended, altered or modified in any manner affecting the Developer without the prior consent of the Developer.

17.14 <u>Relief by Association</u>. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 17 for good cause shown.

17.15 <u>Changes in Permitted Uses</u>. No amendments to this Section 17, any other provision of this Declaration governing the use of Units or the Common Elements or to any Rules and Regulations of the Association shall operate to prohibit the parking of a vehicle or then-current leasing or occupancy of a Unit where same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant that existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of signs, plantings or awnings) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.

18. <u>Selling, Leasing and Mortgaging of Units</u>. Units may be made subject to mortgages without restrictions, but sales and leases thereof shall be subject to the provisions of this Section 18.

18.1 <u>Sales.</u> There shall be no restriction on the right of any Unit Owner to sell, convey, or transfer his Unit. However, every new Unit Owner must notify the Association of his purchase or acquisition of the Unit by providing the Association with a copy of the deed whereby the Unit Owner acquired title to his Unit within 30 days of the transfer of ownership. Any deed or conveyance to a new Unit Owner shall automatically be deemed to provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-Laws, the Articles of Incorporation, the Rules and Regulations, and all other agreements, documents or instruments affecting the Condominium Property, as the same may be amended from time to time.

Leases. No portion of a Residential Unit (other than an entire Unit) may be 18.2 leased. All leases of Residential Units shall be in writing and shall be deemed to provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the Association, Rules and Regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by the Association. Further, leases shall provide that the Association shall have the right to collect all rental or lease payments due to the Owner and apply same against unpaid Assessments, if, and to the extent that, the Unit Owner is in default in the payment of Assessments. Every lease of a Unit shall specifically provide (or, if it does not, shall be automatically deemed to provide) that a material condition of the lease shall be the tenant's full compliance with the covenants, terms, conditions and restrictions of this Declaration (and all exhibits hereto) and with any and all Rules and Regulations adopted by the Association from time to time and that any failure by the lessee to comply with the terms under the lease shall empower the Association with the right and authority on behalf of the Owner to commence legal proceedings to cause the lessee to be evicted. All Unit Owners shall be jointly and severally liable with their tenants to the Association for any

amount which is required by the Association to repair any damage to the Common Elements resulting from acts or omissions of tenants (as determined in the sole discretion of the Association) and to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the tenant(s) which constitute a violation of, or noncompliance with, the provisions of this Declaration and of any and all Rules and Regulations of the Association. Leases for all Units shall comply with and be subject to the provisions of the Declaration of Condominium, Articles of Incorporation, Rules and Regulations, By-Laws, and the Act, and the provisions of same shall be deemed expressly incorporated into any lease of a Unit. This subsection shall also apply to subleases and assignments and renewals of leases. All leases of Units are hereby made subordinate to any lien filed by the Association, whether prior or subsequent to such lease. No lease of a Residential Unit shall be for a period of less than seven (7) months and no Residential Unit may be leased in excess of two (2) times a calendar year except for renewals. Notwithstanding the aforesaid, the Association reserves the right to grant an exception to the requirement that no Residential Unit may be leased in excess of two (2) times per calendar year. The Association shall have the right to review and approve all leases and lessees prior to execution of any lease and charge a reasonable administrative fee for the same and require that each lease contain certain uniform provisions, including provisions reflecting the foregoing terms and conditions.

18.3 <u>No Severance of Ownership</u>. No part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.

18.4 <u>Gifts and Devises, etc.</u> Any Unit Owner shall be free to convey or transfer his Unit by gift, to devise his Unit by will, or to have his Unit pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Section 18.

19. <u>Compliance and Default</u>. Each Unit owner and every occupant (including a lessee) of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

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

19.2 <u>Compliance</u>. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Master Declaration, Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations or any other agreement, document or instrument affecting the Condominium Property or administered by the Association, in the manner required,

the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines or to sue in a court of law for damages.

19.3 <u>Costs and Attorneys' Fees</u>. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

19.4 <u>No Waiver of Rights</u>. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

20. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration and in accordance with Chapter 718, Florida Statutes, as amended from time to time, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least seventy-five percent (75%) of the Units if not more than 10% of the total voting interest of owners vote in opposition of termination of the Condominium. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County..

### 21. Additional Rights of Mortgagees and Others.

21.1 Institutional First Mortgagees shall have the right, upon written request to the Association, to: (i) examine the Condominium documents and the Association's books and records, (ii) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (iii) receive notices of and attend Association meetings, (iv) receive notice of an alleged default in any obligations hereunder by any Unit Owner, on whose Unit such Mortgagee holds a mortgage, which is not cured within thirty (30) days of notice of default to the Unit Owner, and (v) receive notice of any substantial damage or loss to any portion of the Condominium Property.

21.2 Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity

bond maintained by the Association, (iv) any proposed termination of the Condominium, and (v) any proposed action which requires the consent of a specified number of mortgage holders.

21.3 The approval of a majority of Institutional First Mortgagees shall be required to effect an amendment to the Declaration which materially alters, or adds, a provision relating to: (i) assessments and lien rights; (ii) insurance or fidelity bonds; (iii) maintenance responsibilities for the various portions of the Condominium Property; (iv) boundaries of any Unit; (v) convertibility of Units into Common Elements or Common Elements into Units; (vi) leasing of Units; and (vii) restrictions on Owners' rights to sell or lease Units. Such approval shall not be unreasonably withheld.

22. Covenant Running With the Land. All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association shall, as well as the Master Declaration, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, and the Master Declaration as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, and the Master Declaration, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

Disclaimer of Warranties. TO THE MAXIMUM EXTENT LAWFUL DEVELOPER 23. HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES. WHETHER ESTABLISHED BY STATUTE, COMMON LAW, CASE LAW OR OTHERWISE AS TO VIEW, DESIGN, SOUND AND/OR ODOR TRANSMISSION, EXISTENCE AND/OR DEVELOPMENT OF MOLDS, MILDEW, TOXINS OR FUNGI, FURNISHING AND EQUIPPING THE CONSTRUCTION, OF CONDOMINIUM PROPERTY INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, COMPLIANCE WITH PLANS, EXCEPT ONLY THOSE SET FORTH IN SECTION 718.203 OF THE ACT, TO THE EXTENT APPLICABLE AND NOT YET EXPIRED. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

ALL UNIT OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES. IN ADDITION TO THE FOREGOING, DEVELOPER HEREBY DISCLAIMS (AND EACH UNIT OWNER, BY VIRTUE OF ACCEPTING TITLE TO A UNIT THEREBY) HEREBY WAIVES ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO THE NUMBER OF SQUARE FEET CONTAINED IN THE UNIT OR ANY APPURTENANT LIMITED COMMON ELEMENTS, NOTWITHSTANDING ANY STATEMENTS OR ESTIMATES OF SAME CONTAINED IN ANY SALES MATERIALS.

Without limiting the generality of the foregoing, each Owner recognizes and agrees that because of the proximity of the Condominium to an active railroad, vibration and/or noise from the railroad (and the trains on the railroad tracks) may be detectable and create a nuisance. By acquiring title to a Unit, each Owner (for itself, and on behalf of its heirs, successors and assigns) shall be deemed to have assumed the risks associated with vibration and/or noise resulting from the proximity to, and activities on, the nearby railroad, and to have fully released the Developer, its members, contractors, architects, engineers, and its and their officers, directors, shareholders, employees and agents from any and all liability resulting from same.

Further, given the climate and humid conditions in Florida, molds, mildew, toxins and fungi may exist and/or develop with the Unit and/or the Condominium Property. Each Owner is hereby advised that certain molds, mildew, toxins and/or fungi may be, of if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By acquiring title to a Unit, each Owner shall be deemed to have assumed the risks associated with molds, mildew, toxins and/or fungi and to have released the Developer from any and all liability resulting from same, including, without limitation, any liability for incidental or consequential damages (which may result from, without limitation, the inability to possess the Unit, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal Without limiting the generality of the foregoing, leaks, leaving exterior doors or injury). windows open, wet flooring and moisture will contribute to the growth of mold, mildew, fungus or spores. Each Unit Owner, by acceptance of a deed, or otherwise acquiring title to a Unit, shall be deemed to have agreed that Developer is not responsible, and the Developer hereby disclaims any responsibility for any illness or allergic reactions, personal injury or death which may be experienced by the Unit Owner, its family members and/or its or their guests, tenants and invitees and to any pets of persons aforementioned in this sentence, as a result of mold, mildew, fungus or spores. It is the Unit Owner's responsibility to keep the Unit clean, dry, wellventilated and free of contamination.

Each Owner understands and agrees that for some time in the future, it, and its guests, tenants and invitees may be disturbed by the noise, commotion and other unpleasant effects of nearby construction activity and as a result Owner and its guests, tenants and invitees may be impeded in using portions of the Condominium Property by that activity. Because the Condominium is located in an urban area, demolition or construction of buildings and other structures within the immediate area or within the view lines of any particular Unit or of any part of the Condominium (the "Views") may block, obstruct, shadow or otherwise affect Views, which may currently be visible from the Unit or from the Condominium. Therefore, each Owner, for itself, its successors and assigns, agrees to release Developer, its partners and their officers, members, directors and employees and every affiliate and person related or affiliated in any way with any of them, including but not limited to contractors, engineers, architects and their officers, directors, shareholders, employees, and agents, ("Developer's Affiliates") from and

against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including attorney's fees and costs, including those incurred through all arbitration and appellate proceeds, related to or arising out of any claim against the Developer or Developer's Affiliates related to Views or the disruption, noise, commotion and other unpleasant effects of nearby development or construction. As a result of the foregoing there is no guarantee of view, security, privacy, location, design, density or any other matter.

Each Owner is hereby advised that there are various methods for calculating the square footage of a Unit, and that depending on the method of calculation, the quoted square footage of a Unit may vary. Additionally, as a result of in the field construction and other permitted changes to the Unit, actual square footage of a Unit may also be affected. Accordingly, during the preclosing inspection, each purchaser should, among other things, review the size and dimensions of the Unit. By closing, each purchaser shall be deemed to have conclusively agreed to accept the size and dimensions of the Unit, regardless of any variances in the square footage from that which may have been disclosed at any time prior to closing, whether included as part of Developer's promotional materials or otherwise. Developer does not make any representation or warranty as to the actual size, dimensions (including ceiling heights) or square footage of any Unit, and each Owner shall be deemed to have waived and expressly released any such warranty and claim for loss or damages resulting from any variances between any represented or otherwise disclosed square footage and the actual square footage.

Each Owner is hereby advised that the Condominium Property and all Condominium Units are within the Parklands West Community Development District. THE COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR AND ASSESSMENTS, ON THE UNITS. THESE TAXES BOTH TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL TAXES AND ASSESSMENTS, ALL GOVERNMENTAL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW AND ASSOCIATION ASSESSMENTS. The Developer makes no representation or warranty regarding the facilities and services provided by the Community Development District or the amount of the Community Development District's taxes and assessments on the Units. Each Owner shall be deemed to have waived and released any claim against the Developer or the Association for losses or damages resulting from actions or inactions of the Community Development District.

## 24. Additional Provisions.

24.1 <u>Notices</u>. All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been

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

24.2 <u>Interpretation</u>. The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel to the Association or the counsel having drafted this Declaration that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

24.3 <u>Mortgagees</u>. Anything herein to the contrary notwithstanding (except as provided in Section 13.4 hereof), the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless actual (vs. constructive) written notice of the existence of such mortgage or lien is received by the Association.

24.4 <u>Exhibits</u>. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.

24.5 <u>Signature of President and Secretary</u>. Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefore, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

24.6 <u>Governing Law</u>. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.

24.7 <u>Severability</u>. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

24.8 <u>Waiver</u>. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.

24.9 <u>Ratification</u>. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.

24.10 Execution of Documents; Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium Property as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This Power of attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.

24.11 <u>Gender; Plurality</u>. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

24.12 <u>Captions</u>. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.

24.13 <u>Liability</u>. Notwithstanding anything contained herein or in the Articles of Incorporation, By-laws, any rules or regulations of the Association or any other document governing or binding the association (collectively, the "Association Documents"), the Association, except to the extent specifically provided to the contrary herein, shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Condominium and/or Association Property including, without limitation, Owners and their guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing:

(a) it is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the properties have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the properties and the value thereof;

(b) the Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, County and/or any other jurisdiction or the prevention of tortuous activities; and

(c) the provisions of the Association Documents setting forth the uses of assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to

protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason.

Each owner (by virtue of his acceptance of title to his Unit) and each other person having an interest in or lien upon, or making use of, any portion of the properties (by virtue of accepting such interest or lien or making such use) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed hereby. As used herein, "Association" shall include within its meaning all of Association's directors, officers, committee and board members, employees, agents, contractors (including management companies), subcontractors, successors and assigns. The provisions hereof shall also inure to the benefit of Developer, which shall be fully protected hereby.

24.14 <u>Priorities in Case of Conflict</u>. In the event of conflict between or among the provisions of any of the following, the order of priority shall be, from highest priority to lowest:

- (a) The Act, as it existed on the date of recording of the Declaration;
- (b) The Declaration;
- (c) The Articles; and
- (d) The By-Laws.

## [SIGNATURES TO APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 17th day September, 2013.

Signed, sealed and delivered in	the presence of these witnesses:
WITNESSES: Beberea Sarver Print Name: <u>Rebecca Sarver</u>	D.R. HORTON, INC., a Delaware corporation
Print Name ( 1 (a y plain)	Name: John-Hon PENHE COST Title: Vice PRESideNt

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this  $17^{14}$  day of  $12^{14}$ , 2013, by  $10^{14}$  by  $10^{14}$  day of  $10^{14}$  day of who produced a \_\_\_\_\_\_ as identification.

My Commission Expires:

Notary Public State of Florida

Sint Augu	KAY PLEIN
	MY COMMISSION # DD969712
3.00	EXPIRES March 09, 2014
(407) 398-0153	FloridaNotaryService.com

### JOINDER AND CONSENT OF ASSOCIATION

The undersigned officer of the Sorrento Condominium Association, Inc.(the "Association") does hereby join in and consent to the foregoing Declaration of Condominium of Sorrento, a Condominium and accepts the rights and obligations set forth therein. The undersigned hereby confirms that they are duly authorized to execute this Joinder and Consent on behalf of the Association.

The undersigned has caused this Joinder to be executed by its duly authorized officer this  $17^{\pm 1}$  day of <u>september</u>, 2013.

WITNESSES:

Print Name:

STATE OF FloridA COUNTY OF LEE

SURKENTO CONDOMINIUM ASSOCIATI	UN,
INC., a Florida not for profit corporation	

By: Name: Its:

I HEREBY CERTIFY that on the  $1.7^{\text{H}}$  day of <u>Septembr</u>, 202, before me, an officer duly authorized to take acknowledgements, personally appeared <u>James Ratz</u>, as <u>Vice President</u> of the SORRENTO CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation, for and on behalf of the entity, who is personally known to me or has produced his/her Florida driver's license as identification.

Hour	Rlun	
Name:	Man Ple	in
Notary Public	с — <u>С</u>	
-	Star High	KAY PLEIN

(407) 396

0153

MY COMMISSION # DD969712 EXPIRES March 09, 2014

londaNotaryService com

(Notary Seal)

#### JOINDER AND CONSENT OF MASTER ASSOCIATION

The undersigned officer of the Sorrento Master Association, Inc.(the "Association") does hereby join in and consent to the foregoing Declaration of Condominium of Sorrento, a Condominium and accepts the rights and obligations set forth therein. The undersigned hereby confirms that they are duly authorized to execute this Joinder and Consent on behalf of the Association.

The undersigned has caused this Joinder to be executed by its duly authorized officer this  $17^{++}$  day of <u>Sector</u>, 2013.

WITNESSES:

E heach

STATE OF Florida COUNTY OF LEE SORRENTO MASTER ASSOCIATION, INC., a Florida not for profit corporation

By:	Sten MI
Name:	Steven BoyEtte
Its:	Vice PRESIDENT

I HEREBY CERTIFY that on the  $17^{\pm\pm}$  day of <u>Septen by</u> 2013, before me, an officer duly authorized to take acknowledgements, personally appeared <u>Steven Boyette</u>, as  $\sqrt{.cePeesident}$  of the SORRENTO MASTER ASSOCIATION, INC., a Florida not for profit corporation, for and on behalf of the entity, who is personally known to me or has produced his/her Florida driver's license as identification.

Name: Notary Publi KAY PLEIN MY COMMISSION # DD969712 EXPIRES March 09, 2014 407) 398-0153 FiondaNotaryService com

(Notary Seal)

## **EXHIBITS TO**

## DECLARATION OF CONDOMINIUM OF SORRENTO, A CONDOMINIUM

- <u>EXHIBIT "1"</u> LEGAL DESCRIPTION OF REAL PROPERTY ANTICIPATED TO BE SUBMITTED TO CONDOMINIUM OWNERSHIP
- EXHIBIT "1.16" LEGAL DESCRIPTION OF THE INITIAL PHASE

EXHIBIT "1.1" THROUGH EXHIBIT "1.38" - LEGAL DESCRIPTION OF PROPOSED SUBSEQUENT PHASES 2 THROUGH 38 RESPECTIVELY

- <u>EXHIBIT "2"</u> ARTICLES OF INCORPORATION OF SORRENTO CONDOMINIUM ASSOCIATION, INC.
- EXHIBIT "3"- BY-LAWS OF SORRENTO CONDOMINIUM ASSOCIATION, INC.

EXHIBIT "4" -PLOT PLAN, SURVEY AND GRAPHIC DESCRIPTION OF INITIAL PHASE AND PLOT PLAN OF PROPOSED SUBSEQUENT PHASE IMPROVEMENTS

<u>EXHIBIT "5"</u> - PERCENTAGE OWNERSHIP AND SHARES IN COMMON ELEMENTS

## EXHIBIT "1"

## LEGAL DESCRIPTION OF PORTION OF REAL PROPERTY CURRENTLY OWNED BY THE DEVELOPER ANTICIPATED TO BE SUBMITTED TO CONDOMINIUM OWNERSHIP

## SORRENTO A CONDOMINIUM LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

#### LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PORTION OF LANDS DESCRIBED IN EXHIBIT "A" OF INSTRUMENT NUMBER 2012000195147, A PORTION OF PARCEL 14, PARKLANDS LEE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

#### PARCEL "A"

COMMENCING AT THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147; THENCE N 89'53'08" E ALONG THE NORTH LINE OF SAID LANDS FOR 17.36 FEET; THENCE S 00'06'52" E FOR 36.79 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89'53'08" E FOR 311.78 FEET; THENCE S 67 37'11" E FOR 33 90 FEET; THENCE N 89 53'08" E FOR 33.98 FEET; THENCE S 00 40'56" E FOR 19.17 FEET; THENCE S 89'52'49" W FOR 30.80 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'48'51" FOR 55.48 FEET; THENCE S 00'56'02" E FOR 9.92 FEET; THENCE S 18'11'44" W FOR 44.17 FEET; THENCE S 19'26'20" W FOR 141.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21'07'49" FOR 12.91 FEET; THENCE S 01'41'30" E FOR 94.77 FEET; THENCE S 05'47'26" E FOR 88.01 FEET; THENCE S 03'07'11" E FOR 88.70 FEET; THENCE S 01'58'30" E FOR 0.90 FEET; THENCE S 00'49'49" E FOR 117.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 151 45'26" FOR 66.22 FEET; THENCE N 27'24'45" E FOR 426.54 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40.24'32" FOR 24.68 FEET, THENCE N 12'59'47" W FOR 60.59 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16'21'23" FOR 9.99 FEET; THENCE N 29'21'10" W FOR 64.81 FEET; THENCE N 22'46'58" W FOR 46.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 45.00 FEET, THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22'40'07" FOR 17.80 FEET; THENCE N 00'06'52" W FOR 10.61 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'19" FOR 54.98 FEET; THENCE S 89'52'49" W FOR 30.80 FEET; THENCE N 00'40'56" W FOR 19.17 FEET; THENCE N 89'53'08" E FOR 406.26 FEET; THENCE S 00'06'52" E FOR 20.02 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 472.83 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 100.41 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 309.17 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'41'40" FOR 214.19 FEET; THENCE S 27'24'45" W FOR 219.06 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 23.56 FEET; THENCE N 62'35'15" W FOR 67.80 FEET; THENCE S 26'19'49" W FOR 29.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 26'19'49" W; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91'04'57" FOR 35.77 FEET; THENCE N 27'24'45" E FOR 202.48 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 304.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 55\*45'56" FOR 296.37 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET TO WHICH POINT A RADIAL LINE BEARS N 59'33'18" E: THENCE SOUTHERLY AND THEN WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 219'30'17" FOR 181.98 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37'39'50" FOR 64.09 FEET; THENCE S 58'00'29" W FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 79.50 FEET TO WHICH POINT A RADIAL LINE BEARS N 57'38'51" E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32'58'00" FOR 45.74 FEET; THENCE S 89'44'46" E FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 89 27'08" E: THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04'30'13" FOR 7.66 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 275.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'14'10" FOR 82.88 FEET; THENCE N 67.36'30" W FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT

NOTE:

SEE SHEET 42 THROUGH 44 OF 84 FOR CONDOMINUM SURVEY AND OVERALL PLOT PLAN. SEE SHEET 2 AND 3 OF 84 FOR CONTINUED LEGAL DESCRIPTION.

Banks Engineering Professional Engineers, Planners & Land Surveyors FORT MYERS • PORT CHARLOTE • SARASOTA FLORDA BUSINESS CERTIFICATION NUMBER LB 6680		EXHIBIT "1" – LEGAL DESCRIPTION OF REAL PROPERTY SORRENTO, A CONDOMINIUM LEE COUNTY, FLORIDA									
10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966	DATE	PROJECT	DRAWING	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)		
(239) 939-5490	1-22-13	1303D	SEE PATH	AMV	RMR	N/A	1	84	4-48-26		

## SORRENTO A CONDOMINIUM LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

### LEGAL DESCRIPTION CONTINUED:

HAVING A RADIUS OF 257.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 67'43'11" E; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05'07'56" FOR 23.07 FEET; THENCE S 27'24'45" W FOR 13.89 FEET; THENCE S 62'35'15" E FOR 18.00 FEET; THENCE S 27'24'45" W FOR 607.59 FEET TO **POINT "A"** AND THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00' FOR 35.34 FEET; THENCE N 62'35'15" W FOR 27.83 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 466.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0713'10" FOR 58.72 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 135.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07'06'37" FOR 16.81 FEET; THENCE N 27'30'53" E FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 117.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 27'16'15" W; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'58'19" FOR 36.86 FEET; THENCE S 44'59'57" W FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 135.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 45'12'38" W; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 49'13'31" FOR 116.41 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 1,014.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11'38'57" FOR 206.27 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 985.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06'16'47" FOR 108.01 FEET; THENCE N 00'56'02" W FOR 201.90 FEET; THENCE N 89'03'58" E FOR 18.00 FEET; THENCE N 00'56'02" W FOR 7.67 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 67.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'10'49" FOR 20.24 FEET; THENCE N 7412'58" W FOR 18.00 FEET; THENCE N 16'08'57" E FOR 2.61 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'47'35" FOR 67.72 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET; THENCE WESTERLY AND THEN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 258 51'18" FOR 214.60 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'03'43" FOR 66.47 FEET; THENCE S 16'08'57" W FOR 4.03 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 114.50 FEET: THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'04'59" FOR 34.14 FEET; THENCE S 00'56'02" E FOR 162.57 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'OO" FOR 35.34 FEET; THENCE S 89'03'58" W FOR 76.17 FEET TO POINT "B"; THENCE N 00'56'02" W FOR 362.76 FEET TO THE POINT OF BEGINNING.

#### PARCEL "B"

COMMENCING AT SAID **POINT "B**"; THENCE S 00'56'02" E FOR 29.00 FEET TO THE **POINT OF BEGINNING** OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89'03'58" E FOR 76.52 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88'30'30" FOR 34.76 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 1,014.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04'47'16" FOR 84.77 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 985.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11'38'57" FOR 200.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 164.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'20'42" FOR 49.80 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 24.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 102'00'41" FOR 43.62 FEET; THENCE S 89'06'08" W FOR 85.22 FEET TO **POINT "C"**; THENCE N 00'56'02" W FOR 385.54 FEET TO THE **POINT OF BEGINNING**.

#### PARCEL "C"

COMMENCING AT SAID POINT "A"; THENCE S 62'35'15" E FOR 29.00 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 27'24'45" E FOR 326.33 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A

NOTE:

SEE SHEET 42 THROUGH 44 OF 84 FOR CONDOMINUM SURVEY AND OVERALL PLOT PLAN. SEE SHEET 3 OF 84 FOR CONTINUED LEGAL DESCRIPTION.

Banks Engineers, Planners & Land Surveyors FORT MYERS • PORT CHARLOTTE • SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6590		EXHIBIT SOI	RREN	TO,	A	TION O	ОМІ		
10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966 (239) 939-5490	DATE 1-22-13	PROJECT 1303D	DRAWING SEE PATH	DRAWN AMV	CHECKED RMR	scale N/A	sheet 2	0F 84	FILE NO. (S-T-R) <b>4-48-26</b>

## SORRENTO A CONDOMINIUM LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

#### LEGAL DESCRIPTION CONTINUED:

RADIUS OF 22.50 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 35.34 FEET; THENCE S 27'24'46" W FOR 12.33 FEET; THENCE S 62'35'15" E FOR 67.67 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 23.56 FEET; THENCE S 27'24'45" W FOR 331.63 FEET; THENCE N 62'35'15" W FOR 106.17 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 51.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 51'14'14" E; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11'21'01" FOR 10.20 FEET TO THE **POINT OF BEGINNING**.

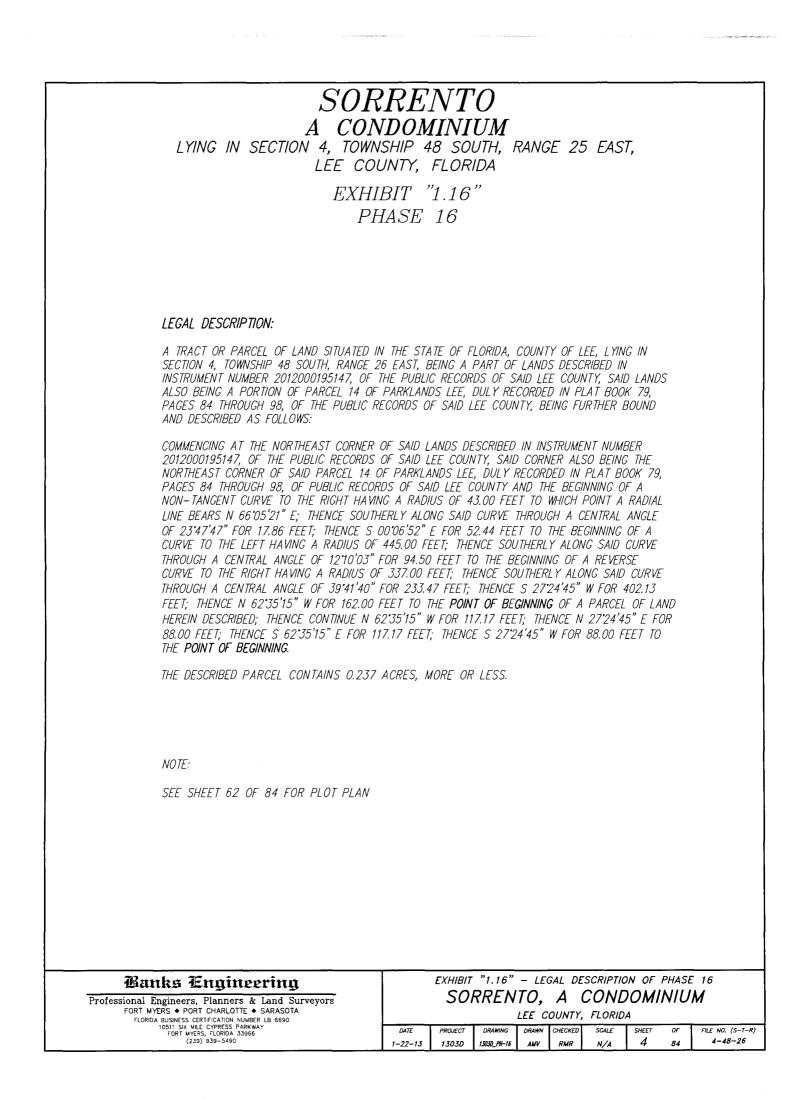
#### PARCEL "D"

COMMENCING AT SAID **POINT "C"**; THENCE S 01'11'58" E FOR 21.00 FEET TO THE **POINT OF BEGINNING** OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89'06'08" E FOR 115.80 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 24.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 54'39'24" FOR 23.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 164.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33'33'56" FOR 96.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 47.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07'13'10" FOR 55.06 FEET; THENCE S 62'35'15" E FOR 27.83 FEET; THENCE S 27'24'45" W FOR 97.32 FEET; THENCE N 66'16'13" W FOR 92.09 FEET; THENCE N 74'38'10" W FOR 70.53 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 115.00 FEET; THENCE N 74'38'10" W FOR 70.53 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 115:00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 119.44 FEET; THENCE N 15'07'34" W FOR 11.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 182.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'19'05" FOR 39.13 FEET TO THE **POINT OF BEGINNING**.

NOTE:

SEE SHEET 42 THROUGH 44 OF 84 FOR CONDOMINUM SURVEY AND OVERALL PLOT PLAN.

Banks Engineering Professional Engineers, Planners & Land Surveyors FORT MYERS • PORT CHARLOTTE • SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690	l	EXHIBIT SOI	RREN	<i>TO</i> ,	A	PTION O COND FLORID.	ОМІ		
10511 SIX MILE CYPRESS PARKWAY FORT WYERS, FURIDA 33966 (239) 939-5490	DATE 1-22-13	PROJECT 1303D	DRAWING SEE PATH	DRAWN AMV	CHECKED <b>RMR</b>	SCALE N/A	sheet 3	0F 84	FILE NO. (S-T-R) <b>4-48-</b> 26



# SORRENTO A CONDOMINIUM LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1.1" PHASE 1

#### LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PART OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID LANDS ALSO BEING A PORTION OF PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

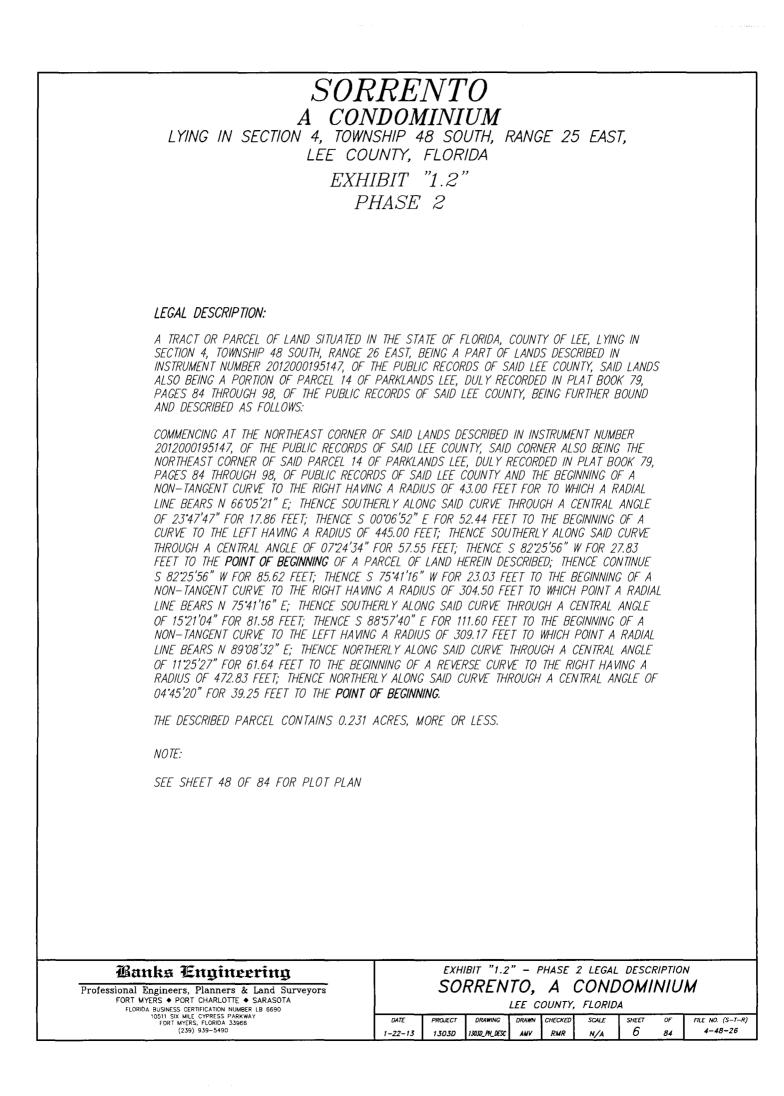
COMMENCING AT THE NORTHEAST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID CORNER ALSO BEING THE NORTHEAST CORNER OF SAID PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S 89'53'08" W ALONG THE NORTH LINE OF SAID LANDS FOR 24.18 FEET; THENCE S 00'06'52" E FOR 49.76 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S 00'06'52" E FOR 20.02 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 472.83 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07"24'43" FOR 61.17 FEET; THENCE S 82'25'56" W FOR 85.62 FEET; THENCE S 75'41'16" W FOR 23.03 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 304.50 FEET TO WHICH POINT A RADIAL LINE BEARS N 75'41'16" E; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14'02'27" FOR 74.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET TO WHICH POINT A RADIAL LINE BEARS N 59'33'18" E; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22'51'42" FOR 18.95 FEET: THENCE N 00'06'52" W FOR 14.34 FEET: THENCE N 89'53'08" E FOR 142.75 FEET TO THE POINT OF BEGINNING.

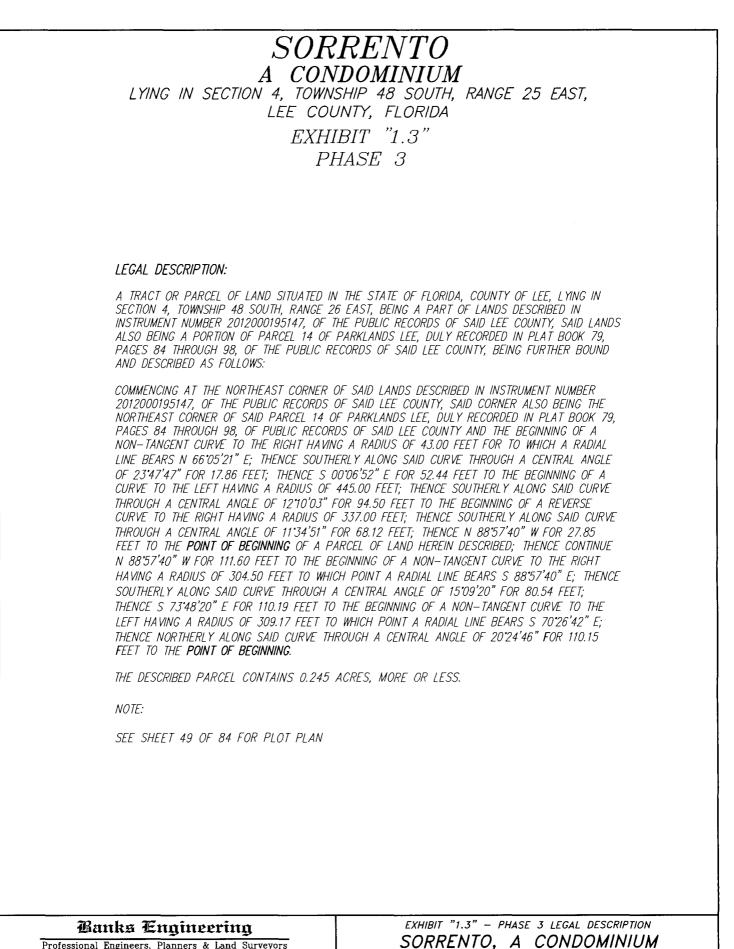
THE DESCRIBED PARCEL CONTAINS 0.254 ACRES, MORE OR LESS.

NOTE:

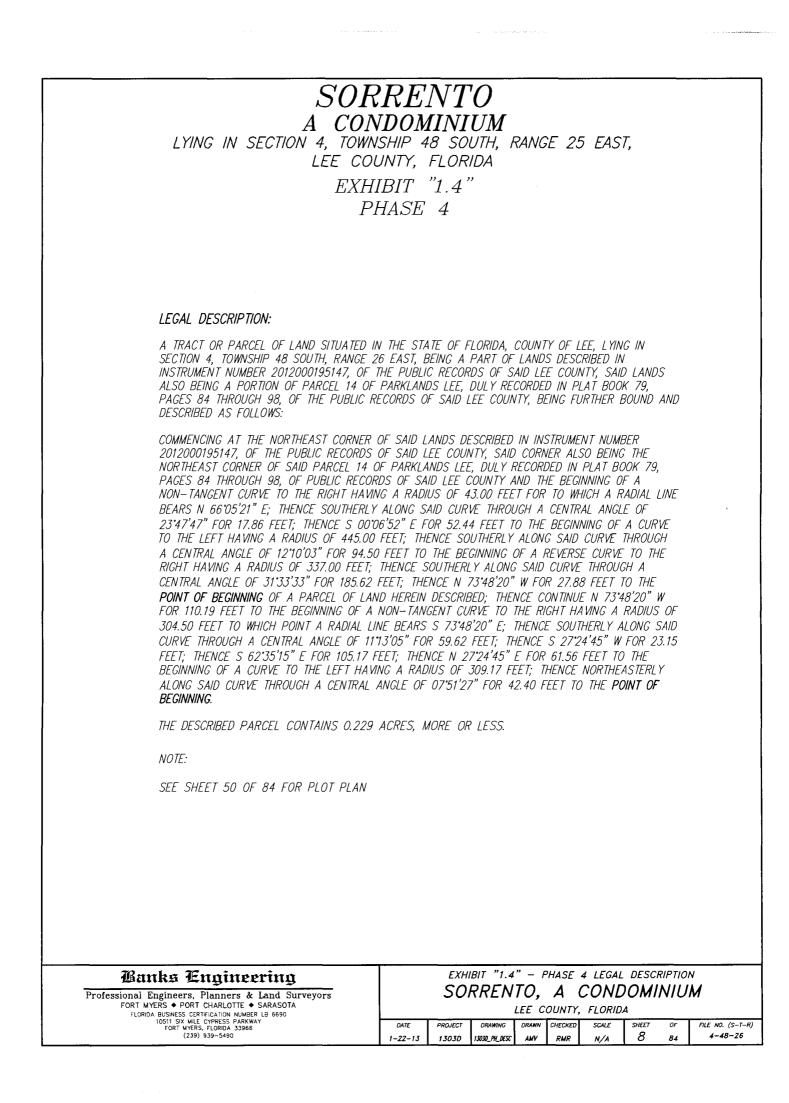
SEE SHEET 47 OF 84 FOR PLOT PLAN

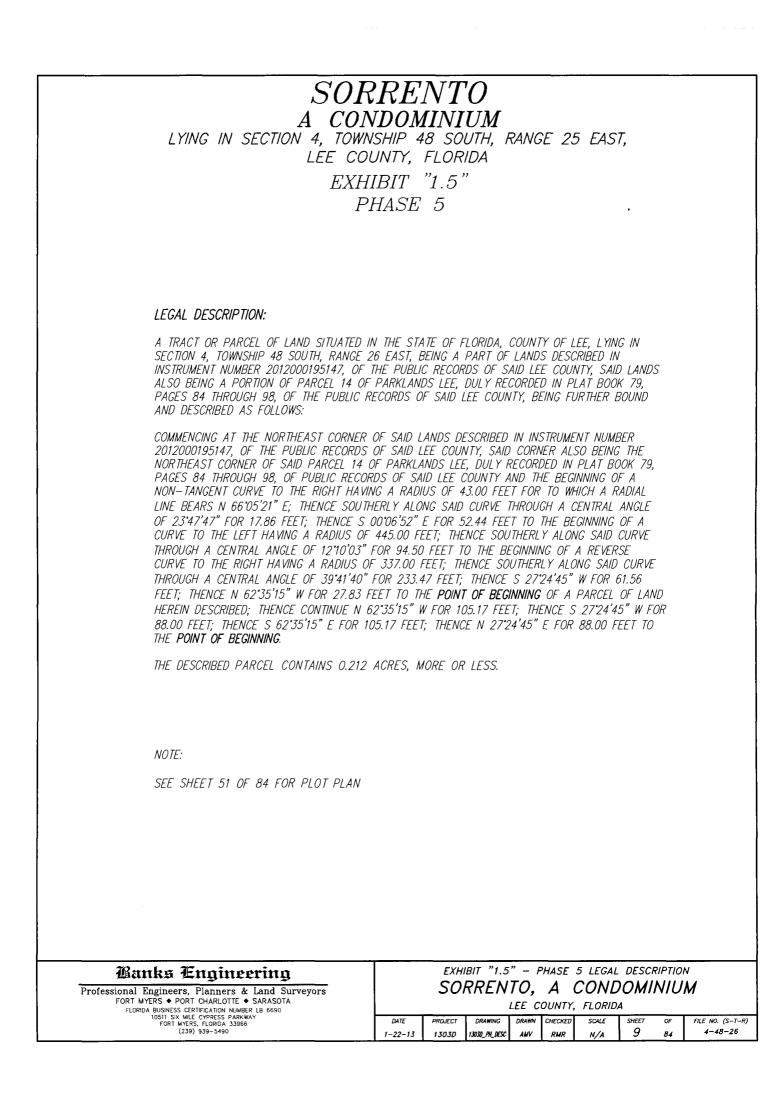
Banks Engineering	EXHIBIT "1.1" – PHASE 1 LEGAL DESCRIPTION SORRENTO, A CONDOMINIUM								
Professional Engineers, Planners & Land Surveyors FORT MYERS & PORT CHARLOTTE & SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690		301		•		, FLORID			IVI
10511 SIX MILE CYPRESS PARKWAY FORT WTERS, FLORIDA 33966 (239) 939–5490	DATE 1-22-13	PROJECT 1303D	DRAWING 13030_PH_DESC		CHECKED RMR	scale N/A	<sub>знеет</sub> 5	0F <b>84</b>	FILE NO. (S-T-R) <b>4-48-26</b>

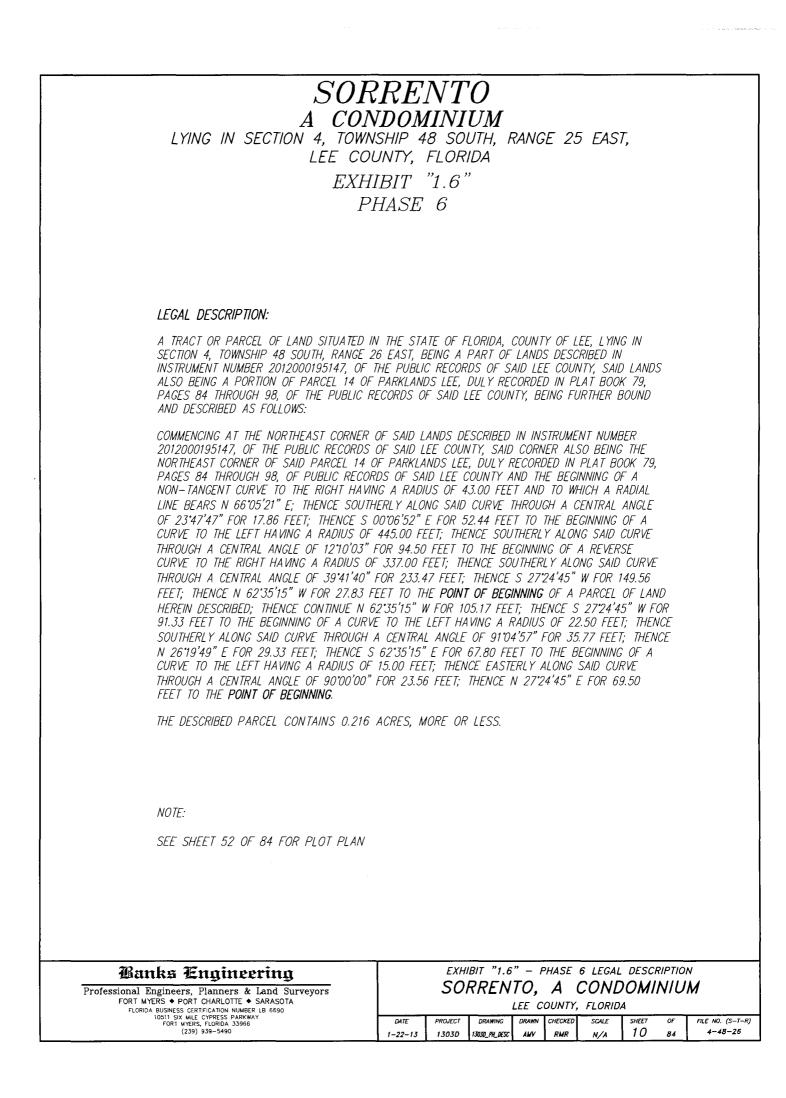




ssional Engineers, Planners & Land Surveyors		501		10,	· 7		Chill	1110	<i>ivi</i> 1	
FORT MYERS    PORT CHARLOTTE    SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690				LEE C	OUNTY,	FLORID.	4			
10511 SIX MILÉ CYPRESS PARKWAY FORT MYERS, FLORIDA 33966	DATE	PROJECT	DRAWING	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)	
(239) 939-5490	1-22-13	1303D	13030_PH_DESC	AMV	RMR	N/A	7	84	4-48-26	









#### LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PART OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID LANDS ALSO BEING A PORTION OF PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID CORNER ALSO BEING THE NORTHEAST CORNER OF SAID PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF PUBLIC RECORDS OF SAID LEE COUNTY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 43.00 FEET FOR TO WHICH A RADIAL LINE BEARS N 66'05'21" E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23'47'47" FOR 17.86 FEET; THENCE S 00'06'52" E FOR 52.44 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 445.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 94.50 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 337.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39 41'40" FOR 233.47 FEET; THENCE S 27'24'45" W FOR 407.90 FEET: THENCE N 62'35'15" W FOR 27.83 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED: THENCE CONTINUE N 62'35'15" W FOR 105.17 FEET: THENCE N 27'24'45" E FOR 74.33 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 35.34 FEET; THENCE S 27'24'46" W FOR 12.33 FEET; THENCE S 62'35'15" E FOR 67.67 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 23.56 FEET; THENCE S 27'24'45" W FOR 69.50 FEET TO THE POINT OF BEGINNING.

THE DESCRIBED PARCEL CONTAINS 0.207 ACRES, MORE OR LESS.

NOTE:

SEE SHEET 53 OF 84 FOR PLOT PLAN

Banks Engineering	EXHIBIT "1.7" – PHASE 7 LEGAL DESCRIPTION									
Professional Engineers, Planners & Land Surveyors FORT MYERS & PORT CHARLOTTE & SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690	SORRENTO, A CONDOMINIUM LEE COUNTY, FLORIDA									
10511 SIX MILE CYPRESS PARKWAY FORT WYER, FLORIDA 33666 (239) 939-5490	DATE 1-22-13	PROJECT 1303D	DRAWING 1303D_PH_DESC	DRAWN AMV	CHECKED RMR	SCALE N/A	sheet 11	0F 84	FILE NO. (S-T-R) <b>4-48-26</b>	



LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PART OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID LANDS ALSO BEING A PORTION OF PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

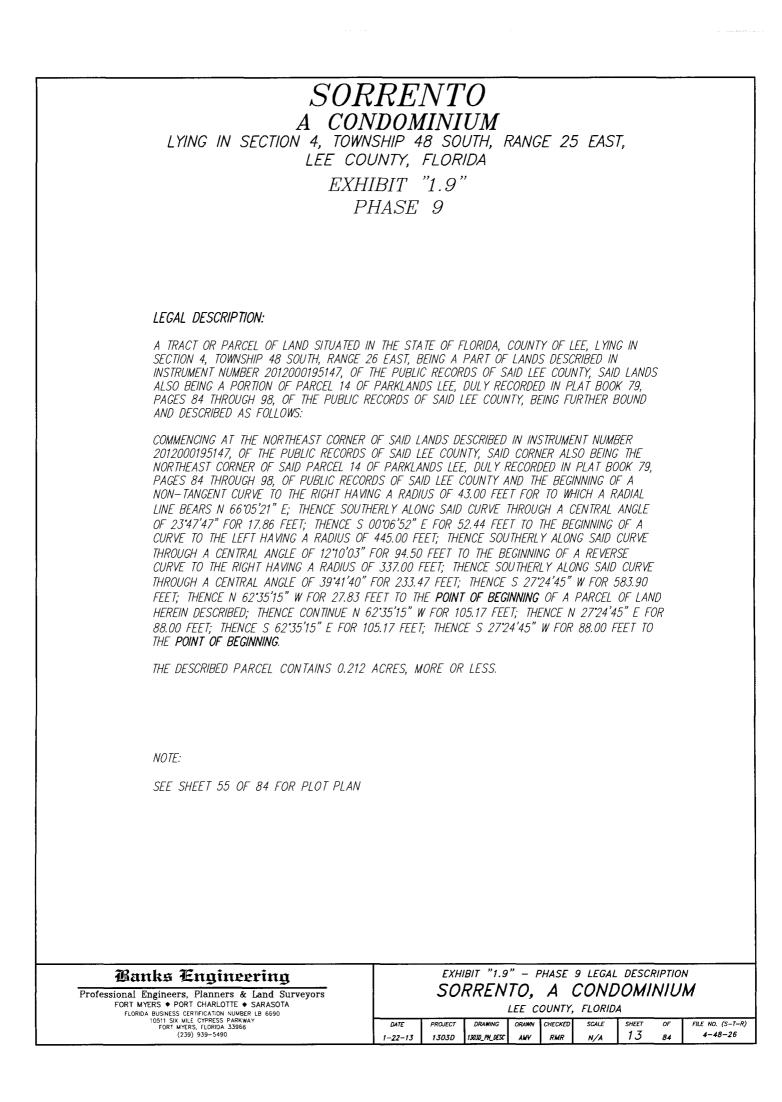
COMMENCING AT THE NORTHEAST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID CORNER ALSO BEING THE NORTHEAST CORNER OF SAID PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF PUBLIC RECORDS OF SAID LEE COUNTY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 43.00 FEET FOR TO WHICH A RADIAL LINE BEARS N 66'05'21" E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23'47'47" FOR 17.86 FEET; THENCE S 00'06'52" E FOR 52.44 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 445.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 94.50 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 337.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'41'40" FOR 233.47 FEET; THENCE S 27'24'45" W FOR 407.90 FEET; THENCE N 62'35'15" W FOR 27.83 FEET TO THE **POINT OF BEGINNING** OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N 62'35'15" W FOR 105.17 FEET; THENCE S 27'24'45" E FOR 88.00 FEET TO THE **POINT OF BEGINNING**.

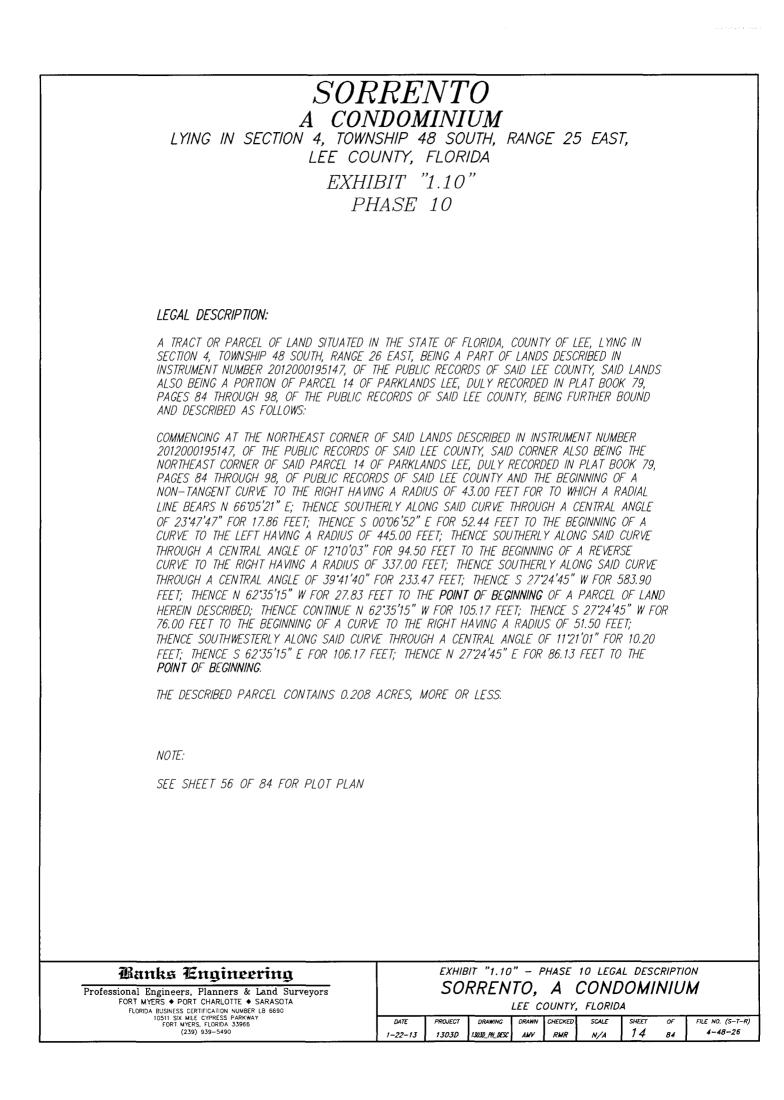
THE DESCRIBED PARCEL CONTAINS 0.212 ACRES, MORE OR LESS.

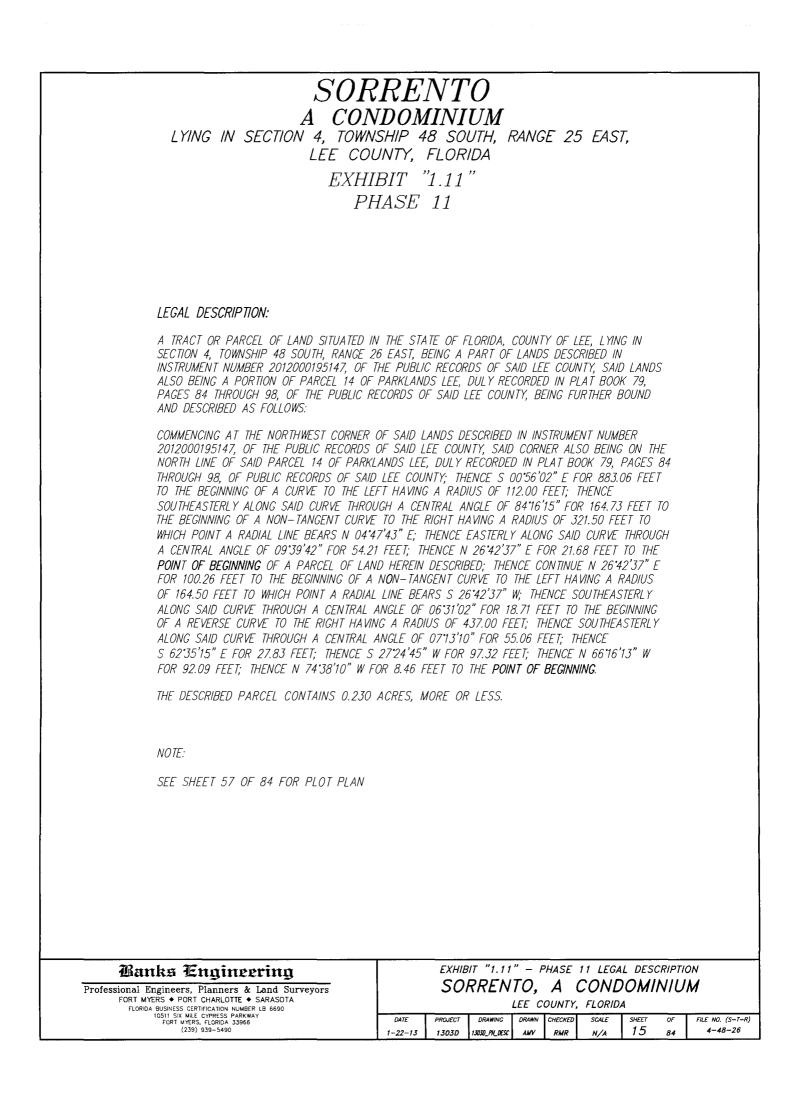
NOTE:

SEE SHEET 54 OF 84 FOR PLOT PLAN

Battika Engineering Professional Engineers, Planners & Land Surveyors FORT MYERS • PORT CHARLOTTE • SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6560			IBIT "1.8 RREN	TO,	A		ОМІ		
10511 Six Mile CYPRESS PARKWAY FORT MYERS, FLORIDA 33966 (239) 939-5490	DATE 1-22-13	PROJECT <b>1303D</b>	DRAWING 13030_PH_DESC	DRAWN AMV	CHECKED RMR	SCALE N/A	sheet 12	0F <b>84</b>	FILE NO. (S-T-R) <b>4-48-26</b>







# SORRENTO A CONDOMINIUM LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1.12" PHASE 12

#### LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PART OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID LANDS ALSO BEING A PORTION OF PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

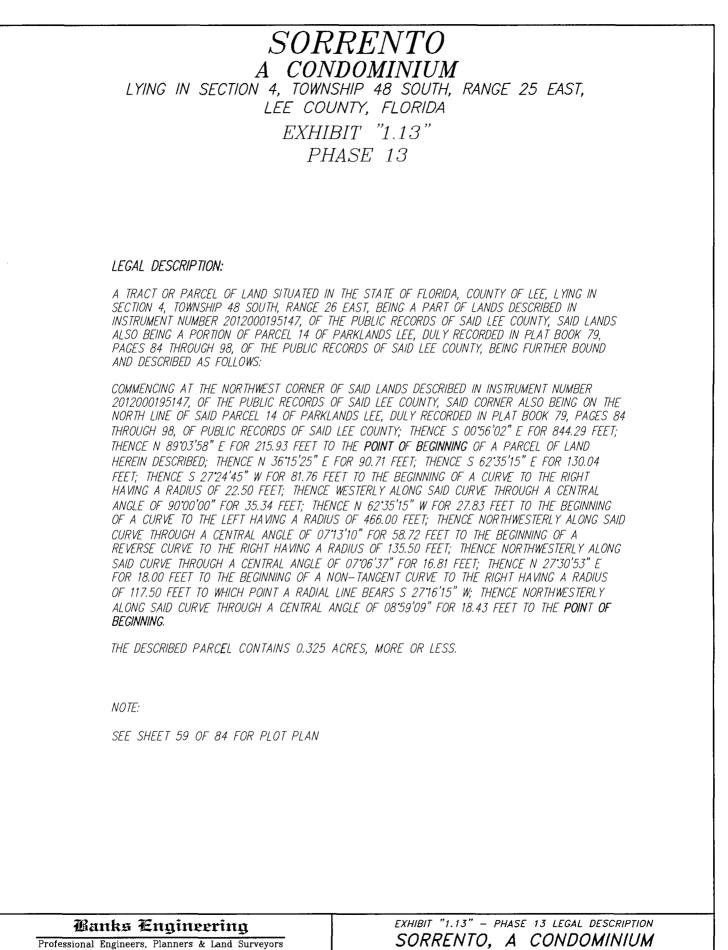
COMMENCING AT THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID CORNER ALSO BEING ON THE NORTH LINE OF SAID PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S 00'56'02" E FOR 835.34 FEET; THENCE N 89'06'08" E FOR 16.93 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N 89'06'08" E FOR 115.80 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 24.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 54'39'24" FOR 23.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 164.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27'02'55" FOR 77.66 FEET; THENCE S 26'42'37" W FOR 100.26 FEET; THENCE N 74'38'10" W FOR 62.07 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 115.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 119.44 FEET; THENCE N 15'07'34" W FOR 11.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 182.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'19'05" FOR 39.13 FEET TO THE POINT OF BEGINNING

THE DESCRIBED PARCEL CONTAINS 0.450 ACRES, MORE OR LESS.

NOTE:

SEE SHEET 58 OF 84 FOR PLOT PLAN

Banks Engineers, Planners & Land Surveyors FORT MYERS • PORT CHARLOTTE • SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6650 10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966 (239) 939-5490	exhibit "1.12" – phase 12 legal description SORRENTO, A CONDOMINIUM LEE COUNTY, FLORIDA								
	DATE 1-22-13	PROJECT 1303D	DRAWING 13030_PH_DESC	DRAWN AMV	CHECKED RMR	SCALE N/A	<sup>sнеет</sup> 16	0F 84	FILE NO. (S-T-R) <b>4-48-26</b>



LEE COUNTY. FLORIDA PROJECT CHECKED DRAWING

13030\_PH\_DESC

DRAWN

AMV

RMR

DATE

1-22-13

1303D

FILE NO. (S-T-R)

4-48-26

SHEET

17

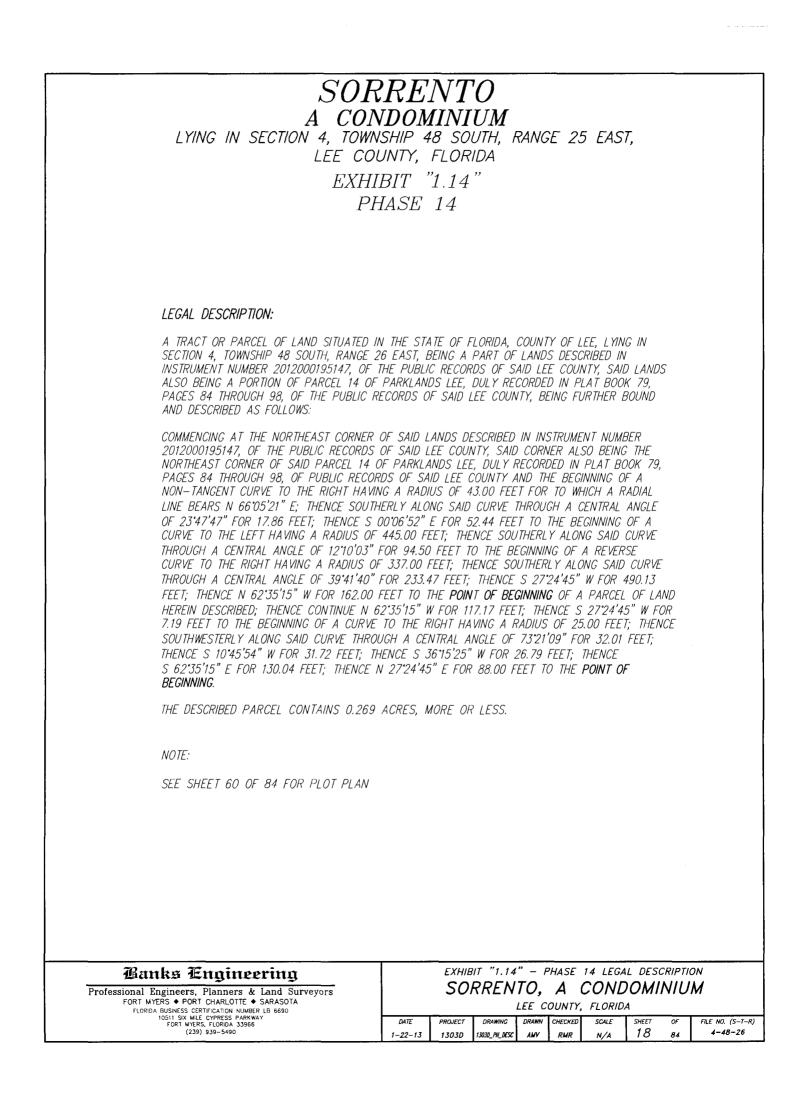
SCALE

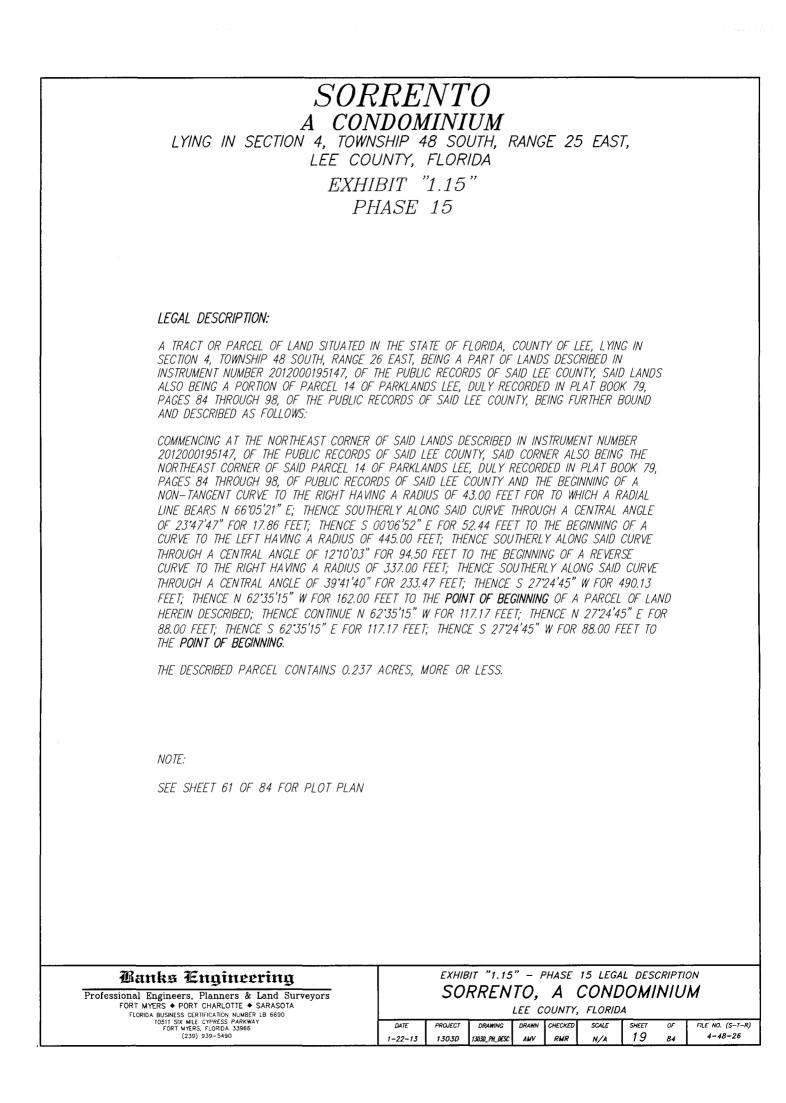
N/A

OF

84

FORT MYERS + PORT CHARLOTTE + SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6590 10511 SIX MILE CYPRESS PARKWAY FORT MYTERS, FLORIDA 33966 (239) 939-5490







LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PART OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID LANDS ALSO BEING A PORTION OF PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

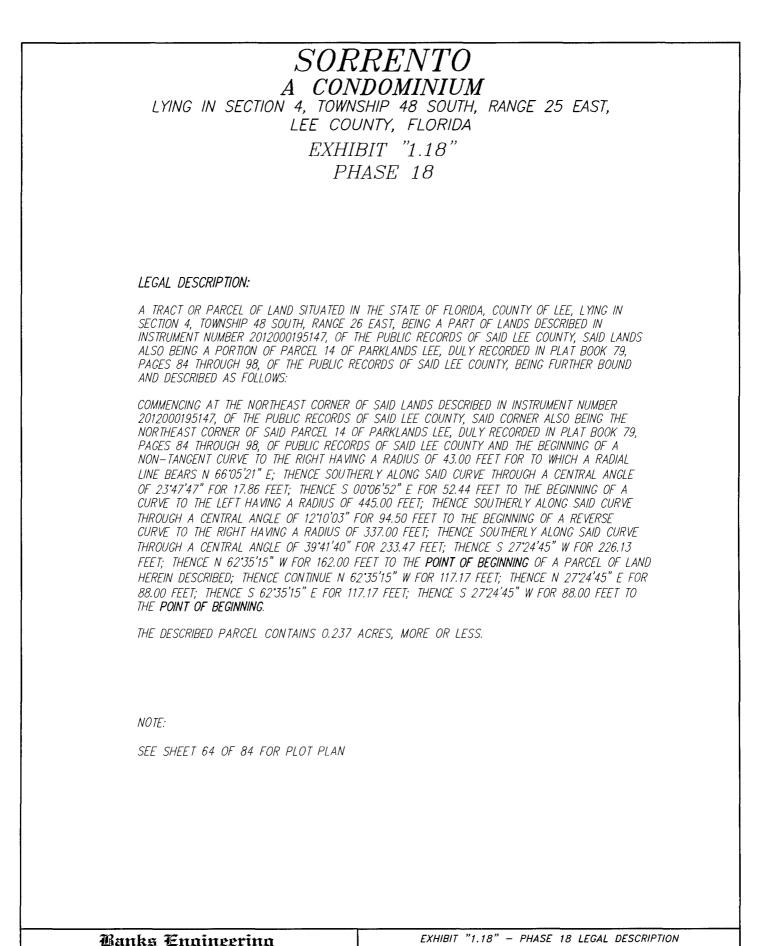
COMMENCING AT THE NORTHEAST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, SAID CORNER ALSO BEING THE NORTHEAST CORNER OF SAID PARCEL 14 OF PARKLANDS LEE, DULY RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF PUBLIC RECORDS OF SAID LEE COUNTY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 43.00 FEET FOR TO WHICH A RADIAL LINE BEARS N 66'05'21" E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23'47'47" FOR 17.86 FEET; THENCE S 00'06'52" E FOR 52.44 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 445.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 94.50 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 337.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'41'40" FOR 233.47 FEET; THENCE S 27'24'45" W FOR 226.13 FEET; THENCE N 62'35'15" W FOR 162.00 FEET TO THE **POINT OF BEGINNING** OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N 62'35'15" W FOR 117.17 FEET; THENCE S 27'24'45" W FOR 88.00 FEET; THENCE S 62'35'15" E FOR 117.17 FEET; THENCE N 27'24'45" E FOR 88.00 FEET TO THE **POINT OF BEGINNING**.

THE DESCRIBED PARCEL CONTAINS 0.237 ACRES, MORE OR LESS.

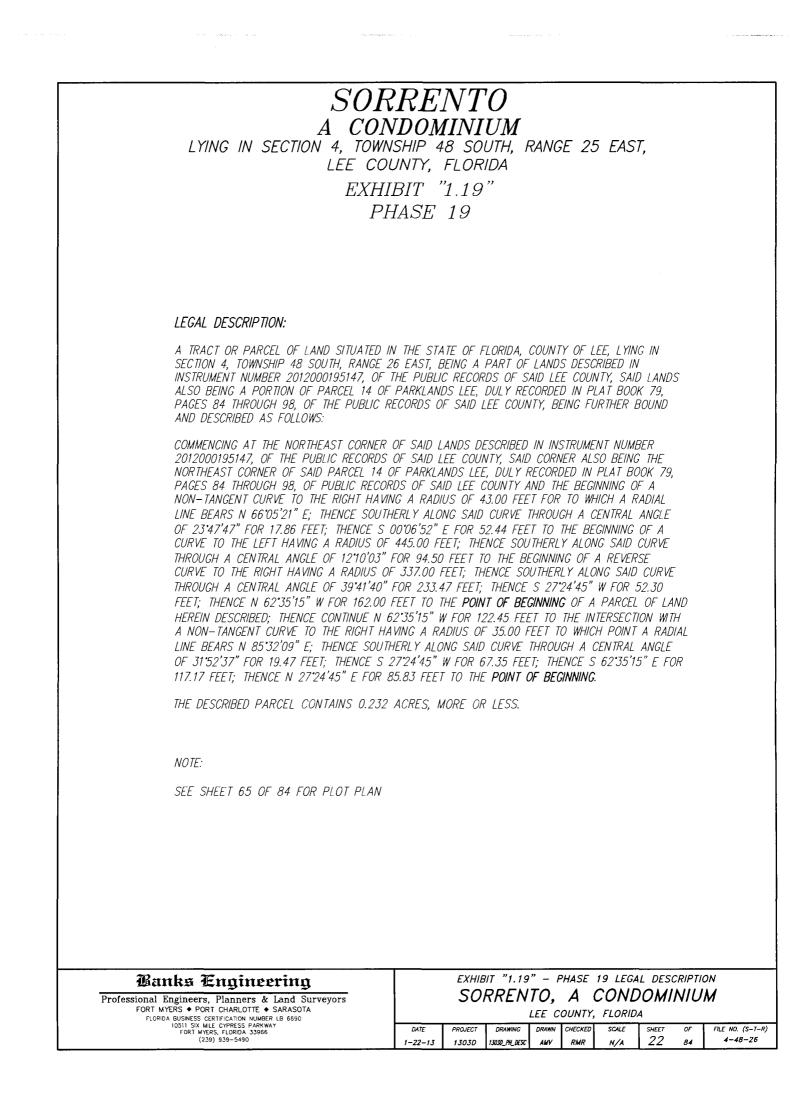
NOTE:

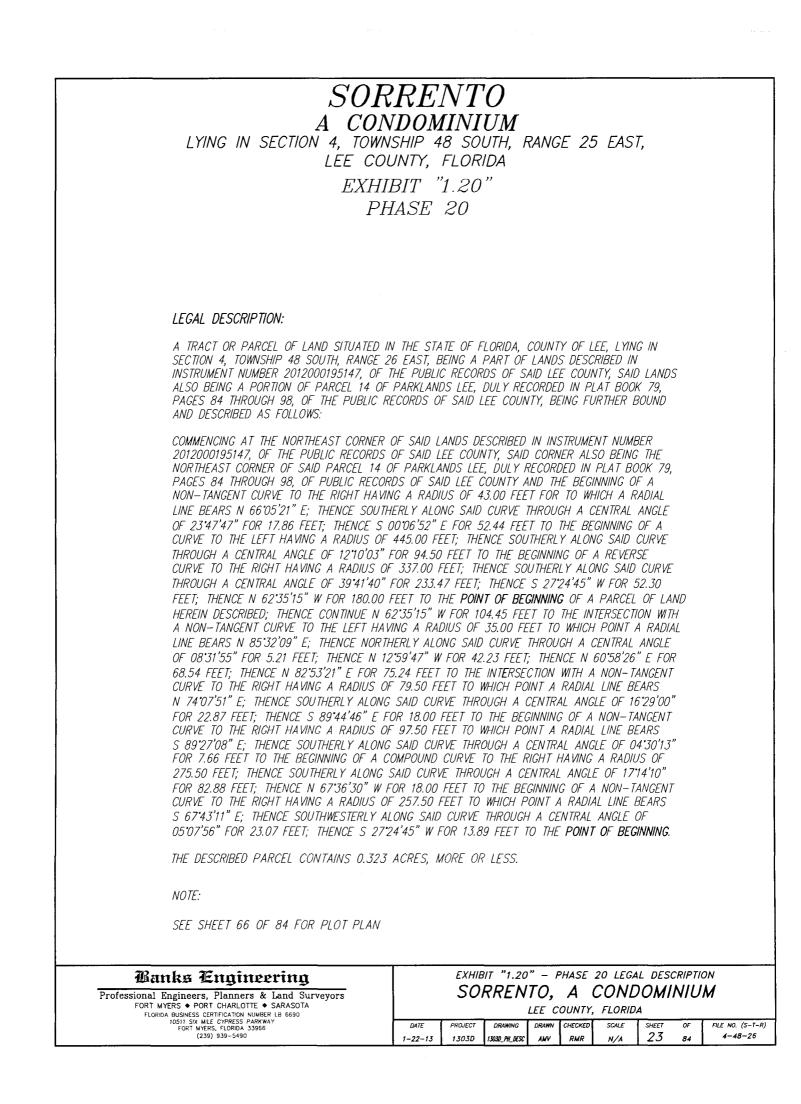
SEE SHEET 63 OF 84 FOR PLOT PLAN

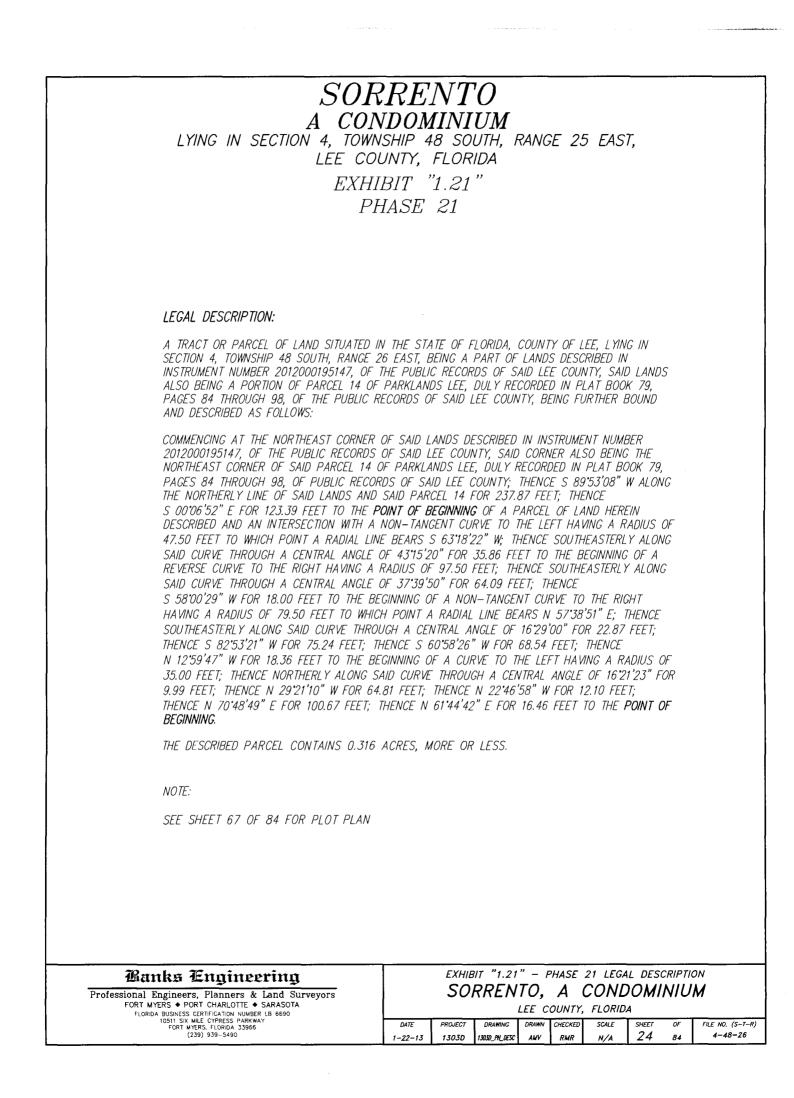
Banks Engineering	EXHIBIT "1.17" - PHASE 17 LEGAL DESCRIPTION										
Professional Engineers, Planners & Land Surveyors FORT MYERS  PORT CHARLOTTE  SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690 10511 SIX MILE CYPERSS FARKWAY FORT MYERS, FLORIDA 33966 (239) 939-5490	SORRENTO, A CONDOMINIUM LEE COUNTY, FLORIDA										
	DATE 1-22-13	PROJECT 1303D	DRAWING 13030_PH_DESC		CHECKED RMR	SCALE N/A	sheet 20	0F <b>84</b>	FILE ND. (S-T-R) <b>4-48-26</b>		

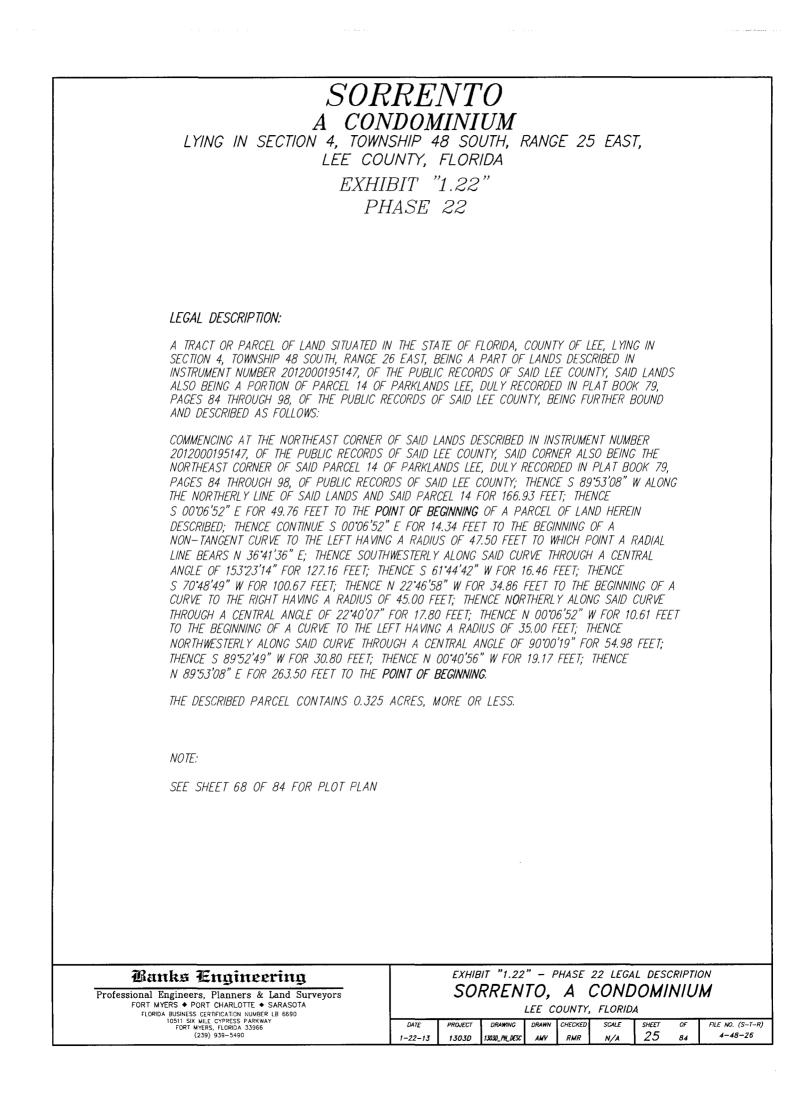


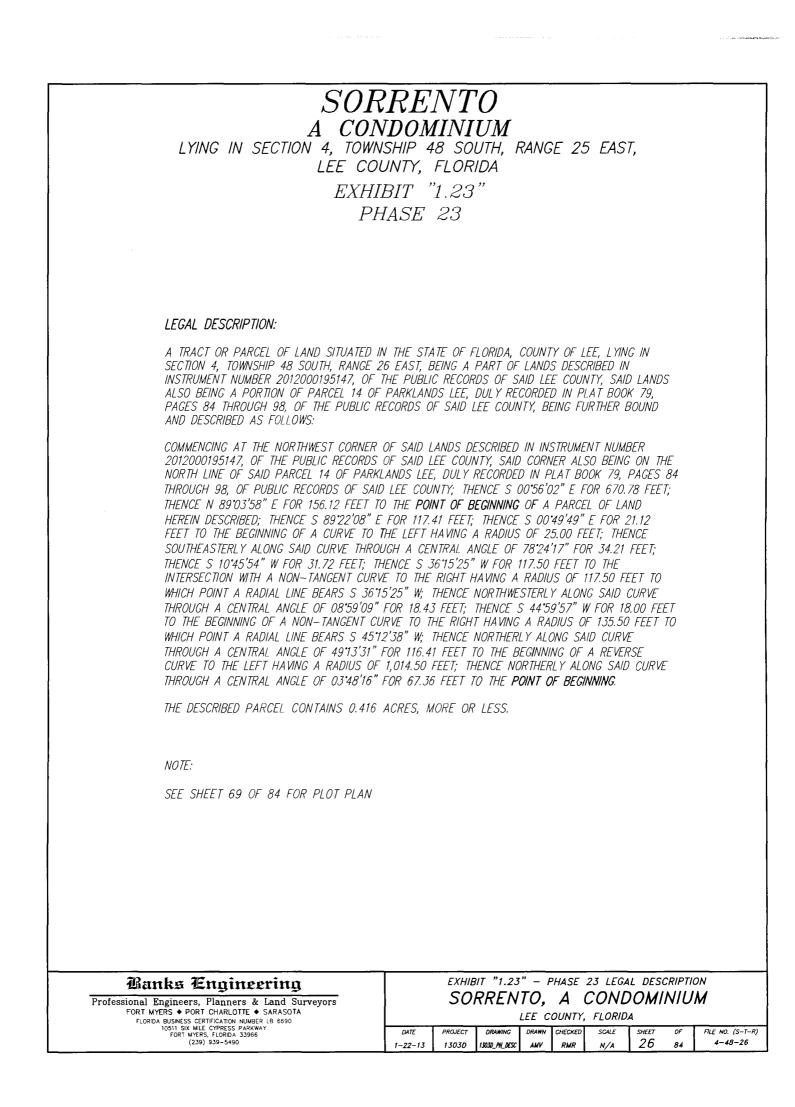
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Professional Engineers, Planners & Land Surveyors	SORRENTO, A CONDOMINIUM								
FORT MYERS ♦ PORT CHARLOTTE ♦ SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690	LEE COUNTY, FLORIDA								
10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966	DATE	PROJECT	DRAWING	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
(239) 939-5490	1-22-13	1303D	13030_PH_DESC	AMV	RMR	N/A	21	84	4-48-26

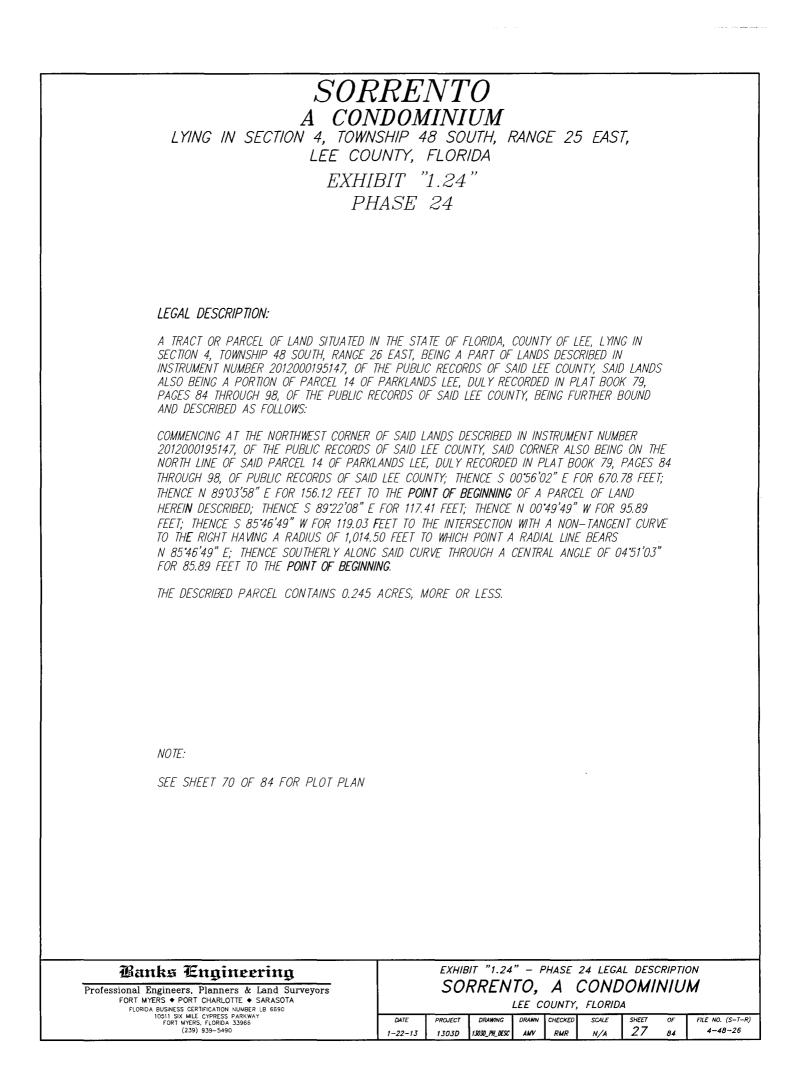


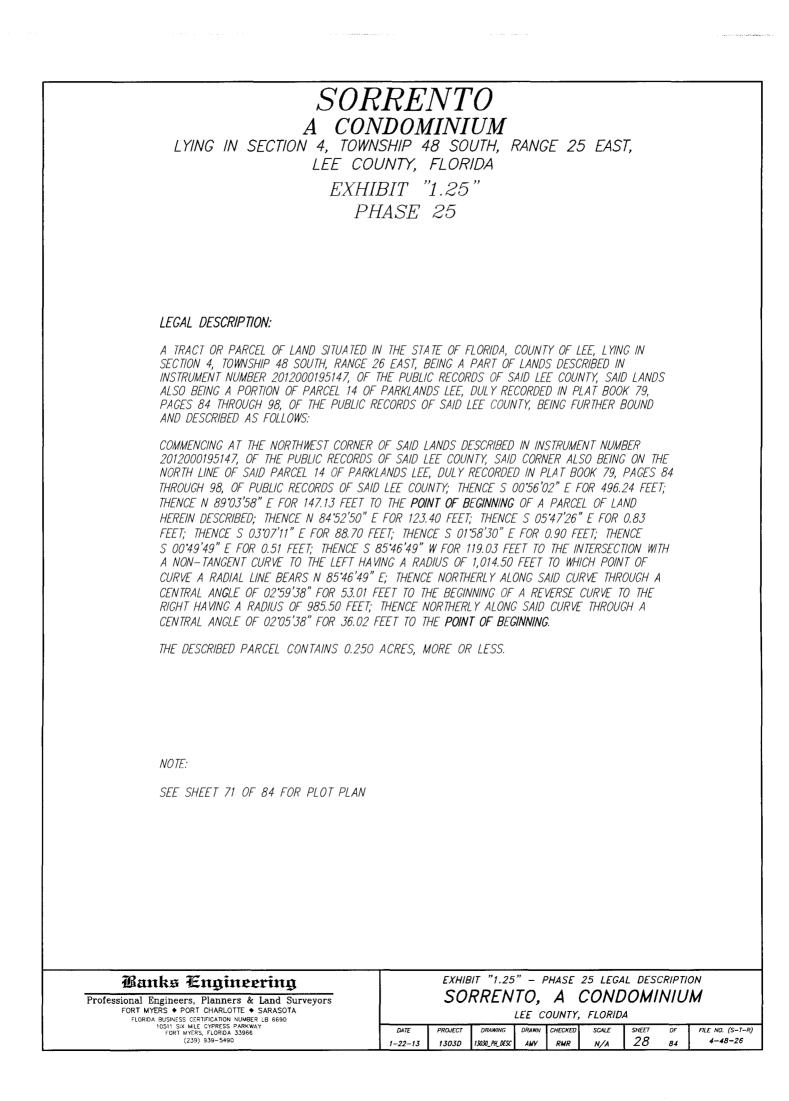


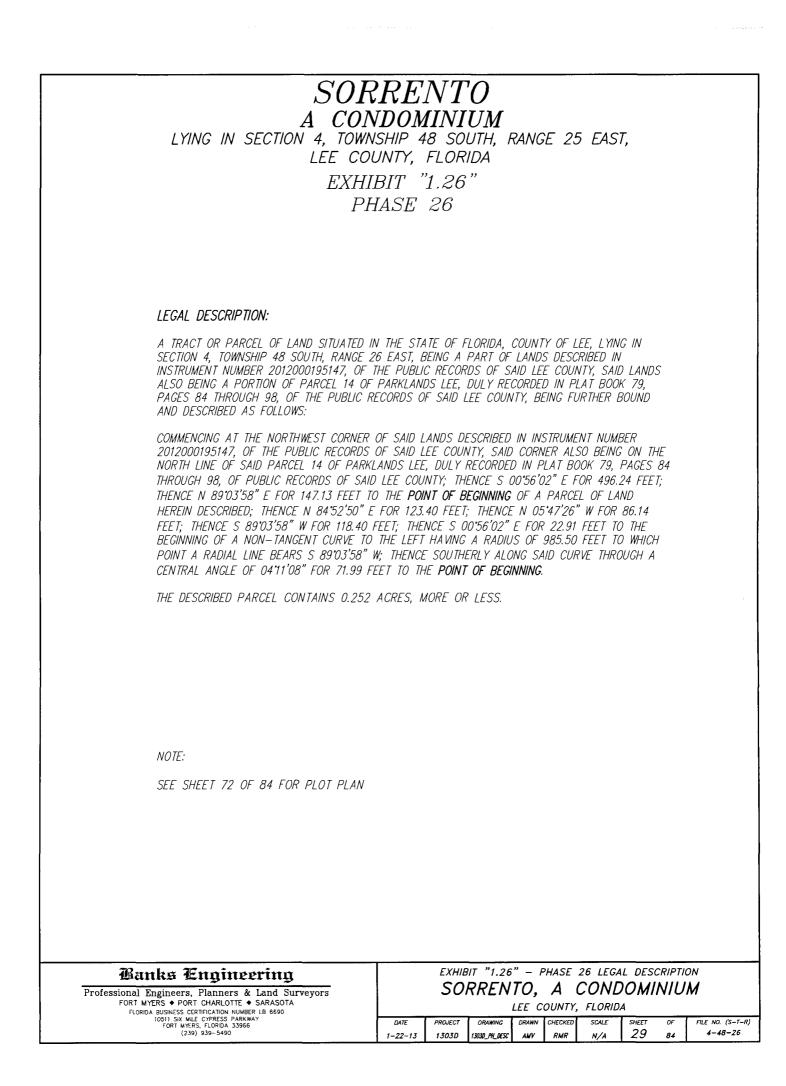


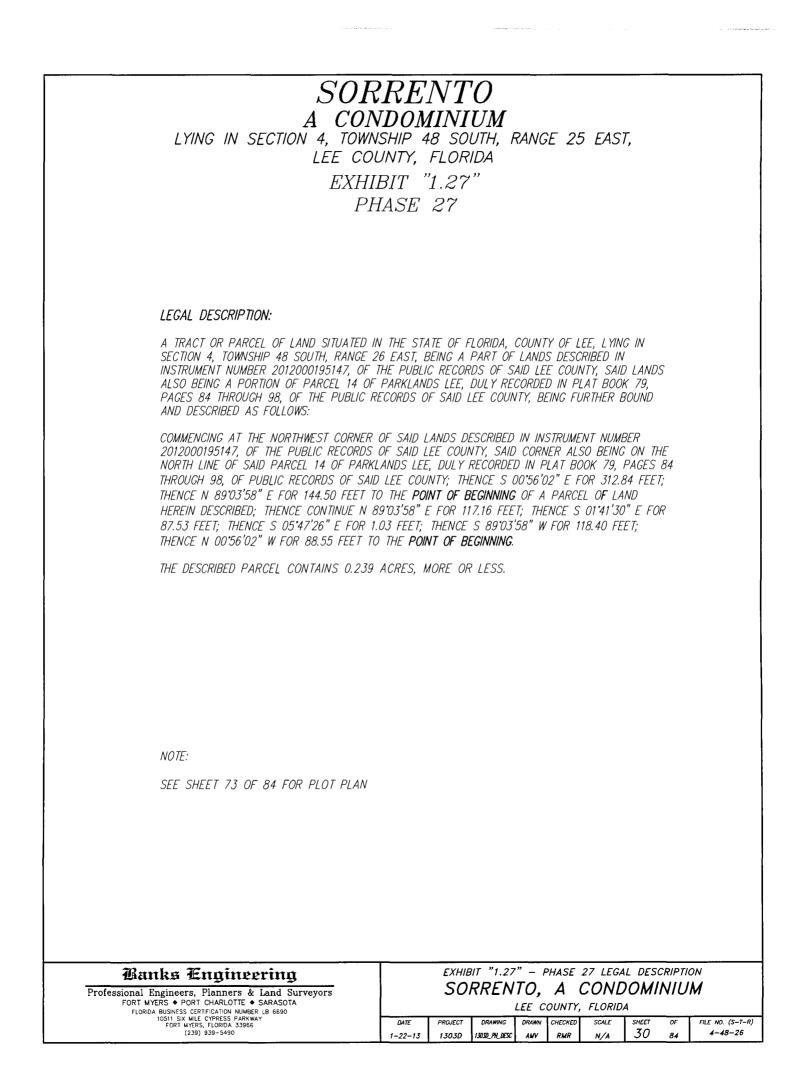


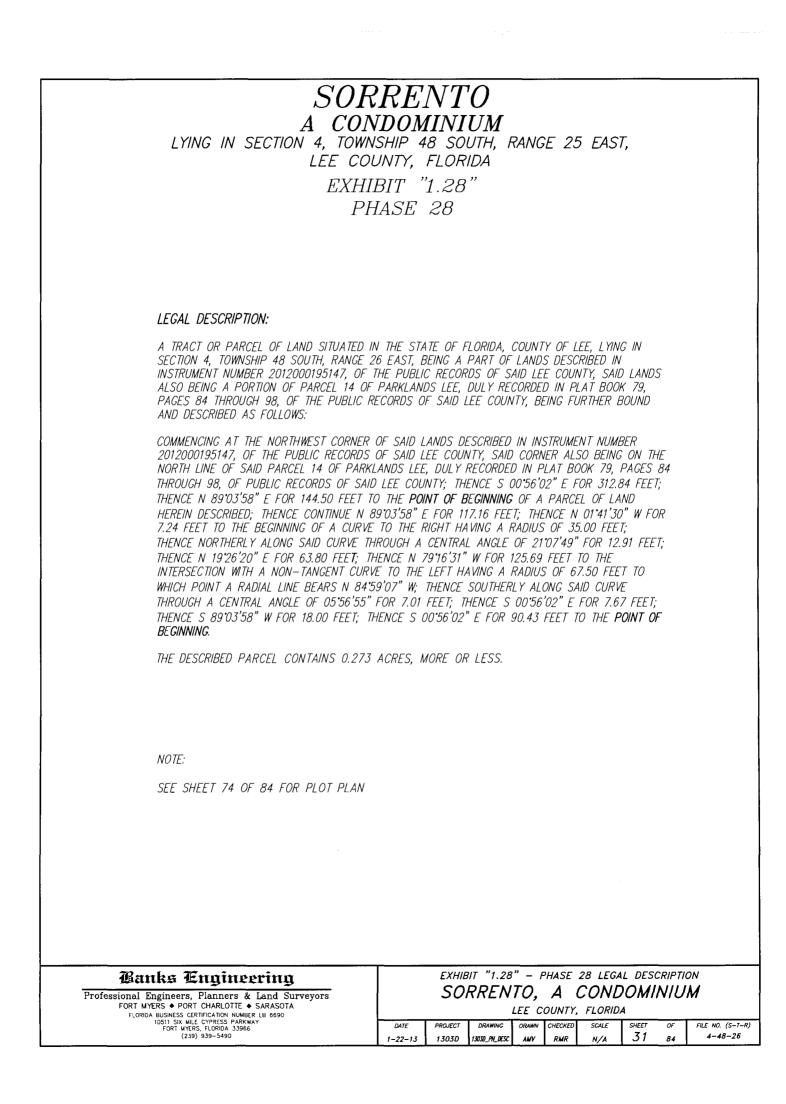


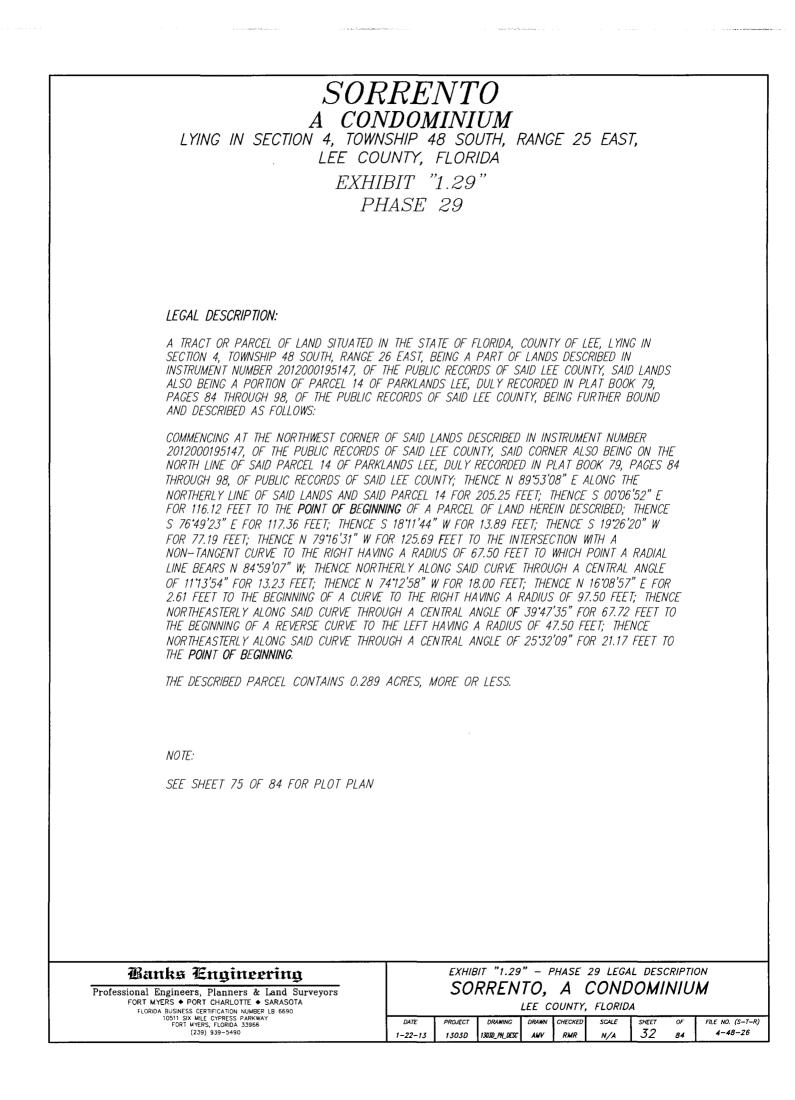


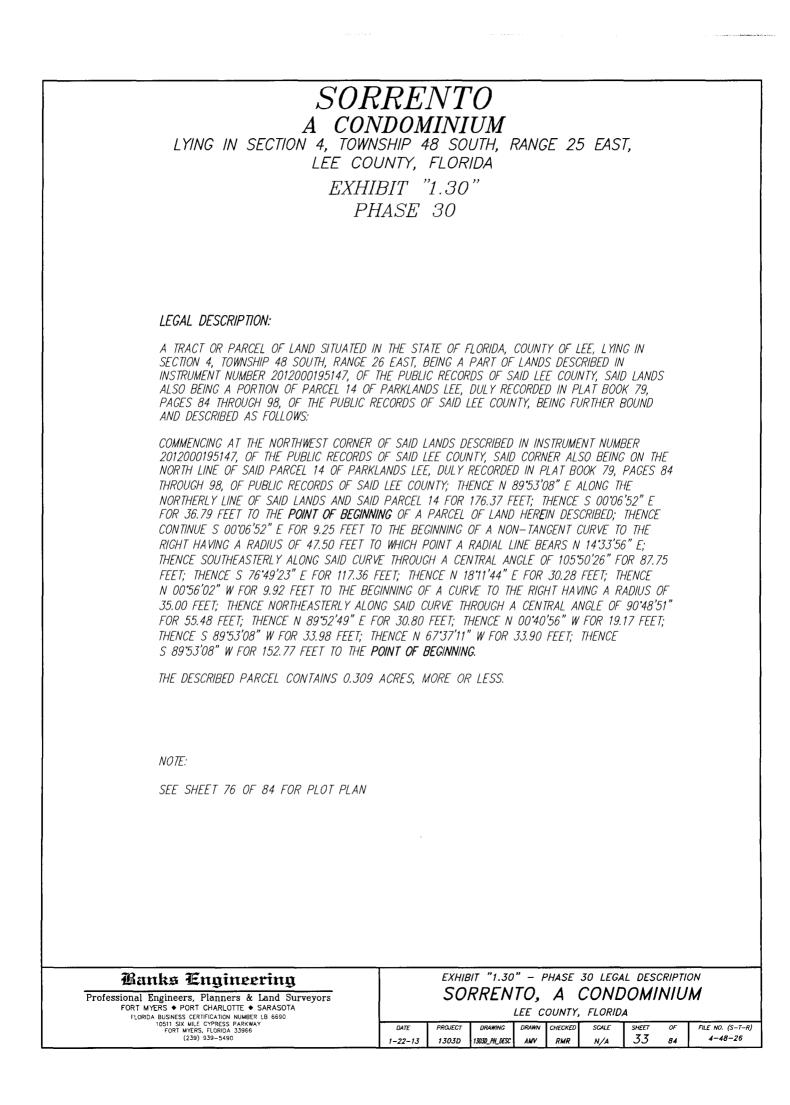


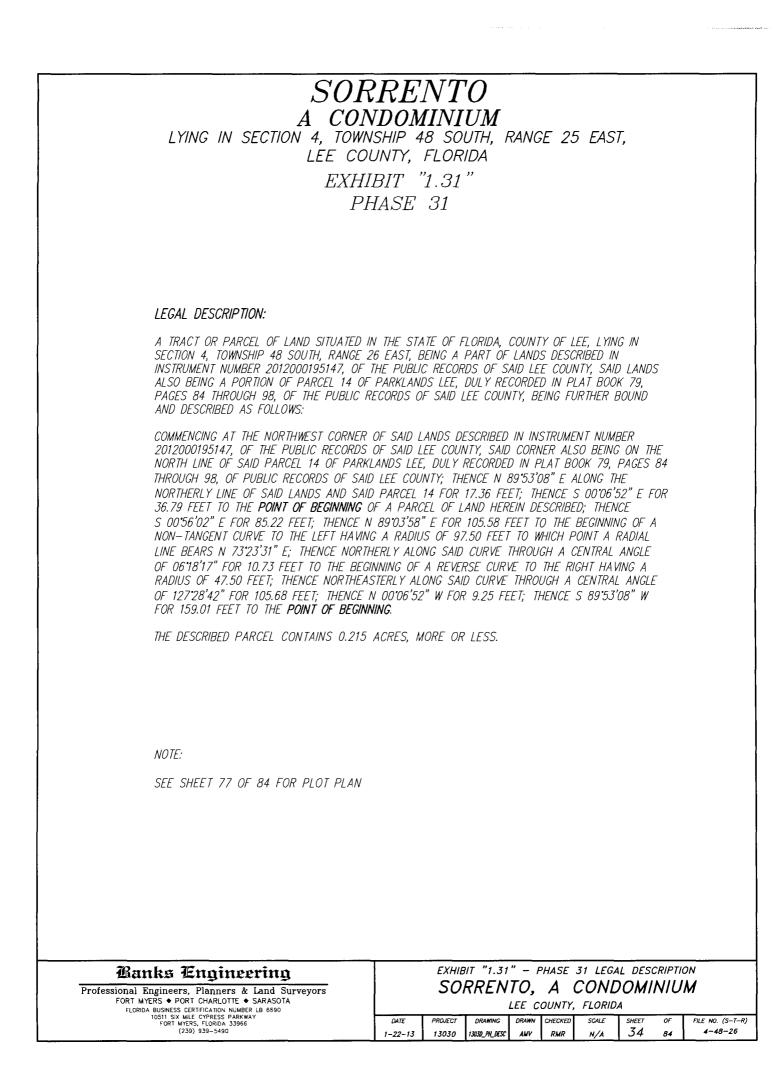


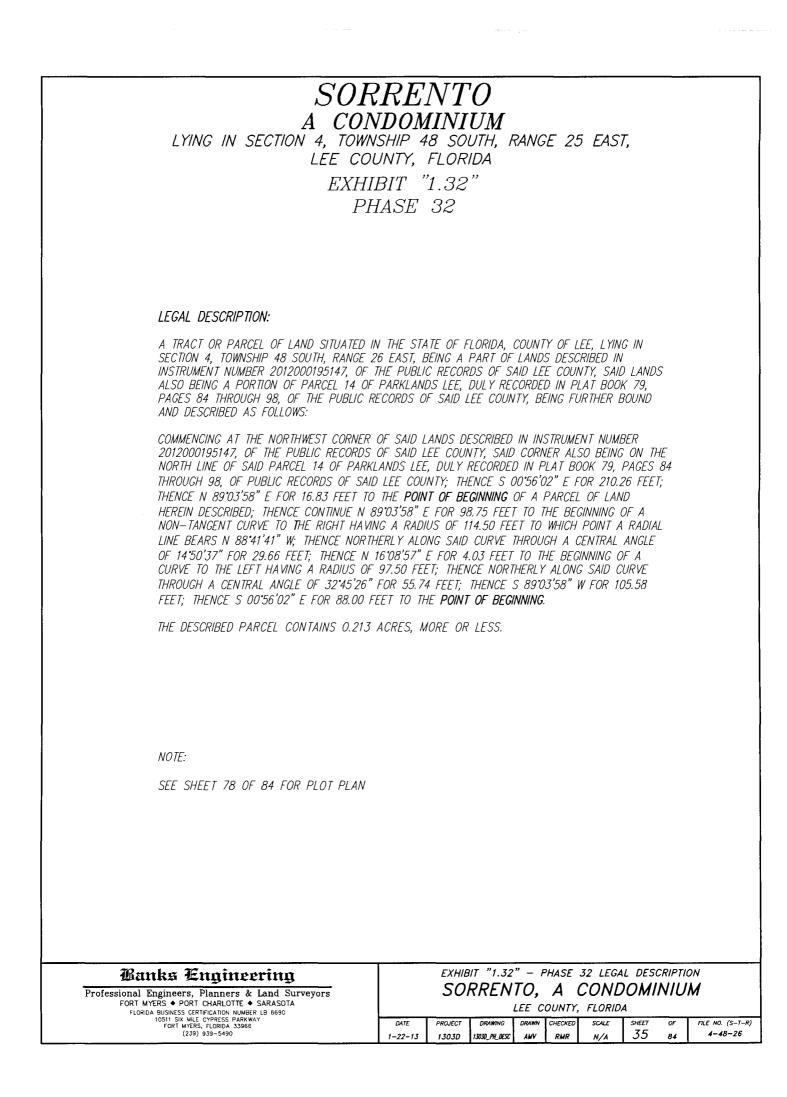


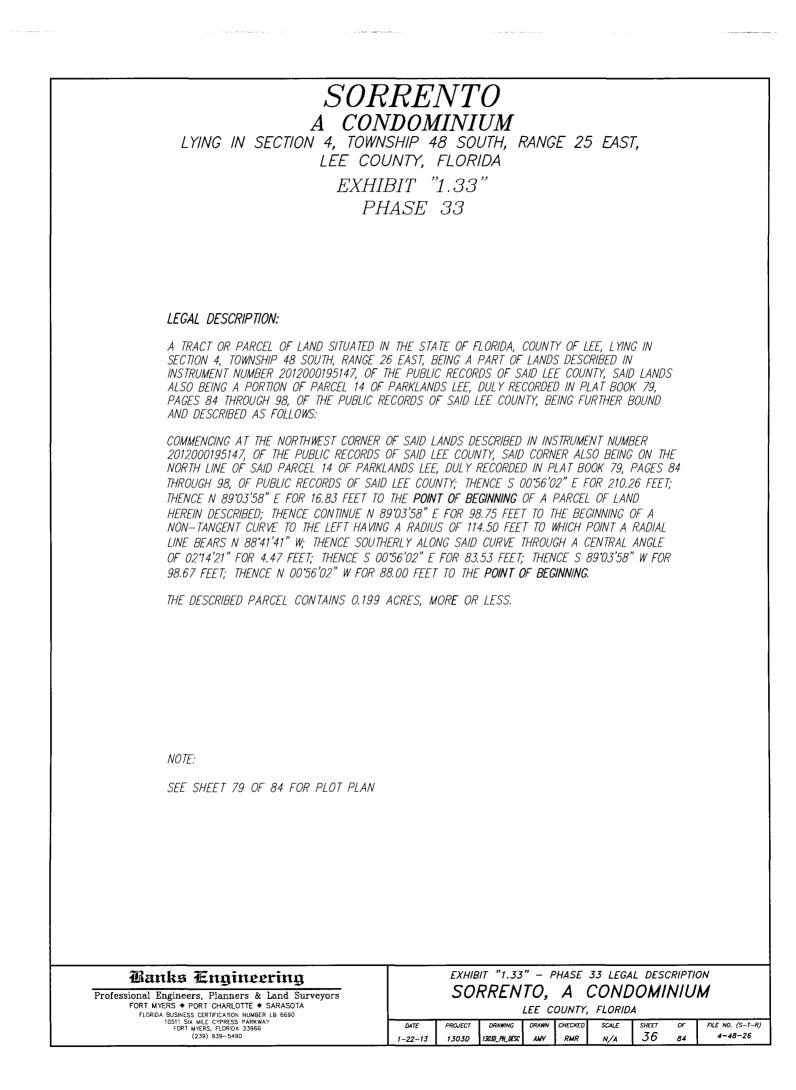


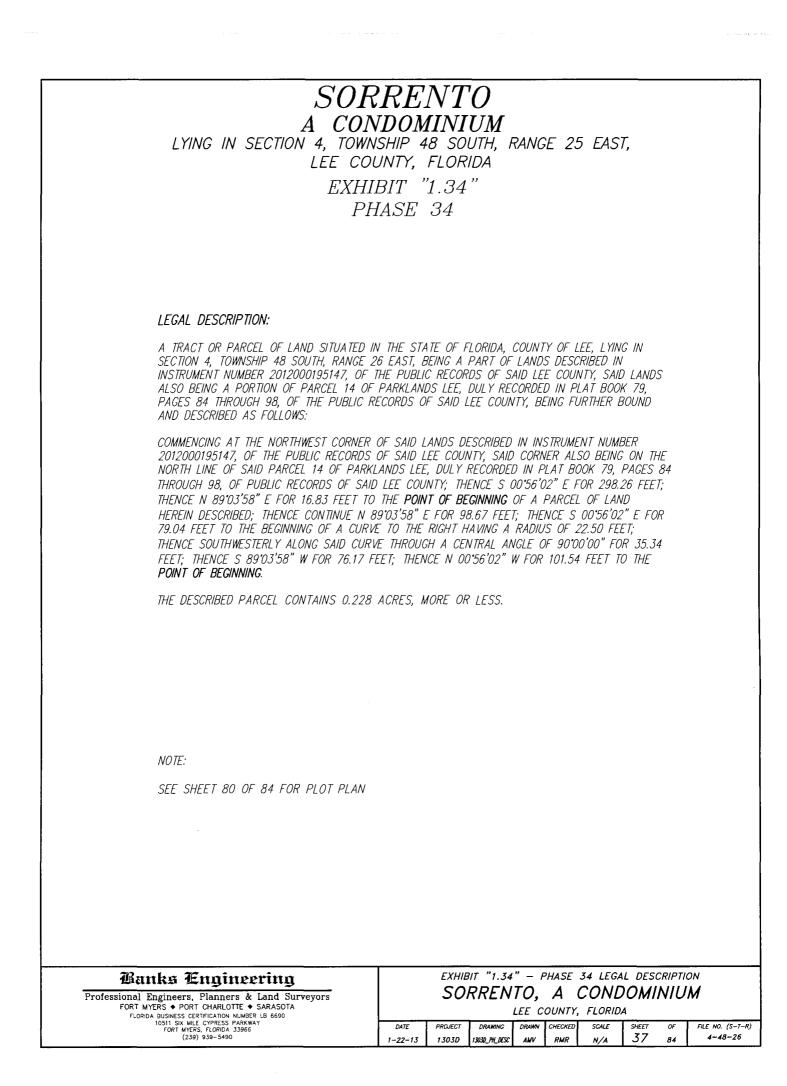


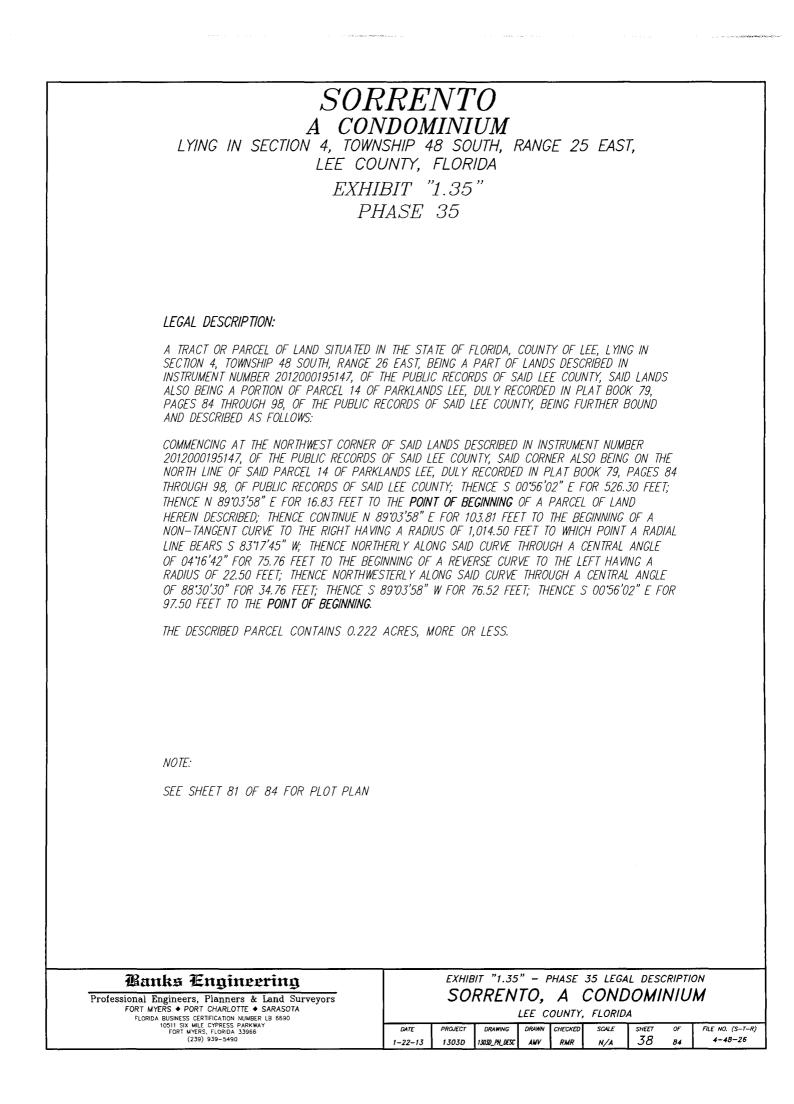


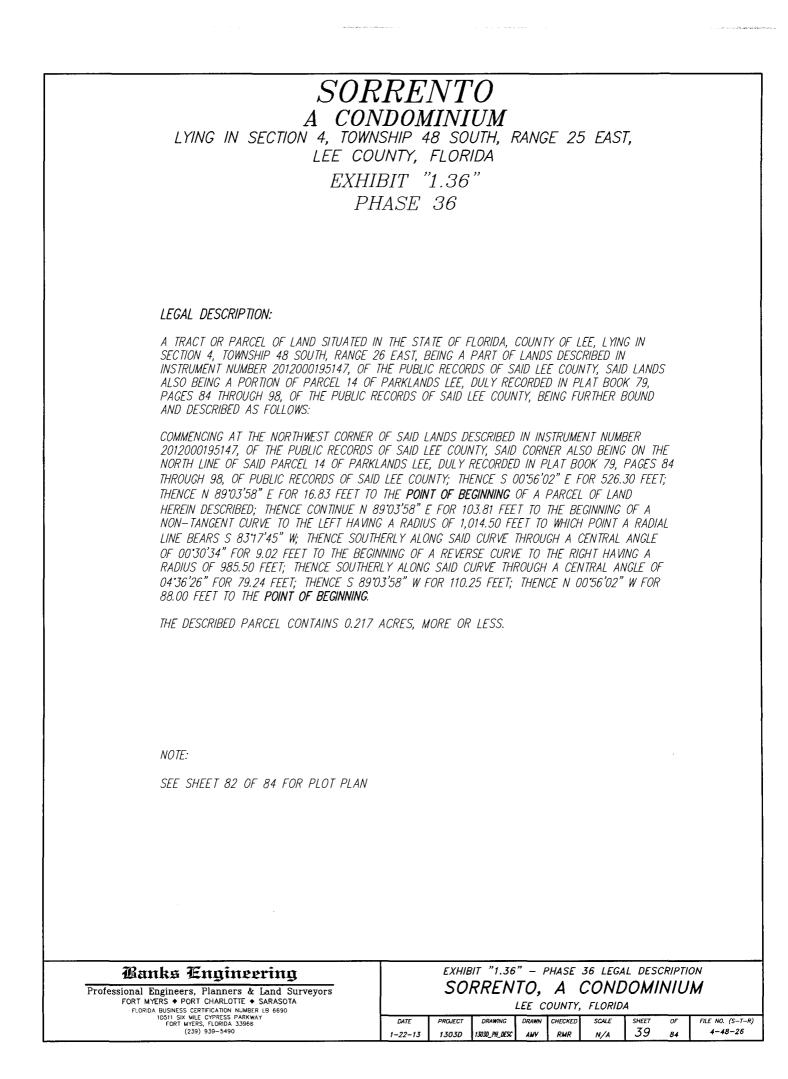


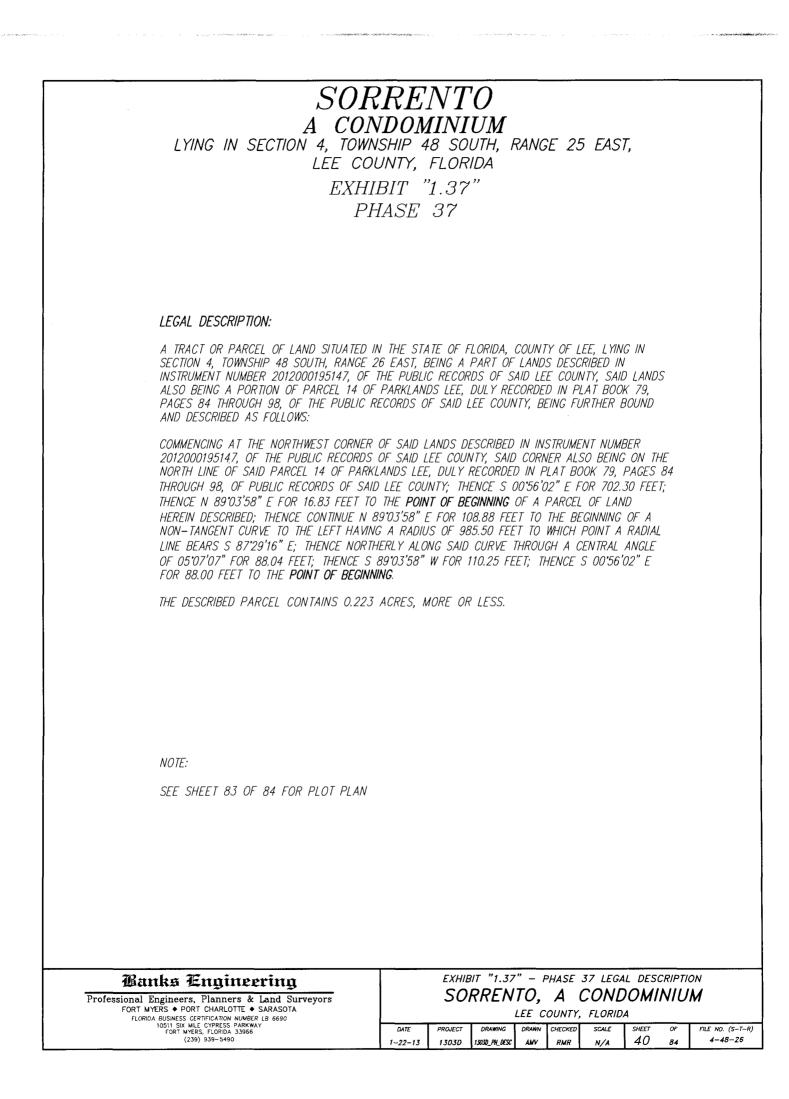


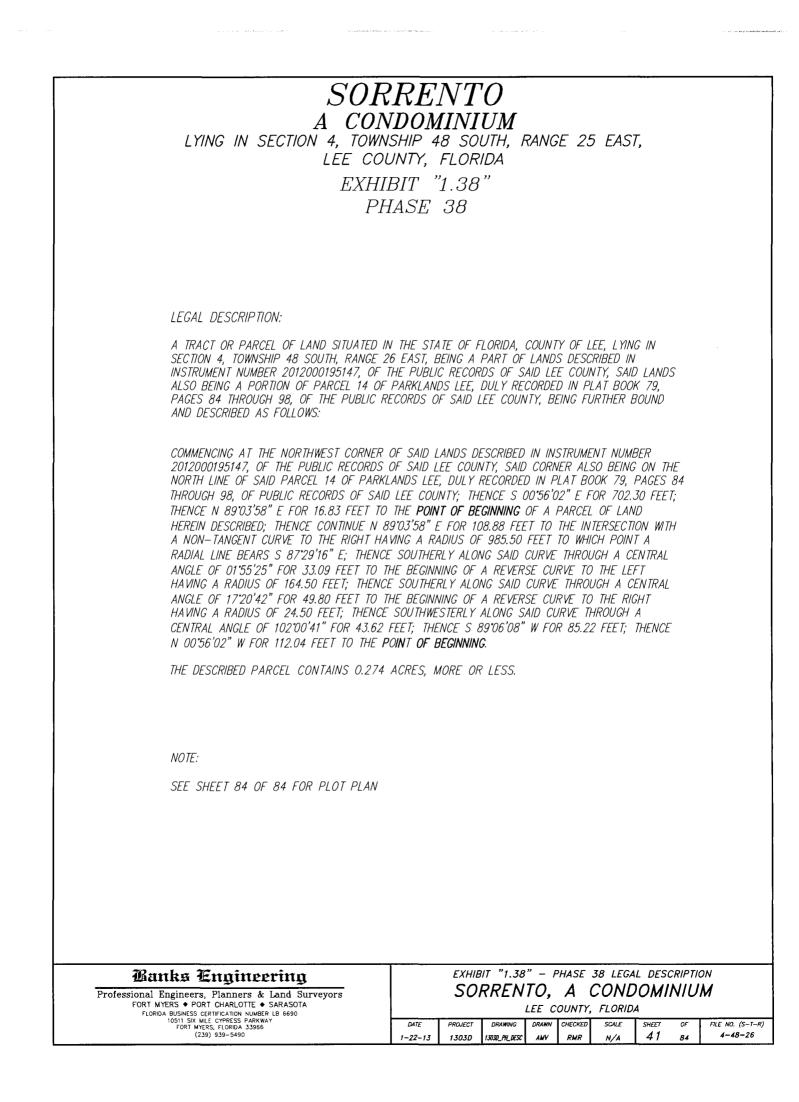






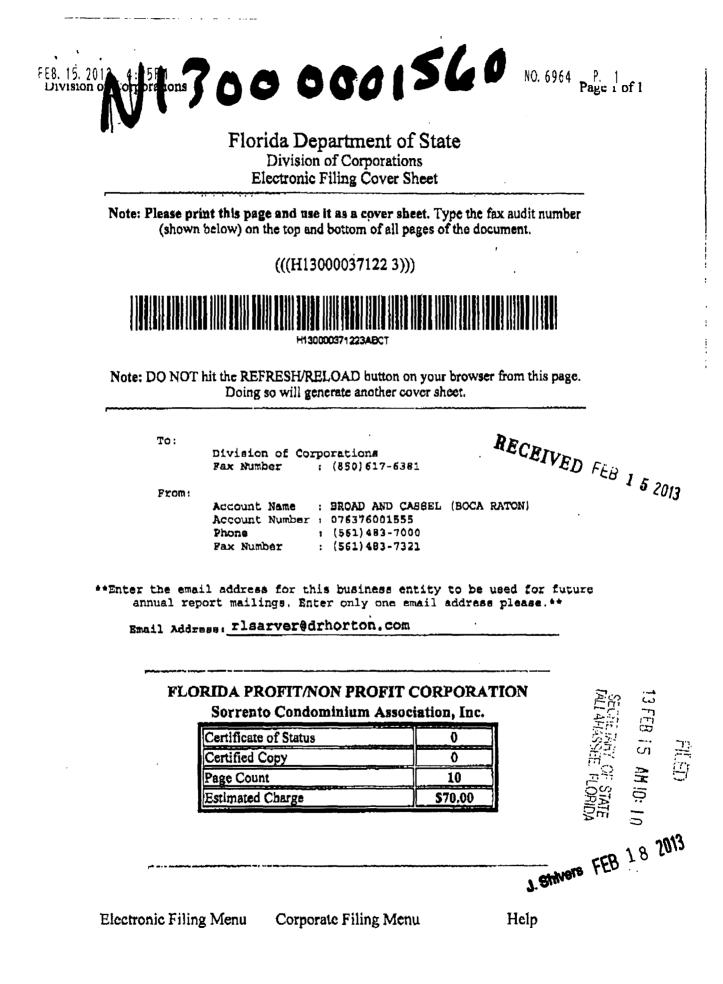






# EXHIBIT "2"

# ARTICLES OF INCORPORATION OF SORRENTO CONDOMINIUM ASSOCIATION, INC.



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## ARTICLES OF INCORPORATION

# OF

#### SORRENTO CONDOMINIUM ASSOCIATION, INC.

The undersigned incorporator, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, hereby adopts the following Articles of Incorporation:

# ARTICLE 1

#### NAME

The name of the corporation shall be SORRENTO CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association", these Articles of Incorporation as the "Articles", and the By-Laws of the Association as the "By-Laws".

#### ARTICLE 2

#### PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act, Chapter 718, <u>Florida Statutes</u>, as it exists on the date hereof (the "Act") for the operation of that certain condominium located in Lee County, Florida, and known as SORRENTO, A CONDOMINIUM (the "Condominium") wherein the Association is designated as the "Association."

# ARTICLE 3

#### DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of the Condominium to be recorded in the Public Records of Lee County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

#### ARTICLE 4

#### POWERS

The powers of the Association shall include and be governed by the following:

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

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- 4.2 <u>Enumeration</u>. The Association shall have all of the powers and duties set forth in the Act, and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration and as more particularly described in the By-Laws, as they may be amended from time to time, including, but not limited to, the following:
  - (a) To make and collect Assessments and other charges against members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.
  - (b) To buy, own, operate, lease, sell, trade and mortgage both real and personal property.
  - (c) To maintain, repair, replace, reconstruct, add to and operate all Condominium Property, Common Elements, easements, and other property acquired or leased by the Association.
  - (d) To purchase insurance upon all Condominium Property and insurance for the protection of the Association, its officers, directors, committee members and Unit Owners.
  - (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of all Condominium Property.
  - (f) To approve or disapprove the leasing, transfer, ownership and possession of Units as may be provided by the Declaration.
  - (g) To enforce by legal means the provisions of the Act, each Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium Property.
  - (h) To contract for the management and maintenance of all Condominium Property and to authorize a management agent (which may be an affiliate of Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of various records, enforcement of rules and maintenance, repair and replacement of the Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
  - (i) To employ personnel to perform the services required for the proper operation of the Association.

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(j) To operate, maintain and manage surface water and storm water management systems in a manner consistent with the Water Management District ("WMD") requirements and applicable WMD rules.

(k) To levy and collect adequate assessments from the members of the Association for the costs of maintenance and operation of the surface water or stormwater management systems. To contract for services to provide for the operation and management of such surface water and stormwater management systems.

- 4.3 <u>Association Property</u>. All funds and the title to all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.
- 4.4 <u>Distribution of Income</u>. The Association shall make no distribution of income to its members, directors or officers.
- 4.5 <u>Limitation</u>. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the By-Laws and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of the Declaration and By-Laws.

# ARTICLE 5

# **MEMBERS**

- 5.1 <u>Membership</u>. The members of the Association shall consist of all of the record title owners of Units in the Condominium from time to time, and after termination of a Condominium, shall also consist of those who were members at the time of such termination, and their successors and assigns.
- 5.2 <u>Assignment</u>. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.
- 5.3 <u>Voting</u>. On all matters upon which the membership shall be entitled to vote, there shall be only one (1) vote for each Unit, which vote shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning two (2) or more Units shall be entitled to one (1) vote for each Unit owned.
- 5.4 <u>Meetings</u>. The By-Laws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

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#### ARTICLE 6

#### TERM OF EXISTENCE

The Association shall have perpetual existence, unless dissolved in connection with a termination of the Condominium as provided in the Declaration and the Act. If the Association is dissolved, all WMD systems for surface and storm water management and the rights of access to such systems shall be conveyed to a similar not for profit entity for maintenance and operation or to an appropriate agency of the local government, as determined to be acceptable to the WMD.

#### ARTICLE 7

# INCORPORATOR

The name and address of the Incorporator of this Corporation is:

# NAME

#### ADDRESS

Jonathon Pentecost

13880 Treeline Avenue South, Suite 3 Fort Myers, Florida 33913

# ARTICLE 8

#### **OFFICERS**

The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

President:	Jill Meeks	
Vice President:	James Ratz	
Secretary/Treasurer:	Rebecca Sarver	

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# ARTICLE 9

#### DIRECTORS

- 9.1 <u>Number and Qualification</u>. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors determined in the manner provided by the By-Laws, but which shall consist of not less than three (3) directors. Directors, other than designees of Developer, must be members of the Association or duly authorized representatives of corporate, partnership, trust or other business entity Owners of Units.
- 9.2 <u>Duties and Powers</u>. All of the duties and powers of the Association existing under the Act, each Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required.
- 9.3 <u>Election: Removal</u>. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by and subject to the qualifications set forth in the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.
- 9.4 <u>Term of Developer's Directors</u>. Developer of the Condominium shall appoint the members of the first Board of Directors and their replacements who shall hold office for the periods described in the By-Laws.
- 9.5 <u>First Directors</u>. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have taken office, as provided in the By-Laws, are as follows:

NAME

#### ADDRESS

Jill Mceks	13880 Treeline Ave., Ste 3 Fort Myers, FL 33913
Rebecca Sarver	13880 Treeline Ave., Ste 3 Fort Myers, FL 33913
James Ratz	13880 Treeline Ave., Ste 3 Fort Myers, FL 33913

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#### ARTICLE 10

#### INDEMNIFICATION

- 10.1 Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, committee member, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or did act in a manner which he reasonably believed to be not in or opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.
- 10.2 <u>Expenses</u>. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.
- 10.3 <u>Advances</u>. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article 10.
- 10.4 <u>Miscellaneous</u>. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

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- 10.5 <u>Insurance</u>. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving, at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.
- 10.6 <u>Amendment</u>. Anything to the contrary herein notwithstanding, the provisions of this Article 10 may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

#### ARTICLE 11

#### BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded only in the manner provided in the By-Laws and the Declaration.

#### ARTICLE 12

#### AMENDMENTS

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

- 12.1 <u>Notice</u>. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.
- 12.2 <u>Adoption</u>. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing the approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all of the members of the Association represented at a meeting at which a quorum thereof has been attained and by not less than a majority of the entire Board of Directors.
- 12.3 <u>Limitation</u>. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of members, nor any changes in Sections 4.3, 4.4 or 4.5 of Article 4, entitled "Powers", without the approval in writing of all members and the joinder of all record owners of mortgages upon

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or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to Developer, or an affiliate of Developer, unless Developer shall join in the execution of the amendment. No amendment to this paragraph 12.3 shall be effective.

- 12,4 Developer Amendments. To the extent lawful, the Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.
- 12.5 <u>Recording</u>. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Lee County, Florida.

#### **ARTICLE 13**

# **INITIAL REGISTERED OFFICE:** ADDRESS AND NAME OF REGISTERED AGENT PRINCIPAL OFFICE

The initial registered agent of this corporation shall be D.R. Horton, Inc., a Delaware corporation with the privilege of having its office and branch offices at other places within or without the State of Florida. The initial registered agent in the state of Florida shall be located at 13880 Treeline Avenue South, Suite 3, Fort Myers, Florida 33913.

Until changed, the principal office and mailing address of the Association shall be 13880 Treeline Avenue South, Suite 3, Fort Myers, Florida 33913.

IN WITNESS WHEREOF, the incorporator has affixed his signature the day and year set forth below.

STATE OF FLORIDA	)
	) SS:
COUNTY OF LEE	)

The foregoing instrument was acknowledged before me this 12 day of February, 2013, by Jonathon Pentecost who is personally known to me.

Jonathon Penteces

My Commission Expires:

Notary State of Florida

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# REGISTERED AGENT

The undersigned hereby accepts appointment as Registered Agent of Sorrento Condominium Association, Inc. this \_\_\_\_\_ day of February, 2013. The street and mailing address of the undersigned is 13880 Treeline Avenue South, Suite 3, Fort Myers, Florida 33913.

D.R. HORTON, INC. a Delaware corporation θy. Name: Jonation Re tne Tide: US

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# EXHIBIT "3"

# BY-LAWS OF SORRENTO CONDOMINIUM ASSOCIATION, INC.

# BY-LAWS OF

# SORRENTO CONDOMINIUM ASSOCIATION, INC.

# A corporation not for profit organized under the laws of the State of Florida

- 1. <u>Identity</u>. These are the By-Laws of **SORRENTO CONDOMINIUM ASSOCIATION**, **INC.**, incorporated under the laws of the State of Florida, and organized for the purpose of administrating that certain condominium located in Lee County and known as Sorrento, a Condominium (the "Condominium"). If not fully recited in the text of these Bylaws, all provisions of Chapter 718.112(2) sections (a) through (o), <u>Florida Statutes</u>, are deemed to be included herein.
  - 1.1 <u>Fiscal Year</u>. The fiscal year of the Association shall be the twelve month period commencing January 1st of each year and terminating December 31st of that year. However, the Board of Directors is expressly authorized, when deemed advisable, to change the terms defining the Calendar Year.
  - 1.2 <u>Seal</u>. The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.
  - 1.3 <u>Principal Office</u>. The principal office of the Association shall be located at 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida or at such other location as designated by the Board of Directors. All books and records of the Association shall be kept in Lee County, Florida or at such other place as may be permitted by the Act, as amended from time to time.
- 2. <u>Definitions</u>. For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The other terms used in these By-Laws shall have the definitions stated herein or the same definitions and meanings as those set forth in the Declaration of Condominium for **Sorrento, a Condominium**, unless herein provided to the contrary, or unless the context otherwise requires.
- 3. <u>Members</u>.
  - 3.1 <u>Annual Meeting</u>. The annual members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect directors, and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held in the month of December following the year in which the Declaration is recorded.

- 3.2 <u>Special Meetings</u>. Special members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the members of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting. Special meetings may also be called by Unit Owners in the manner provided for in the Act. Notwithstanding the foregoing: (i) as to special meetings regarding the adoption of the Condominium's estimated operating budget, reference should be made to Section 10 of these By-Laws; and (ii) as to special meetings regarding recall of Board members, reference should be made to Section 4.3 of these By-Laws.
- 3.3 Participation by Unit Owners. Subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board, Unit Owners shall have the right to speak at the annual and special meetings of the Unit Owners, Committee meetings and Board meetings with reference to all designated agenda items. A Unit Owner does not have the right to speak with respect to items not specifically designated on the agenda, provided, however, that the Board may permit an Owner to speak on such items in its discretion. Every Unit Owner who desires to speak at a meeting may do so, provided that the Owner has filed a written request with the Secretary of the Association not less than 48 hours prior to the scheduled time for commencement of the meeting. Unless waived by the chairman of the meeting (which may be done in the chairman's sole and absolute discretion and without being deemed to constitute a waiver as to any other subsequent speakers), all Unit Owners speaking at a meeting shall be limited to a maximum of three (3) minutes per speaker. Any Unit Owner may tape record or videotape a meeting, subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board:
  - (a) The only audio and video equipment and devices which Unit Owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions;
  - (b) Audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting.
  - (c) Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording; and
  - (d) At least 48 hours prior written notice shall be given to the Secretary of the Association by any Unit Owner desiring to make an audio or video taping of the meeting.

3.4 Notice of Meeting; Waiver of Notice. Notice of a meeting of members (annual or special), stating the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the Condominium Property at least 48 continuous hours prior to the meeting. The notice of the annual meeting shall be hand delivered or sent by regular mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the member as it appears on the roster of members. Where a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address initially identified for that purpose by the Developer and thereafter as one or more of the Owners of the Unit shall so advise the Association in writing, or if no address is given or if the Owners disagree, notice shall be sent to the address for the Owner as set forth on the deed of the Unit. The posting and mailing of the notice for either special or annual meetings, which notice shall incorporate an identification of agenda items, shall be effected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the The Board shall adopt by rule, and give notice to Unit Owners of, a meeting. specific location on the Condominium Property upon which all notices of members' meetings shall be posted.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member), either in person or by proxy, shall constitute such member's waiver of notice of such meeting, and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

An officer of the Association, or the manager or other person providing notice of the meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association, affirming that notices of meetings were posted and mailed or hand delivered in accordance with this Section and Section 718.112(2)(d) of the Act, to each Unit Owner at the appropriate address for such Unit Owner. No other proof of notice of a meeting shall be required.

- 3.5 <u>Quorum</u>. A quorum at members' meetings shall be attained by the presence, either in person or by proxy (limited or general), of persons entitled to cast in excess of 30% of the votes of members entitled to vote at the subject meeting.
- 3.6 <u>Voting</u>.
  - (a) <u>Number of Votes</u>. Except as provided elsewhere herein, in any meeting of members, the Owners of Units shall be entitled to cast one (1) vote for each Unit owned. The vote of a Unit shall not be divisible.

- (b) <u>Majority Vote</u>. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws. As used in these By-Laws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the members" shall mean a majority of the votes entitled to be cast by the members and not a majority of the members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained. Similarly, if some greater percentage of members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of members and not of the members themselves.
- c) Voting Member. If a Unit is owned by one person, that person's right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Unit is owned by a corporation or other business entity, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation, or other person authorized by law to bind the entity, and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote attributable to such Unit shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed.
- 3.7 <u>Proxies</u>. Votes to be cast at meetings of the Association membership may be cast in person or by proxy. Except as provided herein, Unit Owners may not vote by general proxy, but may vote by limited proxies. Limited proxies shall be permitted for votes taken to: waive or reduce reserves; waive financial statements; amend the Declaration, Articles or By-Laws; or for any other matter requiring or permitting a vote of Unit Owners. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. A proxy may be

made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit (as above described), name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each proxy shall contain the date, time and place of the meeting for which it is given and, if a limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. There shall be no limitation on the number of proxies which may be held by any person (including a designee of the Developer). If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in its place. If such provision is not made, substitution is not permitted.

- 3.8 <u>Adjourned Meetings</u>. If any proposed meeting cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.
- 3.9 <u>Order of Business</u>. If a quorum has been attained, the President shall call to order the meeting and the order of business at annual members' meetings, and, if applicable, at other members' meetings, shall be:
  - (a) Collection of Election ballots not cast prior to the meeting, if applicable;
  - (b) Processing and counting of ballots for positions on the Board of Directors, if applicable;
  - (c) Appointment by the President of a chairman of the meeting (who need not be a member or a director);
  - (d) Proof of notice of the meeting or waiver of notice;
  - (e) Reading of minutes;
  - (f) Reports of officers;
  - (g) Reports of committees;
  - (h) Unfinished business;

- (i) New business;
- (j) Adjournment.

Items (b) through (j) may be waived in whole or in part or taken up in different order by direction of the chairman.

- 3.10 <u>Minutes of Meeting</u>. The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.
- Action Without A Meeting. Anything to the contrary herein notwithstanding, to the 3.11 extent lawful any action required or which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such members as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of members at which all members (or authorized persons) entitled to vote thereon were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary of the Association, or other authorized agent of the Association. Written consent shall not be effective to take the corporate action referred to in the consent unless signed by members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and delivered to the Association as aforesaid. Any written consent may be revoked prior to the date the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Secretary of the Association, or other authorized agent of the Association. Within ten (10) days after obtaining such authorization by written consent, notice must be given to members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. A consent signed in accordance with the foregoing has the effect of a meeting vote and may be described as such in any document.
- 4. <u>Directors</u>.

4.1 <u>Membership</u>. The affairs of the Association shall be governed by a Board of three (3) directors elected by the Owners. Directors must be natural persons who are 18 years of age or older. Directors may not vote at Board meetings by proxy or by secret ballot except that a secret ballot may be used to elect officers. The Board of Directors may, by a majority vote, elect to expand the number of directors to five (5). During Developer control, Directors need not be Unit Owners; however, upon turnover, Directors shall be Unit Owners. Directors may not vote at Board meetings by proxy or by secret ballot. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association, such Unit Owners, other than the Developer, shall be entitled to elect no less than one-third (1/3) of the members of the Board of Directors.

Such Unit Owners, other than the Developer, are entitled to elect not less than a majority of the members of the Board upon the first to occur of the following.

(a) Three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

(b) Three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

(c) When all of 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;

(d) 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;

(e) When the developer files a petition seeking protection in bankruptcy;

(f) When a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment; or

(g) Seven (7) years after the recordation of the certificate of surveyor pursuant to 718.104(4)(e) or the recording of an instrument that transfers title to a unit which is not accompanied by an assignment of the developer's rights in favor of the grantee thereof, whichever occurs first.

Developer shall have the right to elect a majority of the Board until the first occurrence of any of the above events. Developer is entitled to elect at least one (1) Director as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer owned Units in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board. The right reserved herein to Developer to elect and maintain Directors may be exercised by its successor(s) in interest.

4.2 <u>Election of Directors</u>. Members of the Board of Directors shall be elected in the manner provided in Section 718.112(2) (d) of the Act, unless a different method is adopted as provided therein. As provided in the Act, though, such election procedures shall not apply if there are no more candidates for election to the Board of Directors than there are vacancies on the Board to be filled or if same are waived, per the Act.

#### 4.3 <u>Vacancies and Removal</u>.

- (a) Except as to vacancies resulting from removal of directors by members (as addressed in subsection (b) below, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining directors at any Board meeting, even if the remaining Directors constitute less than a quorum, provided that all vacancies in directorships to which directors were appointed by the Developer pursuant to the provisions hereof shall be filled by the Developer without the necessity of any meeting; and provided further that when there is a director elected by Owners of a particular type of Unit and such director ceases to serve, the replacement shall be a Unit Owner (or qualified corporate, partnership or other business entity representative of a Unit Owner) of the same type of Unit.
- (b) Any director elected by the members (other than the Developer) may be removed by concurrence of a majority of the voting interests of the members owning this type of Units who voted for such director at a special meeting of members called for that purpose or by written agreement signed by a majority of all voting interests. The vacancy in the Board of Directors so created shall be filled by the members at a special meeting of the members called for such purpose, or by the Board of Directors, as and when permitted by the Act and in accordance therewith, but such replacement shall be an Owner (or representative of an owner as provided in (a) above) of the same type of Unit as the removed director. The conveyance of all Units owned by a director in the Condominium (other than appointees of the Developer or directors who were not Unit Owners) shall constitute the resignation of such director.
- (c) The removal of directors, other than those appointed by the Developer, shall only be accomplished in accordance with the procedures set forth in the Act including, without limitation, with respect to notices of meetings, voting, written agreements and the resolution of disputes regarding such removal.
- (d) Anything to the contrary herein notwithstanding, until a majority of the directors are elected by members other than the Developer of the Condominium, neither the first directors of the Association, nor any directors replacing them, nor any directors named by the Developer, shall be subject to removal by members other than the Developer. The first directors and directors replacing them may be removed and replaced by the Developer without the necessity of any meeting by written notice to the Association.
- (e) If a vacancy on the Board of Directors results in the inability to obtain a quorum of directors in accordance with these By-Laws, any Owner may apply to the Circuit Court within whose jurisdiction the Condominium lies

for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Unit Owner shall mail to the Association and post in a conspicuous place on the Condominium Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these By-Laws. If, during such time, the Association fails to fill the vacancy(ies), the Unit Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board of Directors, and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these By-Laws.

- 4.4 <u>Term</u>. Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided. Notwithstanding the foregoing, any Director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced by the Developer at any time.
- 4.5 <u>Organizational Meeting</u>. The organizational meeting of newly-elected or appointed directors shall be held within a reasonable time after their election or appointment. The directors calling the organizational meeting shall give at least forty-eight (48) hours advance notice thereof, stating the time and place of the meeting in accordance with the Act.
- 4.6 Meetings. Meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of meetings shall be given to each director, personally or by mail, telephone or facsimile, and shall be transmitted at least three (3) days prior to the meeting. Meetings of the Board of directors and any Committee thereof (as herein defined) at which a quorum of the members of that Committee are present shall be open to all Unit Owners. Any Unit Owner may tape record or videotape meetings of the Board, in accordance with the rules of the Division and the Association. The right to attend Board meetings includes the right to speak at such meetings with respect to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements. Adequate notice of such meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least fortyeight (48) continuous hours preceding the meeting, except in the event of an emergency. Notwithstanding the foregoing, written notice of any meeting of the Board at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be considered shall be mailed or delivered to all Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen

(14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association.

The Board shall adopt by rule, and give notice to Unit Owners of, a specific location on the Condominium Property upon which all notices of Board and/or Committee meetings shall be posted.

Notwithstanding the foregoing, items not included in the notice of the Board meeting may be taken up by at least a majority plus one of the directors, but shall be noticed and ratified at the next regular meeting of the Board.

Special meetings of the directors may be called by the President and must be called by the President or Secretary at the written request of one-third (1/3) of the directors or where required by the Act.

- 4.7 <u>Waiver of Notice</u>. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.
- 4.8 <u>Quorum and Voting</u>. A quorum at directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is specifically required by the Declaration, the Articles or these By-Laws.

Each Director shall have one (1) vote on all matters coming before the Board, such vote to be cast only by the director (i.e., not by proxy) and to be recorded in the minutes of the Board meeting at which it is cast, except that officers of the Association may be elected by secret ballot.

- 4.9 <u>Adjourned Meetings</u>. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted as long as notice of such business to be conducted at the rescheduled meeting is given, if required (e.g., with respect to budget adoption).
- 4.10 <u>Joinder in Meeting by Approval of Minutes</u>. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the approval of that Director of the business conducted at the meeting, but

such joinder shall not allow the applicable Director to be counted as being present for purposes of quorum.

- 4.11 <u>Presiding Officer</u>. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside, which person need not be a Unit Owner, officer or director).
- 4.12 <u>Order of Business</u>. If a quorum has been attained, the order of business at Directors' meetings shall be:
  - (a) Proof of due notice of meeting;
  - (b) Reading and disposal of any unapproved minutes;
  - (c) Reports of officers and committees;
  - (d) Election of officers;
  - (e) Unfinished business;
  - (f) New business;
  - (g) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer who shall be the president or the president's appointee (who need not be an officer, director or member of the Association).

- 4.13 <u>Minutes of Meetings</u>. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.
- 4.14 <u>Committees</u>. The Board may by resolution also create Committees and appoint persons to such Committees and vest in such Committees such powers and responsibilities as the Board shall deem advisable.

As used herein, the term "Committee" shall, for purposes of notices of meetings and the rights of unit owners with respect to meetings, pertain to those committees meeting the definition thereof set forth in the Act; provided, however, that this shall not prevent the Board of Directors from forming other committees.

4.15 <u>Proviso</u>. Notwithstanding anything to the contrary contained in this Section 4.15 or otherwise, the Board shall consist of three directors during the period that the Developer is entitled to appoint a majority of the directors, as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of

Directors until Unit Owners other than the Developer own fifteen (15%) percent or more of the Units in the Condominium. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units in the Condominium that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors. Upon the election of such director(s), the Developer shall forward to the Division the name and mailing address of the director(s) elected. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors upon the first to occur of the following: (a) three years after fifty percent (50%) of the Units that will be operated ultimately by the Association has been conveyed to a purchaser; (b) three months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all of 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; (d) 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; (e) when the developer files a petition seeking protection in bankruptcy; (f) when a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment; or (g) seven (7) years after the recordation of the certificate of surveyor pursuant to 718.104(4)(e) or the recording of an instrument that transfers title to a unit which is not accompanied by an assignment of the developer's rights in favor of the grantee thereof, whichever occurs first. The Developer is entitled (but not obligated) to elect at least one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business five percent (5%) of the Units that will be operated ultimately by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer owned units in the same manner as any other unit owner except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board.

The Developer may transfer control of the Association to Unit Owners other than the Developer prior to such dates in its sole discretion by causing enough of its appointed directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect directors and assume control of the Association. Provided at least thirty (30) days' notice of 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 the Unit Owners other than the Developer refuse or fail to assume control.

Within seventy-five (75) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors, or sooner if the Developer has elected to accelerate such event as aforesaid, the Association shall call, and give not less than sixty (60) days' notice of an election for the members of the Board of Directors. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

At the time the Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and such Unit Owners shall accept control. At that time (except as to subparagraph (g), which may be ninety (90) days thereafter) Developer shall deliver to the Association, at Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including, but not limited to, the following items, if applicable to the Condominium:

- (a) The original or a photocopy of each recorded Declaration of Condominium and all amendments thereto. If a photocopy is provided, the Developer must certify by affidavit that it is a complete copy of the actual recorded Declaration.
- (b) A certified copy of the Articles of Incorporation of the Association.
- (c) A copy of the By-Laws of the Association.
- (d) The minute book, including all minutes, and other books and records of the Association.
- (e) Any rules and regulations which have been adopted.
- (f) Resignations of resigning officers and Board members who were appointed by the Developer.
- The financial records, including financial statements of the association, and (g) source documents from the incorporation of the Association through the date of the turnover. The records shall be audited for the period from the incorporation of the Association or from the period covered by the last audit, if an audit has been performed for each fiscal year since the incorporation of the Association, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted accounting principles and shall be audited in accordance with generally accepted auditing standards as prescribed by the Florida Board of Accountancy. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for Association purposes, and billings, cash receipts and related records to determine that the Developer was charged and paid the proper amounts of Assessments.
- (h) Association funds or the control thereof.

- (i) All tangible personal property that is the property of the Association or is or was represented by the Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property.
- (j) A copy of the plans and specifications utilized in the construction or remodeling of Improvements and the supplying of equipment, and for the construction and installation of all mechanical components serving the Improvements and the Condominium Property, with a certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components serving the Improvements and the Condominium Property.
- (k) A list of the names and addresses of all contractors, subcontractors and suppliers, of which Developer had knowledge at any time in the development of the Condominium, utilized in the construction or remodeling of the improvements and the landscaping of the Condominium and/or Association Property.
- (1) Insurance policies.
- (m) Copies of any Certificates of Occupancy which may have been issued for the Condominium Property.
- (n) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one (1) year prior to the date the Unit Owners take control of the Association.
- (o) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.
- (p) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records.
- (q) Leases of the Common Elements and other leases to which the Association is a party, if applicable.
- (r) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.
- (s) All other contracts to which the Association is a party.

- (t) A report included in the official records, under seal of an architect or engineer authorized to practice in this state, attesting to required maintenance, useful life, and replacement costs of the following applicable common elements comprising a turnover inspection report:
  - 1. Roof.
  - 2. Structure.
  - 3. Fireproofing and fire protection systems.
  - 4. Elevators.
  - 5. Heating and cooling systems.
  - 6. Plumbing.
  - 7. Electrical systems.
  - 8. Swimming pool or spa and equipment.
  - 9. Seawalls.
  - 10. Pavement and parking areas.
  - 11. Drainage systems.
  - 12. Painting.
  - 13. Irrigation systems.

Within ninety (90) days after Unit Owners other than the Developer elect a majority of members of the Board of Directors of the Association, the Developer shall deliver the financial records, including financial statements of the Association, and source documents from the incorporation of the Association through the date of turnover. The records shall be audited for the period from the incorporation of the Association or from the period covered by the last audit, if an audit has been performed for each fiscal year since incorporation, by an independent certified public accountant. All financial statements shall be audited in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy, pursuant to Chapter 473 of the Florida Statutes. The accountant performing the audit shall examine to the extent necessary

supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for Association purposes and the billings, cash receipts, and related records to determine that the Developer was charged and paid the proper amounts of Assessments, as applicable.

- 4.16 <u>Unit Owner Inquiries</u>. When a Unit Owner files a written inquiry by certified mail with the Board of Directors, the Board shall respond to such inquiry within thirty (30) days of its receipt thereof by giving a substantive response thereto or by notifying the Unit Owner that a legal opinion has been requested. If a legal opinion is sought by the Board, it shall provide a substantive response within sixty (60) days of its receipt of the inquiry. The Board's failure to act within thirty (30) days or to notify the Unit Owner within thirty (30) days after the action taken shall preclude the Association from recovering attorneys' fees and costs in any subsequent litigation, administrative proceeding or arbitration arising out of the complaint.
- 5. Authority of the Board.
  - 5.1 <u>Powers and Duties</u>. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-Laws may not be delegated to the Board of Directors by the Unit Owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:
    - (a) Operating and maintaining all Common Elements.
    - (b) Determining the expenses required for the operation of the Association and the Condominium.
    - (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Condominium Property.
    - (d) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium and Association Property.
    - (e) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
    - (f) Purchasing, leasing or otherwise acquiring title to, or an interest in, property in the name of the Association, or its designee, for the use and benefit of its members. The power to acquire personal property shall be exercised by the Board and the power to acquire real property shall be exercised as described herein and in the Declaration.

- (g) Purchasing, leasing or otherwise acquiring Units or other property, including, without limitation, Units at foreclosure or other judicial sales, all in the name of the Association, or its designee.
- (h) Selling, leasing, mortgaging or otherwise dealing with Units acquired, and subleasing Units leased, by the Association, or its designee.
- (i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.
- (j) Obtaining and reviewing insurance for the Condominium and Association Property.
- (k) Making repairs, additions and improvements to, or alterations of, Condominium Property, and repairs to and restorations of Condominium Property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (1) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium.
- (m) Levying fines against appropriate Unit Owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Unit Owner and, if applicable, his tenant, licensee or invitee. No fine may exceed \$100.00 per violation, however, a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided however, that no such fine shall in the aggregate exceed \$1,000.00. No fine shall become a lien upon a Unit.
- (n) Borrowing money on behalf of the Association or the Condominium when required in connection with the operation, care, upkeep and maintenance of Common Elements (except for anticipated expenses which shall be assessed to Unit Owners on Common Expenses) or the acquisition of real property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the consent of the Owners of at least two-thirds (2/3<sup>rds</sup>) of the Units represented at a meeting at which a quorum has been attained in accordance with the provisions of these By-Laws shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$10,000.00. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subparagraph (n) is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof

as his interest in his Common Elements bears to the interest of all the Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Owner's Unit.

- (o) Subject to the provisions of the Act (unless waived as provided therein), contracting for the management and maintenance of the Condominium Property and authorizing a duly licensed management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair, and replacement of the Common Elements and Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles, these By-Laws and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (p) At its discretion, but within the parameters of the Act, authorizing Unit Owners or other persons to use portions of the Common Elements or Association Property for private parties and gatherings and imposing reasonable charges for such private use.
- (q) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-Laws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not for profit.
- (r) Contracting with and creating or joining in the creation of special taxing districts, joint councils and the like.
- (s) If necessary, to operate, maintain and manage surface water and storm water management systems in a manner consistent with the Water Management District ("WMD") requirements and applicable WMD rules.

### 6. <u>Officers</u>.

- 6.1 <u>Executive Officers</u>. The executive officers of the Association shall be a President, a Vice-President, a Treasurer and a Secretary (none of whom need be directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers, other than designees of the Developer-appointed Board of Directors, must be Unit Owners (or authorized representatives of business entity or trust Unit Owners).
- 6.2 <u>President</u>. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
- 6.3 <u>Vice-President</u>. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as may be required by the Directors or the President.
- 6.4 <u>Secretary</u>. The Secretary shall keep the minutes of all proceedings of the directors and the members. The Secretary shall attend to the giving of all notices to the members and directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 <u>Treasurer</u>. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.
- 7. <u>Fiduciary Duty</u>. The officers and directors of the Association have a fiduciary relationship to the Unit Owners. An officer, director or manager employed by the Association shall not

solicit, offer to accept, or accept any thing or service of value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. Any such officer, director or manager who knowingly so solicits, offers to accept or accepts any thing or service of value shall, in addition to all other rights and remedies of the Association and Unit Owners, be subject to a civil penalty in accordance with the Act. Notwithstanding the foregoing, this paragraph shall not prohibit an officer, director or manager from accepting services or items received in connection with trade fairs or education programs.

- 8. <u>Compensation</u>. Neither directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a director or officer as an employee of the Association, nor preclude contracting with a director or officer for the management of the Condominium or for any other service to be supplied by such director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.
- 9. <u>Resignations</u>. Any director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any director or officer (other than appointees of the Developer) shall constitute a written resignation of such director or officer.
- 10. <u>Fiscal Management</u>. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:
  - 10.1 <u>Budget</u>.

Adoption by Board; Items. The Board of Directors shall from time to time, and at (a) least annually, prepare a budget for the Association and for each Condominium (which shall detail all accounts and items of expense and contain at least all items set forth in Section 718.504(21) of the Act), determine the amount of Assessments payable by the Unit Owners to meet the expenses of the Condominium and the Association and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. In addition, if the Association maintains Limited Common Elements with the cost to be shared only by those entitled to use the Limited Common Elements, the budget or a schedule attached thereto shall show amounts budgeted therefor. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law) for each Condominium. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing regardless of the amount of deferred maintenance expense or replacement cost, and for any other item having an estimated useful life in excess of one (1) year and for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount of reserves shall be computed by means of a formula which is based upon the estimated life and the estimated replacement cost of each reserve item. The Association may adjust

replacement and reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance. Reserves shall not be required if the members of the Association who are Unit Owners in the Condominium have, by a majority vote at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby for the Condominium. Prior to transfer of control of the Association to Unit Owners other than the Developer, the Developer may vote to waive reserves for the first two (2) years of operation of the Association, after which time reserves may only be waived or reduced upon the vote of a majority of non-Developer voting interests present at a duly called meeting of the Association. If a meeting of Unit Owners has been called to determine to provide no reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect. Reserve funds and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for any other purposes is approved in advance by a vote of the majority of the voting interests present at a duly called meeting of the Association.

The adoption of a budget for the Condominium shall comply with the requirements hereinafter set forth:

- (i) <u>Notice of Meeting</u>. A copy of the proposed budget of Common Expenses shall be mailed to each Unit Owner not less than fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting. Notice of the meeting shall also be posted as required herein.
- (ii) Special Membership Meeting. If a budget is adopted by the Board of Directors which requires Assessments against such Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, as hereinafter defined, upon written application of ten percent (10%) of the Unit Owners, a special meeting of the Unit Owners shall be held within thirty (30) days of delivery of such application to the Board of Directors. Each Unit Owner shall be given at least fourteen (14) days' notice of said meeting. At the special meeting, Unit Owners shall consider and adopt a substitute budget. The adoption of said substitute budget shall require a vote of Owners of not less than a majority of all the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Directors shall go into effect as scheduled.
- (iii) <u>Determination of Budget Amount</u>. In determining whether a budget requires Assessments against Unit Owners in any year

exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded from the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded further from such computation Assessments for improvements to the Condominium Property.

- (iv) <u>Proviso</u>. As long as the Developer is in control of the Board of Directors of the Association, the Board shall not impose Assessments for a year greater than one hundred fifteen percent (115%) of the prior year's Assessments, as calculated per (iii) above, without the approval of a majority of Unit Owners other than the Developer.
- (b) <u>Adoption by Membership</u>. In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year in accordance with the requirements above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, or propose a budget in writing to the members, and if such budget is adopted by the members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.
- 10.2 Assessments. Assessments against Unit Owners for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each month of the year for which the Assessments are made. If annual Assessments are not made as required. Assessments shall be presumed to have been made in the amount of the last prior Assessments, and monthly installments on such Assessments shall be due upon each installment payment date until changed by In the event the annual Assessments prove to be amended Assessments. insufficient, the budget and Assessments may be amended at any time by the Board of Directors, subject to the provisions of Section 10.3 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full months of the fiscal year left as of the date of such amended Assessments, each such monthly installment to be paid on the first day of the month, commencing the first day of the next ensuing month. If only a partial month remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

- 10.3 <u>Special Assessments and Assessments for Capital Improvements</u>. Special Assessments and Capital Improvement Assessments (as defined in the Declaration) shall be levied as provided in the Declaration and shall be paid in such manner as the Board of Directors of the Association may require in the notice of such Assessments. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in the notice of adoption of same. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future assessments.
- 10.4 <u>Late Assessments</u>. Assessments not paid within ten (10) days from the date due may bear interest from the date when due until paid at the then highest rate allowed by law. Additionally, the failure to pay any assessment within ten (10) days from the date due shall entitle the Association to levy a late charge against the defaulting Unit Owner, in such amount as the Board may determine from time to time; provided, however, such late charge shall not exceed the maximum amount allowed under the Act (as amended from time to time).
- 10.5 <u>Depository; Commingling</u>. The depository of the Association shall be such bank or banks in the State of Florida as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the directors.

All funds shall be maintained separately in the Association's name. Reserve and operating funds of the Association may be commingled for purposes of investment, but separate ledgers must be maintained for each account. In no event shall the Association, or any manager or management company representing same, commingle any Association funds with such party's funds or the funds of any other condominium association. Notwithstanding the foregoing, in the event that any amendment to the Act or duly adopted Rule of the Division is more liberal than the foregoing, than such amendment to the Act or Rule of the Division shall supersede and control so as to prevent the commingling of funds to the maximum extent lawful.

10.6 <u>Acceleration of Installments Upon Default</u>. If a Unit Owner shall be in default in the payment of an installment upon his Assessments, the Board of Directors or its agent may accelerate the next twelve (12) months' of the Assessments upon thirty (30) days' prior written notice to the Unit Owner and the filing of a claim of lien, and the then unpaid balance of the Assessments for the balance of the year shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Unit Owner, or not less than ten (10) days after the mailing of such notice to him by certified mail, whichever shall first occur.

- 10.7 <u>Fidelity Bonds</u>. Fidelity bonds shall be required by the Board of Directors for all persons handling or responsible for Association funds and the President, Secretary and Treasurer of the Association in such amounts as shall be determined by a majority of the Board, but in no event less than the amounts required by the Act. The premiums on such bonds shall be paid by the Association as a Common Expense.
- 10.8 <u>Accounting Records and Reports</u>. The Association shall maintain accounting records in the State, according to accounting practices normally used by similar associations. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within ninety (90) days following the end of the fiscal year, or as otherwise provided in the Act, the Board 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 or received by the Association from the third party preparer, but not later than one hundred twenty (120) days after the end of the fiscal year, the Association shall mail, or furnish by personal delivery, to each Unit Owner a complete financial report of actual receipts and expenditures for the previous twelve (12) months. The report shall show the amount of receipts by accounts and receipt classifications and shall show the amount of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- (a) Costs for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Costs for recreation facilities;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Costs for building maintenance and repair;
- (h) Insurance costs;

- (i) Administrative and salary expenses; and
- (j) General reserves, maintenance reserves and depreciation reserves.
- 10.9 <u>Application of Payment</u>. All payments made by a Unit Owner shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.
- 10.10 <u>Notice of Meetings</u>. Notice of any meeting where Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.
- 11. <u>Roster of Unit Owners</u>. Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.
- 12. <u>Parliamentary Rules</u>. Except when specifically or impliedly waived by the chairman of a meeting (either of members or directors), Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Act, the Declaration, the Articles or these By-Laws; provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting.
- 13. <u>Amendments</u>. Except as may be provided in the Declaration to the contrary, these By-Laws may be amended in the following manner:
  - 13.1 <u>Notice</u>. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.
  - 13.2 <u>Adoption</u>. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be:
    - (a) by not less than a majority of the votes of all members of the Association represented at a meeting at which a quorum has been attained and by not less than 66-2/3% of the entire Board of Directors; or

- (b) after control of the Association has been turned over to Unit Owners other than the Developer, by not less than 66-2/3% of the votes of the members of the Association represented at a meeting at which a quorum has been attained.
- 13.3 <u>Proviso</u>. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section shall be valid.
- 13.4 <u>Execution and Recording</u>. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these By-Laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of the County with an identification on the first page of the amendment of the Official Records Book and Page of said Public Records where the Declaration is recorded.
- 14. <u>Rules and Regulations</u>. Attached hereto as Schedule RR and made a part hereof are initial rules and regulations concerning the use of portions of the Condominium Property. The Board of Directors may, from time to time, modify, amend or add to such rules and regulations. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board of Directors to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Developer.
- 15. <u>Official Records</u>. From the inception of the Association, the Association shall maintain for the condominium, a copy of each of the following, where applicable, which shall constitute the official records of the Association:
  - (a) The plans, permits, warranties, and other items provided by the Developer pursuant to Section 718.301(4) of the Act, including all WMD permits and conditions and copies of permitting actions affecting the Association;
  - (b) A photocopy of the recorded Declaration of Condominium and all amendments thereto;
  - (c) A photocopy of the recorded By-Laws of the Association and all amendments thereto;

- (d) A certified copy of the Articles of Incorporation of the Association and all amendments thereto;
- (e) A copy of the current Rules and Regulations of the Association;
- (f) A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than 7 years.
- (g) A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the electronic mailing addresses and the numbers designated by unit owners for receiving notice sent by electronic transmission of those unit owners consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.
- (h) All current insurance policies of the Association and of all Condominiums operated by the Association;
- (i) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility;
- (j) Bills of Sale or transfer for any property owned by the Association;
- (k) Accounting records for the Association and the accounting records for the Condominium, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but not be limited to:
  - (i) Accurate, itemized, and detailed records for all receipts and expenditures.
  - (ii) A current account and a monthly, bimonthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount paid upon the account, and the balance due.
  - (iii) All audits, reviews, accounting statements, and financial reports of the Association or each Condominium.

- (iv) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year;
- (1) Ballots, sign-in sheets, voting proxies and all other papers relating to voting by unit owners which shall be maintained for a period of 1 year from the date of the election, vote or meeting to which the document relates.
- (m) All rental records where the Association is acting as agent for the rental of Units.
- (n) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.
- (o) A copy of the current question and answer sheet as described in Section 718.504 of the Act.
- (p) A copy of the inspection report as provided for in s. 718.301(4)(p).
- (q) All other records of the Association not specifically included in the foregoing which are related to the operation of the Association.

The official records of the Association shall be maintained within Lee County in the State of The official records of the Association shall be open to inspection by any Florida. Association member or the authorized representative of such member at all reasonable times and within ten (10) working days after receipt of written request for same by the Board or its designee. The right to inspect the records includes the right to make or obtain copies, at a reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying. The failure of the Association to provide official records to a Unit Owner or his authorized representative within five (5) working days after receipt of a written request therefore shall create a rebuttable presumption that the Association willfully failed to comply with this paragraph. Failure to permit inspection of the Association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The Association shall maintain on the Condominium Property an adequate number of copies of the Declaration, Articles, By-Laws and rules, and all amendments to the foregoing to ensure their availability to Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those persons requesting same.

Notwithstanding any of the foregoing, no item exempted from the records availability requirements of the Act (e.g., documents subject to attorney-client privilege) need be made available by the Association.

- 16. <u>Alternative Dispute Resolution</u>. Any "dispute" (as such term is defined in the Act) shall be submitted to nonbinding arbitration as, and to the extent, required by the Act and in accordance with the procedures set forth in the Rules of the Division.
- 17. <u>Certificate of Compliance</u>. A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Association's Board as evidence of compliance of the Units to applicable fire and life safety code.
- 18. <u>Construction</u>. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
- 19. <u>Captions</u>. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.
- 20. <u>Indemnification</u>. Every Officer and Director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred by or imposed upon him in connection with any proceedings to which he may be a party, or in which he may become involved by reason of being or having been an Officer or Director of the Association, whether or not an Officer or Director at the time the expenses are incurred. The Officer or Director shall not be indemnified if adjudged guilty of gross negligence or willful misconduct, or if he shall have breached his fiduciary duty to the members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved in writing by the Board of Directors. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to which the Director or Officer may be entitled.
- 21. <u>Priorities in Case of Conflict</u>. In the event of conflict between or among the provisions of any of the following, the order of priority shall be, from highest priority to lowest:
  - (a) The Act, as it existed on the date of recording of the Declaration;
  - (b) The Declaration;
  - (c) The Articles;
  - (d) These By-Laws; and
  - (c) The Rules and Regulations of the Association.

The foregoing was adopted as the By-Laws of **SORRENTO CONDOMINIUM ASSOCIATION, INC.**, a corporation not for profit under the laws of the State of Florida, as of the 12TH day of FERNARY, 2013.

SORRENTO CONDOMINIUM ASSOCIATION, INC., a Florida not for profit-corporation

By:\_ 丁/1 MEEKS Name: H

Attest Name: RE DECCA ARVER

Its: Secretary

# **SCHEDULE "RR"**

Rules and Regulations

# SCHEDULE "RR" TO BY-LAWS

# RULES AND REGULATIONS FOR SORRENTO, A CONDOMINIUM

(ALL REFERENCES HEREIN TO CAPITALIZED TERMS WHICH ARE NOT DEFINED IN THESE RULES AND REGULATIONS SHALL HAVE THE MEANINGS ASCRIBED THERETO IN THE DECLARATION OF CONDOMINIUM FOR SORRENTO, A CONDOMINIUM ("DECLARATION"), THE ARTICLES OF INCORPORATION AND BY-LAWS FOR SORRENTO CONDOMINIUM ASSOCIATION, INC.)

1. <u>OCCUPANCY</u>. Units shall be used only as residences and for no other purpose. Each Owner, tenant and occupant of a Unit should carefully review the Declaration for additional occupancy and use restrictions.

2. <u>USE</u>.

(a) No improper, offensive or unlawful use shall be made of any Unit, the Condominium Property, or of the Common Elements or any part thereof. All laws, zoning ordinances and regulations of all governmental authorities having jurisdiction thereof shall be observed.

(b) No Unit Owner shall permit or suffer anything to be done or kept in his Unit which will increase the rate of insurance on the Condominium Property, or which will obstruct or interfere with the rights of other Unit Owners or annoy them by unreasonable noises, smells or otherwise, nor shall any Unit Owner commit or permit any nuisance, immoral or illegal act in or about the Condominium Property.

(c) In order to preserve the residential character of the Condominium, no business, trade or profession of any type whatsoever shall be conducted from within any Unit in the Condominium (other than Units occupied by the Developer) without the prior written consent of the Association; however, an Owner may use a room within a Unit as an office for conducting personal business if such business does not require contact with customers or clientele at the Unit or be of such pervasive nature as to dominate the residential character of the occupancy of the Unit. The Association shall possess additional authority to promulgate rules and regulations governing the manner, method and to what degree additional uses other than noted in this document may be permitted, and further, the Association shall have the power to revoke the granting of such additional permitted uses, when in the Association's sole discretion, the use in question has become excessive and/or violates the residential character of the Condominium.

(d) The use of all Common Elements shall, at all times, be governed by these Rules and Regulations, as they may be amended from time to time by the Association, and by such other rules and regulations as may be posted, from time to time, in and about such Common Elements by the Association.

(e) Common Elements and Limited Common Elements shall only be used for the purposes intended, and shall not be used for the hanging of garments or other objects or for the cleaning of rugs or other items. Common Elements and Limited Common Elements shall not be obstructed, littered, defaced, or misused in any manner.

3. **PETS**. Not more than two (2) domestic pets (limited to either dogs, cats or other common household pets) may be kept in a Unit, provided said pets: (i) are not kept, bred, or maintained for any commercial purpose; (ii) are not a nuisance or annoyance to neighbors; and (iii) are not left unattended on balconies or outside the Units. Unit Owners must pick up all solid wastes of their pets and dispose of such waste appropriately. All pets, including cats, must be leashed at all times when outside the Unit. Pets may not be kept in or on a Limited Common Element. Neither the Developer, Board of Directors, nor the Association shall be liable for any occupant of a Unit committing such a violation shall fully indemnify and hold harmless the Developer, the Board of Directors, the Association, and each Unit Owner in such regard. In addition, any Owner maintaining a pet within a Unit shall carry necessary and adequate liability insurance related thereto naming the Association as an additional insured.

#### 4. <u>APPARATUS AND ALTERATIONS</u>.

(a) Unless otherwise prohibited by applicable law, no clothesline or similar device shall be allowed on any portion of the Condominium Property.

(b) A Unit Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies, terraces, or windows of a Building, Common Elements, Condominium Property, or a Unit, except with the prior written consent of the Association, and further, if and when approved, subject to the conditions designated and adopted by the Association. All screening, window and exterior glass door coverings and drape linings shall only be in the colors specified by the Association. Anything to the contrary notwithstanding, any Unit Owner may display one 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 4½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard and attach to the mantel or frame of the unit door a religious object not to exceed 3 inches wide, 6 inches high and 1.5 inches deep.

(c) Installation of satellite dishes by Unit Owners shall be restricted in accordance with the following: (i) installation shall be limited solely to the Unit or any Limited Commons Elements appurtenant thereto, and may not be on the Common Elements or protrude into Common Element air space; (ii) the dish may be no greater than one meter (39.37 inches) in diameter; and (iii) to the extent that same may be accomplished without (a) impairing reception of an acceptable quality signal, (b)

unreasonably preventing or delaying installation, maintenance or use of an antenna, or (c) unreasonably increasing the cost of installing, maintaining or using an antenna, the dish shall be placed in a location which minimizes its visibility from the Common Elements. Further, Unit Owners shall not drill through exterior walls in order to install such an antenna or satellite dish.

(d) Television, radios, musical instruments and other instrumentality of sound reproduction or amplification must be used at such times and at such levels as will provide a minimum disturbance to other Unit Owners. No radio or television installation or other electrical equipment shall be permitted in any Unit if it interferes with the television or radio reception of another Unit. Except as provided herein, no exterior antenna shall be permitted on the Condominium Property, provided that the Developer shall have the right (but not the obligation) to install and maintain community antennae, radio and television lines, security systems, and communications systems.

(e) All portions of the Common Elements must, at all times, be kept free of obstruction. No garbage cans, supplies, or other articles shall be placed in the pathway, halls, driveways, walkways or parking areas. All garbage shall be properly bagged and immediately deposited in garbage disposal areas designated by the Association.

(f) No Unit Owner shall in anyway affix any "for sale" or "for rent" signs or any other kinds of signs, notices or advertisements to the exterior of his Unit or in any way allow any signs to be visible to the general public from within his Unit.

(g) No flammable, combustible or explosive fluids, chemicals or other substances shall be kept in any Unit or on the Common Elements.

(h) Curtains, draperies, and other window coverings (including their linings) which face exterior windows or glass doors of Units shall be white or off-white in color unless otherwise specifically approved by the Association.

(i) Repair, construction, decorating or remodeling work will be performed on Mondays through Saturdays between the hours of 8:00 a.m. and 5:00 p.m., and no such work shall be performed on Sundays or legal holidays, except in case of emergency authorized by the Association and as necessary by the Developer, in the Developer's sole discretion.

(j) No articles other than patio-type furniture shall be placed on the balconies, lanais, patios or other Common Elements.

(k) No terrace shall be cleaned in such a manner as to cause water or debris to drain from said terraces to other terraces below.

(1) No bicycles, skateboards, scooters, or similar equipment shall be permitted in the recreational facilities or amenities of the Master Association, if any. Bicycles shall be stored only in areas designated by the Association. 5. <u>CHILDREN</u>. Children shall be the direct responsibility of their parents or legal guardians, including full supervision of children while within the Condominium Property and commonly used facilities and including full compliance by children with these Rules and Regulations and all other rules and regulations of the Association.

## 6. **ASSOCIATION**.

(a) No Owner, tenant or occupant of a Unit shall direct, supervise or in any manner attempt to assert any control over any of the employees of the Association, nor shall he or she attempt to send any such employees on private business of such Unit Owner, tenant, or occupant; such employees are to be directed only by Officers of the Association or the management personnel engaged by the Association.

(b) The Association, through its Officers or any designated Agent, may maintain a pass key to each Unit for utilization for pest extermination services and/or only in the event of emergency, such as fire, leakage, etc. No Owner, tenant, or occupant of a Unit shall alter any lock or install a new lock in any door leading into the Unit of such Owner without the prior written consent of the Association. In the event such consent is given, the Unit Owner shall provide the Association's Officer or agent with an additional key for the use of the Association pursuant to its right of access to each Unit. Should an Owner fail to provide such a key, the Association shall have the right to forcibly enter for purposes provided herein and under the Declaration.

### 7. <u>PARKING</u>.

(a) Parking areas are solely for non-commercial automobiles with a current passenger registration. No vehicle which cannot operate on its own power shall be permitted to remain on the Condominium Property for more than twenty-four (24) hours. Speed limits shall be strictly observed.

(b) No commercial vehicles, campers, mobile homes, motor homes, house trailers or trailers of any other description, recreational vehicles, boats or boat trailers shall be permitted to be parked or to be stored at any place on the Condominium Property, unless otherwise permitted by the Declaration or the Board. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other temporary commercial services, or to any of the Association's or Developer's vehicles, subject to the terms herein.

(c) No vehicle maintenance or repairs shall be performed on the Condominium Property, except for emergency repairs.

(d) No vehicle belonging to any Owner or to a member of the family of an Owner or guest, tenant or employee of an Owner shall be parked in such a manner as to impede or prevent access to another Owner's parking space.

(e) No parking garage shall be used for any purpose which prohibits the parking of a motor vehicle therein.

(f) Vehicles shall only be washed in vehicle wash areas designated by the Association.

8. <u>PLUMBING</u>. Water closets and other plumbing shall not be used for any purposes other than those for which they are constructed. No sweepings, rubbish, rags or other foreign substances shall be thrown in them. The cost of any damage resulting from misuse shall be borne by the person causing the damage and, in the case of guests, by the Unit Owner who invited the guest onto the Condominium Property.

9. **<u>RESPONSIBILITY FOR DELIVERIES</u>**. Unit Owners shall be liable for damages to the Condominium Property caused by receiving deliveries, or moving or removing furniture or other articles to or from their respective Units.

10. **SOLICITATION**. There shall be no solicitation by any person anywhere in or on the Condominium Property for any cause, charity or any other purpose whatsoever, unless specifically authorized by the Association.

11. **FOOD AND BEVERAGES**. Food and beverages shall be consumed only within Units and in such other areas specifically designated for such use by the Association.

12. **ODORS**. No noxious or unusual odors shall be generated in such quantities that they permeate to other Units and become annoyances or become obnoxious to other Owners. Normal cooking odors, normally and reasonably generated from kitchens shall not be deemed violations of this regulation.

13. <u>COOKING DEVICES</u>. No fires, cooking devices, grills or other devices which emit smoke or dust shall be allowed or used upon any balcony or terrace. Such cooking devices may only be used in outdoor cooking areas designated by the Association.

14. **<u>HURRICANE/STORM SHUTTERS</u>**. All Owners, tenants and occupants of a Unit shall have all hurricane and storm shutters approved by the Association prior to the installation thereof. Each Unit Owner who plans to be absent during the hurricane season must prepare his Unit before departure by: (1) removing all furniture, plants and other objects from the balcony and (2) designating a responsible firm or individual to care for the Unit in the event of a hurricane threat and/or should the Unit suffer hurricane damage, and by furnishing the Board with the name of said firm or individual. Such firm or individual designated by the Owner shall be subject to the approval of the Association. Should such firm or individual not be designated or available, the Association is authorized, but not obligated, to take whatever steps are necessary in its discretion to protect the Unit and the Condominium Property at the sole cost and expense of the Owner.

15. **EXTERIOR CHANGES.** No exterior changes to the Units, including any changes to the balconies or other Limited Common Elements shall be made by any Unit Owner without the prior written approval of the Board of Directors pursuant to the terms and provisions of the Declaration of Condominium.

16. <u>COMPLIANCE BY UNIT OWNERS</u>. All Owners, tenants, invitees, licensees, guests, family members, agents, employees and occupants of a Unit shall comply with these

this paragraph may subject that person to the imposition of a fine (upon notice and hearing) and to possible legal remedies, including, but not limited to, suits for money damages, injunctive relief, or any combination thereof, as set forth in the Declaration, the Articles and By-Laws.

17. **COMPLIANCE BY DEVELOPER.** These Rules and Regulations shall not be applicable to the Developer, its designees, successors and assigns, or to Units owned by the Developer, except for those specific rules and regulations contained herein that pertain to Association approval of leases, restrictions on the presence of pets, restrictions on occupancy of Units based on age, and restrictions on the type of vehicles allowed to park on Condominium Property or Association Property; provided, however, the Developer and its designees shall have the right to be exempt from any such parking restriction if the vehicle is engaged in any activity relating to construction, maintenance, or marketing of Units. These Rules and Regulations do not purport to constitute all of the restrictions affecting the Condominium Property. Reference should be made to the Declaration, Articles of Incorporation and By-Laws of the Association, and any other documents governing the Condominium Property.

18. **RELIEF.** The Board of Directors shall have the power, but not the obligation, to grant relief to one or more Unit Owners under the particular circumstances involved from the provisions for specific restrictions contained in these Rules and Regulations upon written request therefor, and for good cause shown in the sole opinion of the Board.

19. <u>APPROVALS</u>. All approvals required or permitted hereunder from the Association shall be in writing.

SORRENTO CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation

By: Name: **Its President** 

Attes

Name: KE Its Secretary

# EXHIBIT "4"

# PLOT, PLAN, SURVEY AND GRAPHIC DESCRIPTION OF INITIAL PHASE AND PLOT PLAN OF PROPOSED SUBSEQUENT PHASES IMPROVEMENTS

## CERTIFICATE OF SURVEYOR AS TO PHASE 16 OF SORRENTO

Before me, the undersigned authority, duly authorized to administer oaths and take acknowledgments, personally appeared Richard M. Ritz known by me to me to be the person hereinafter described does hereby certify as follows:

- 1. That he is a registered land surveyor, authorized to practice in the State of Florida, pursuant to section 718.104(4)(e) Florida Statutes.
- 2. That the construction of all improvements constituting Phase 16 of Sorrento, a Condominium are substantially complete so that the material, together with the provisions of the declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the identification, location and dimensions of the common elements and of each unit can be determined from these materials.

Richard M. Ritz, R.L.S Registered Land Surveyor Florida Certification No. LS State of Florida

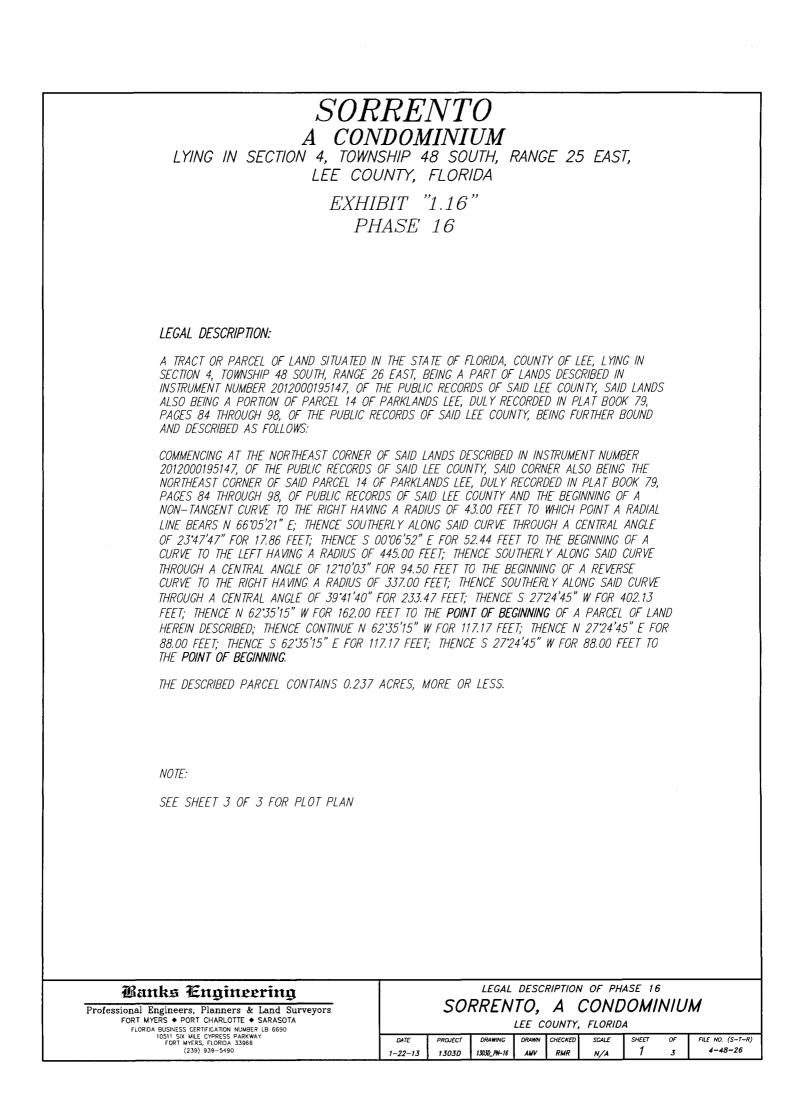
Sworn to and Subscribed before me this 7<sup>th</sup> day of October, 2013.

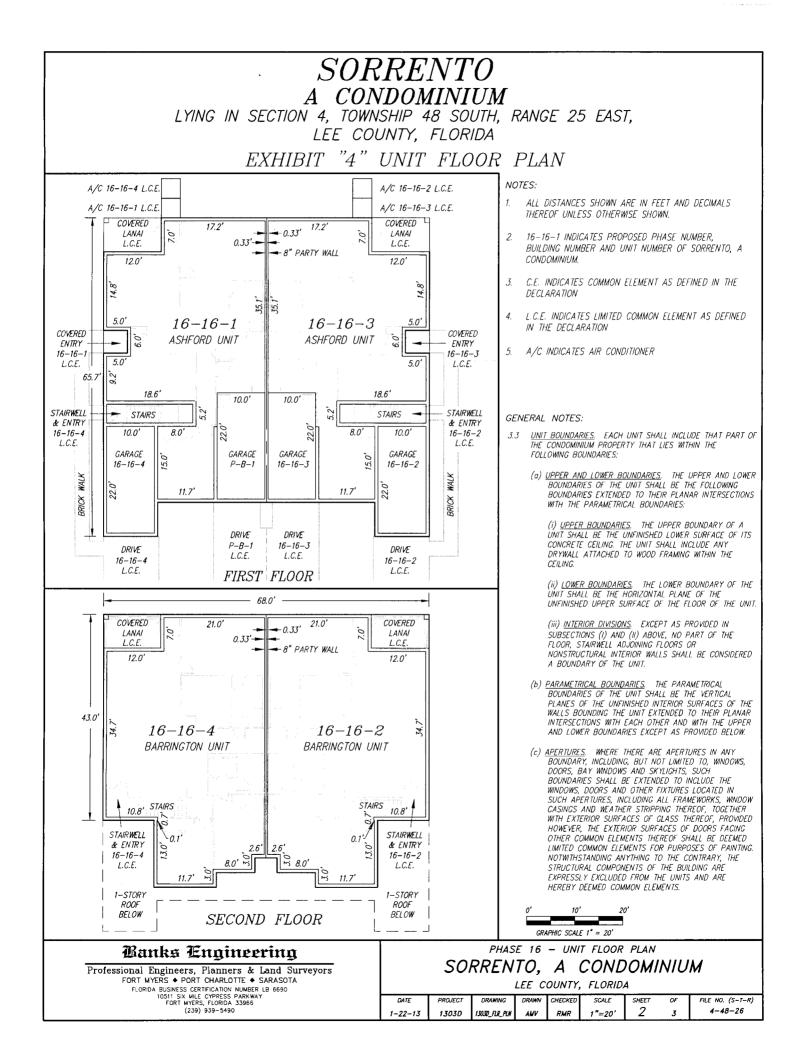
**MY COMMISSION EXPIRES:** 

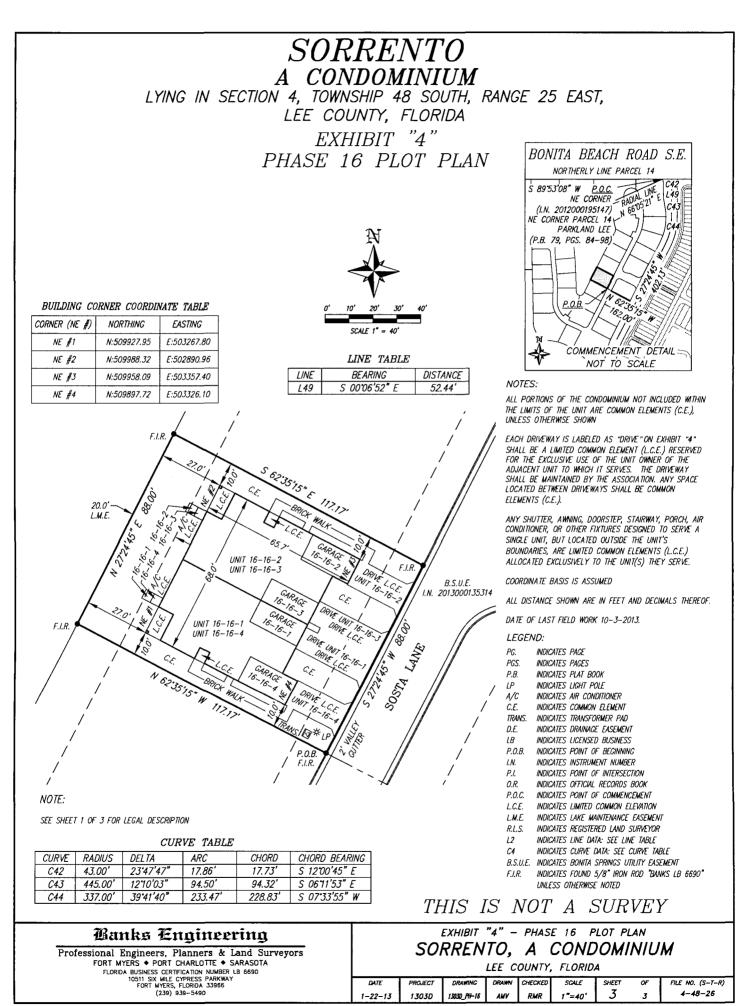


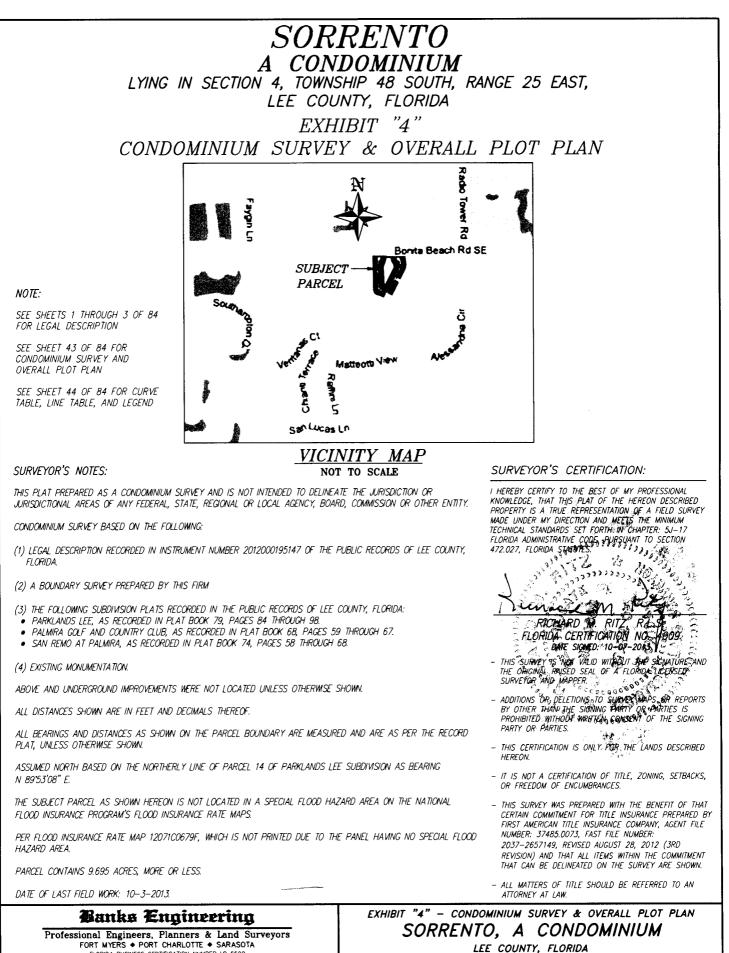
Jennifar M. Sheppard

Printed Name









1-22-13

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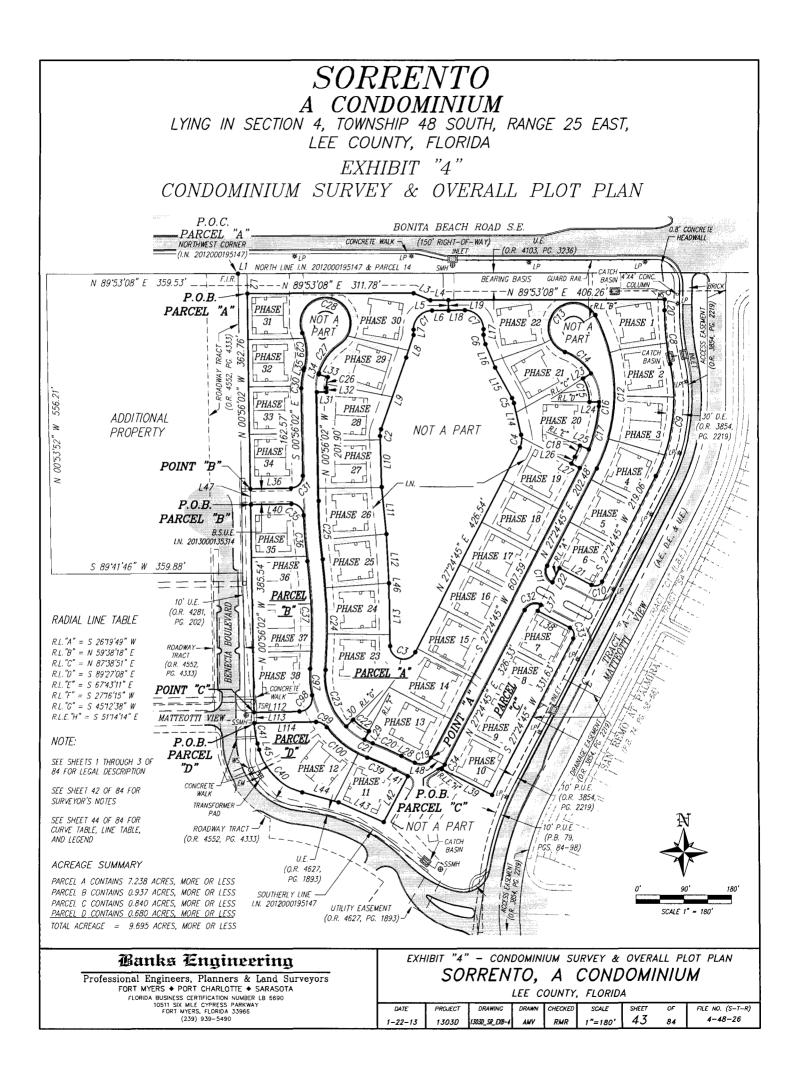
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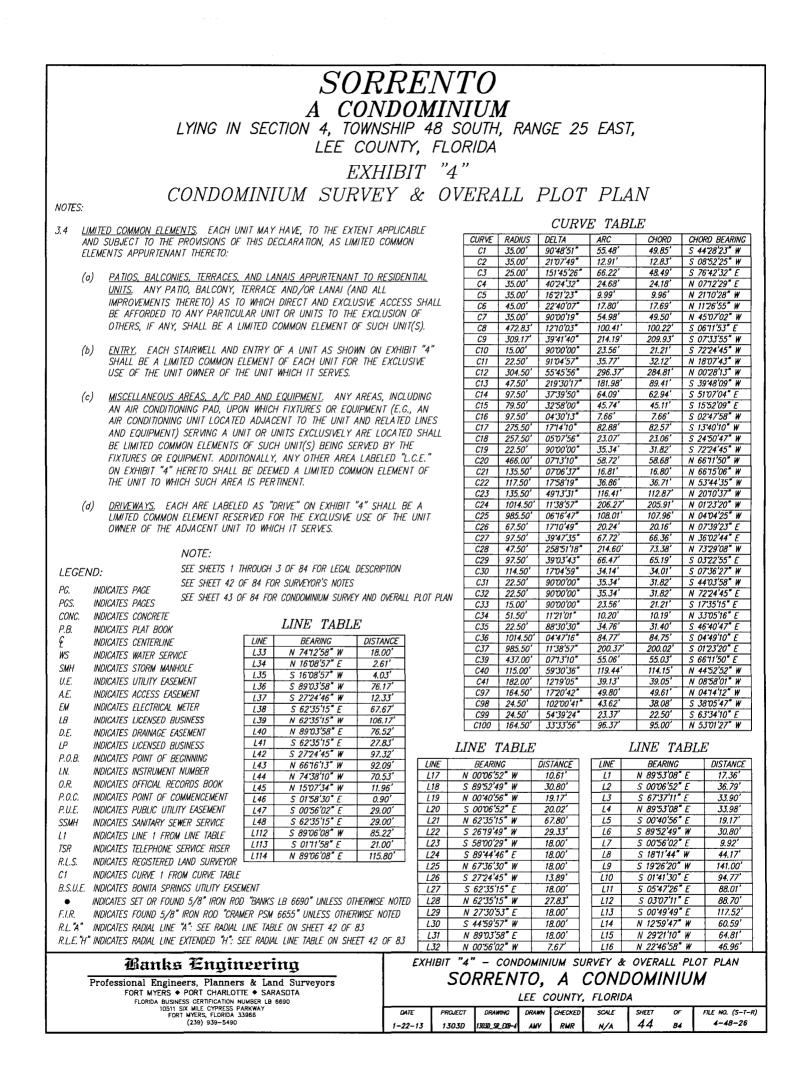
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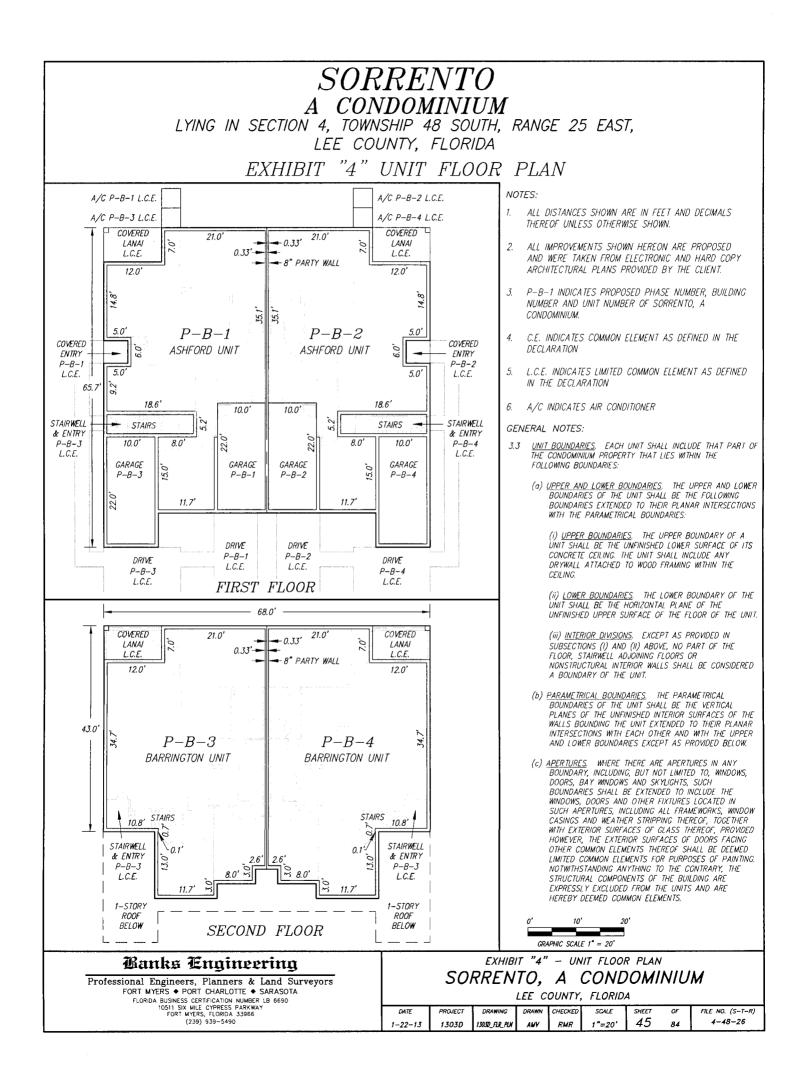
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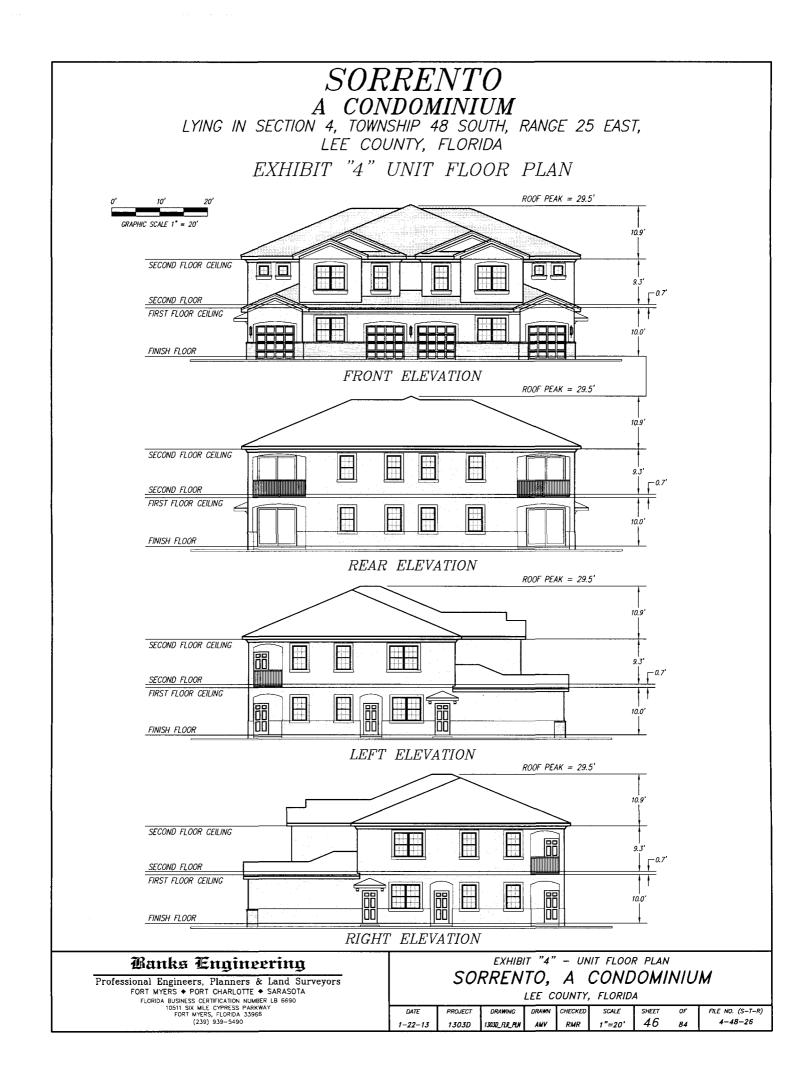
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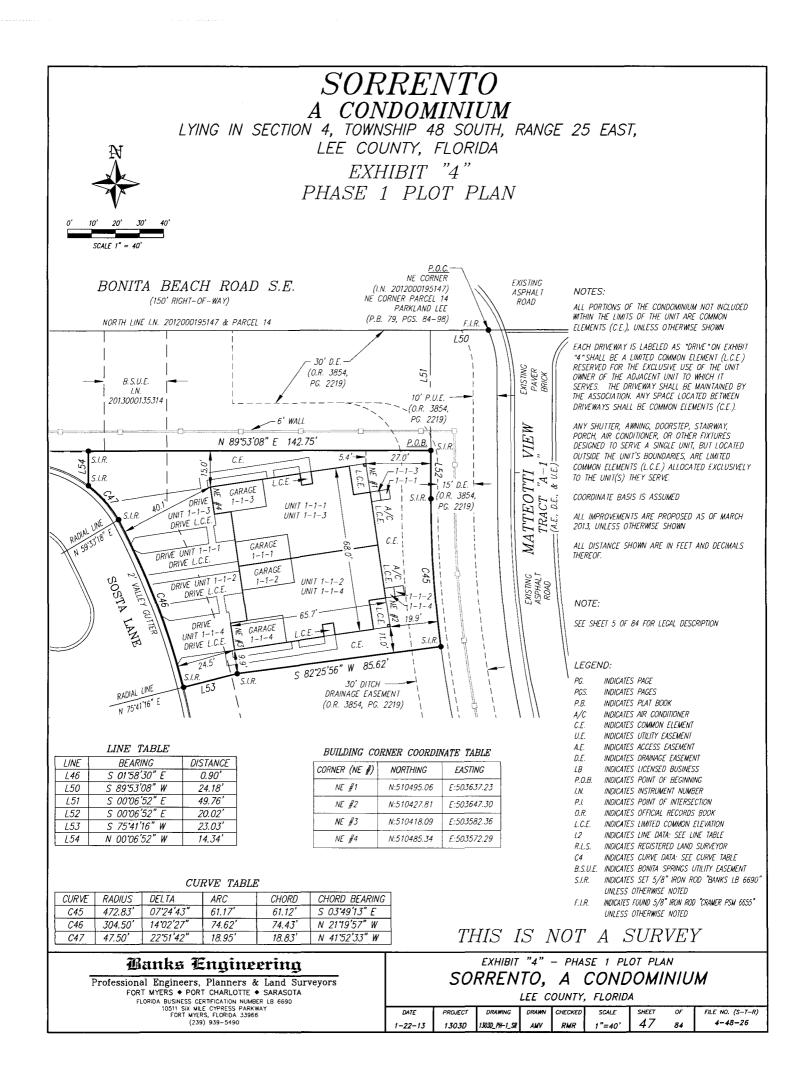
Professional Engineers, Planners & Land Surveyors FORT MYERS + PORT CHARLOTTE + SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690 10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966 (239) 939-5490

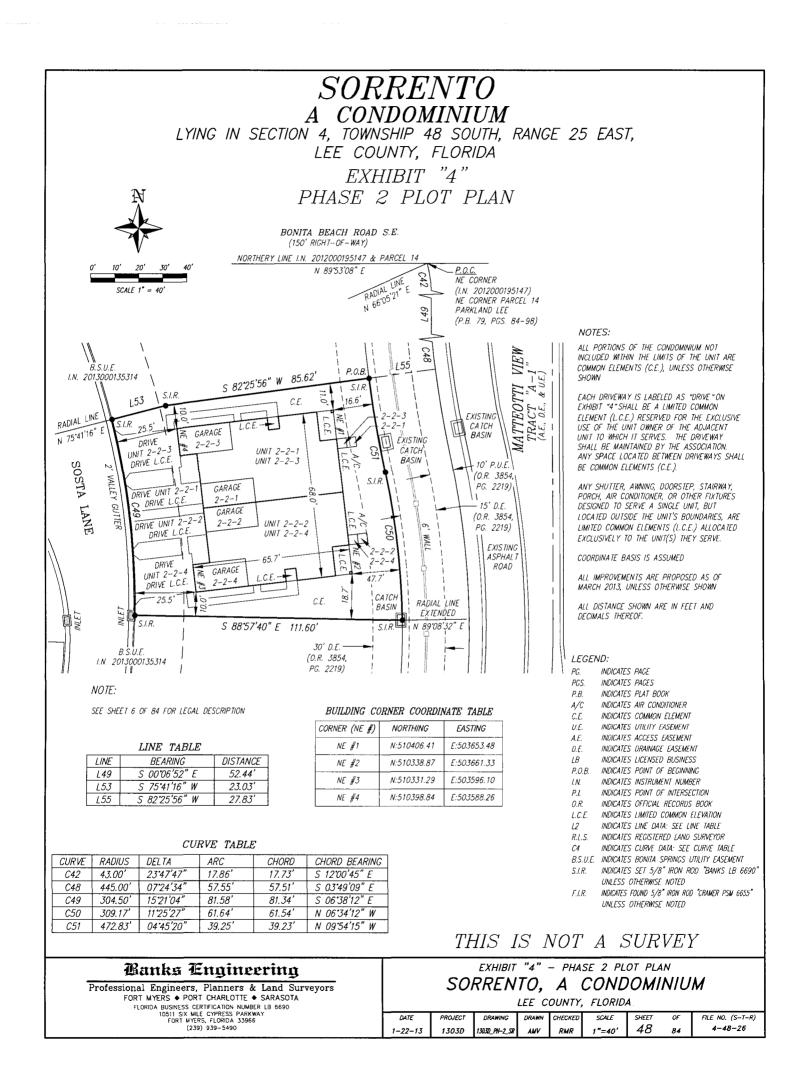


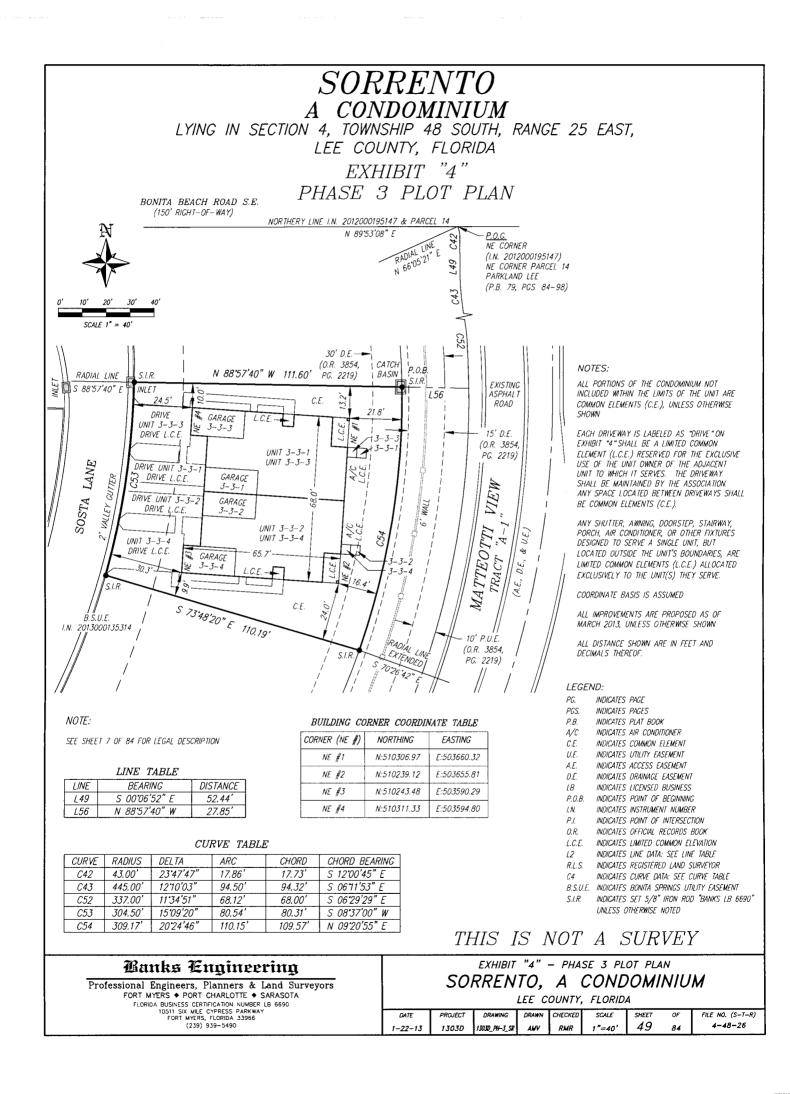


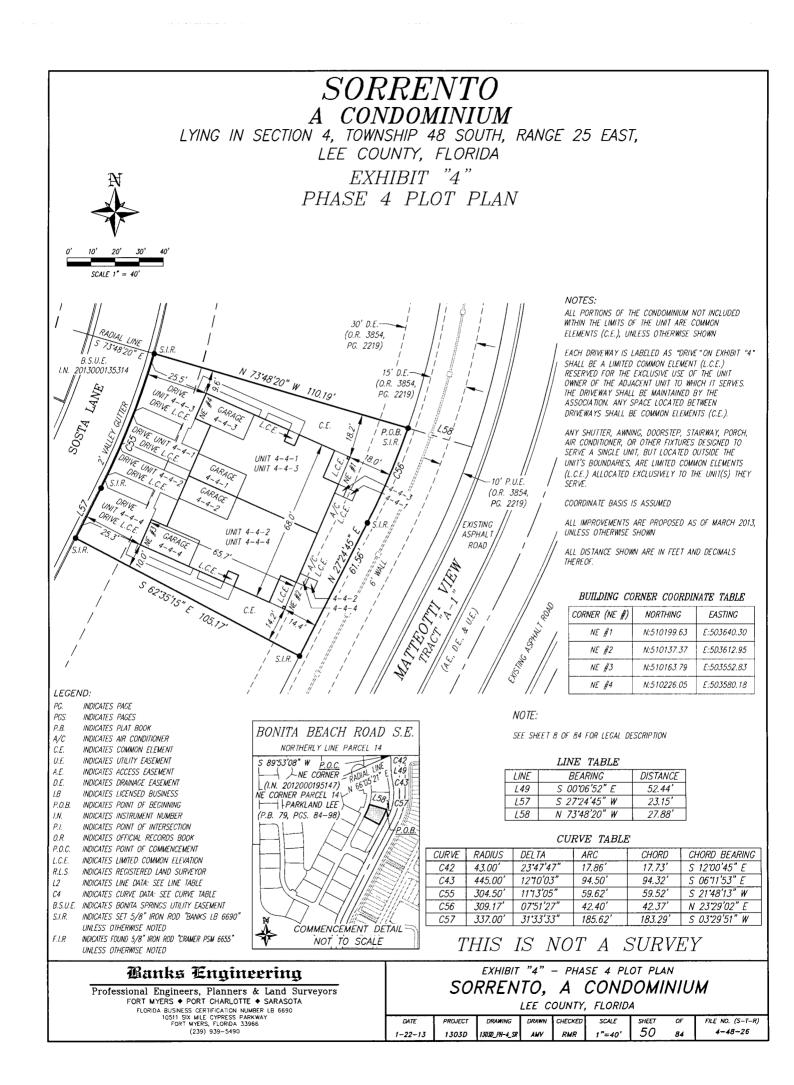


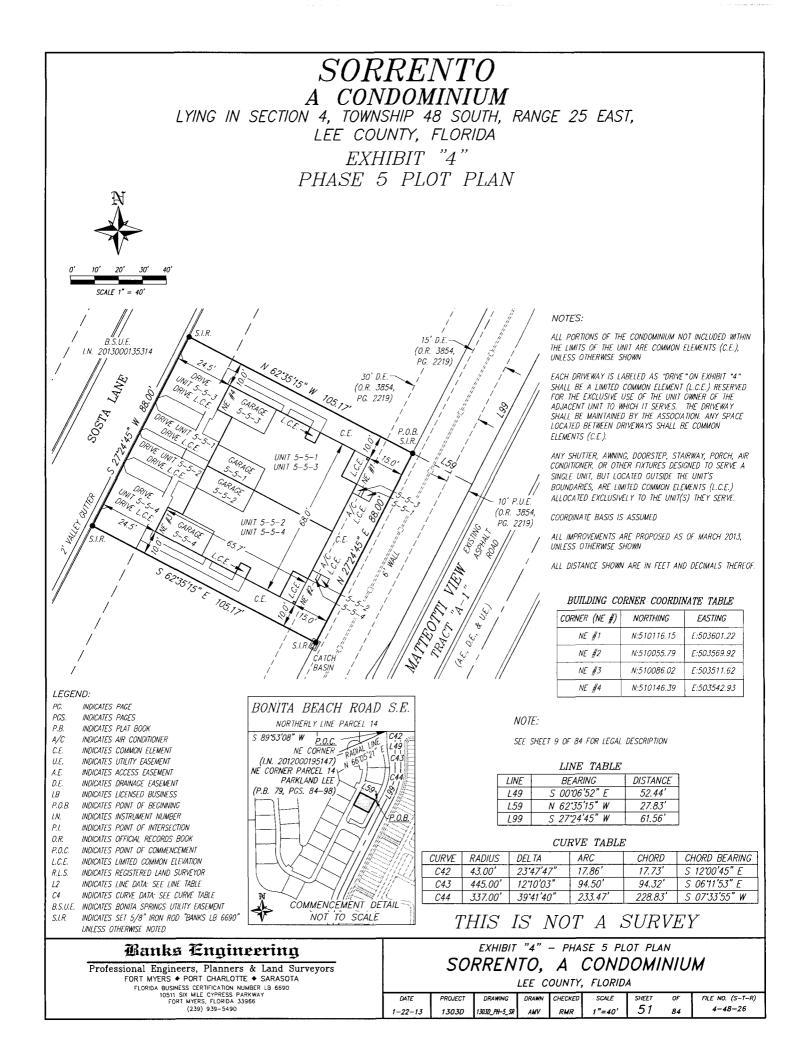


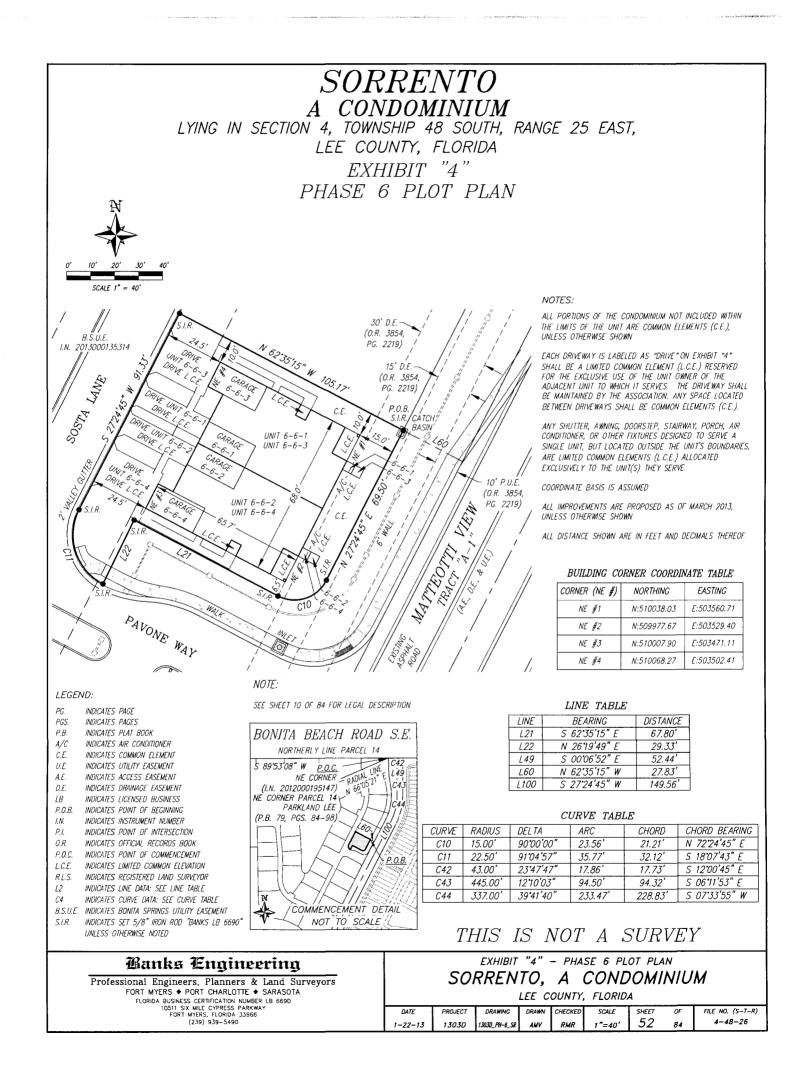


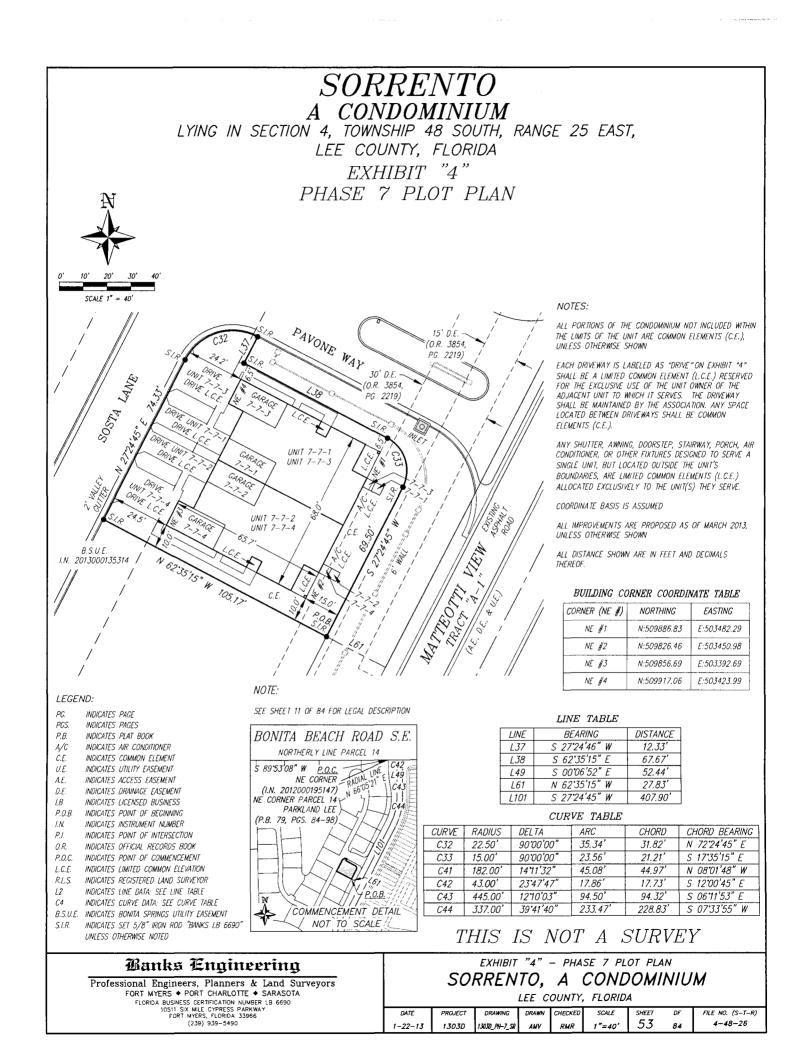


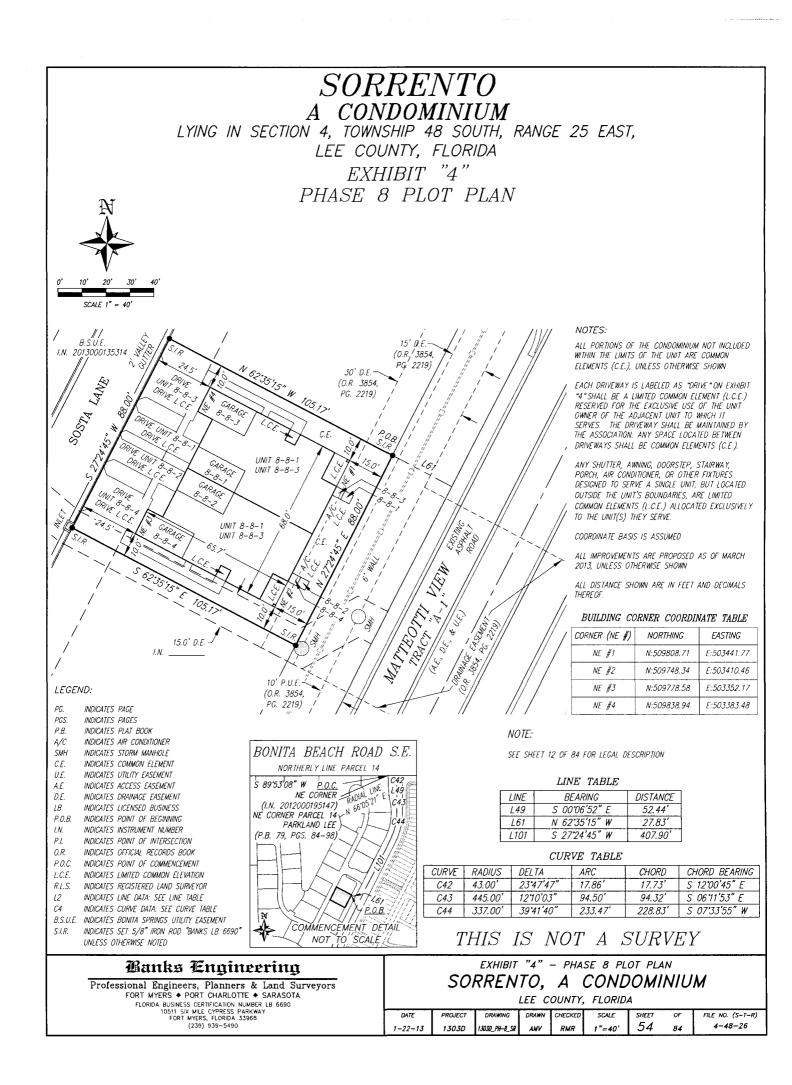


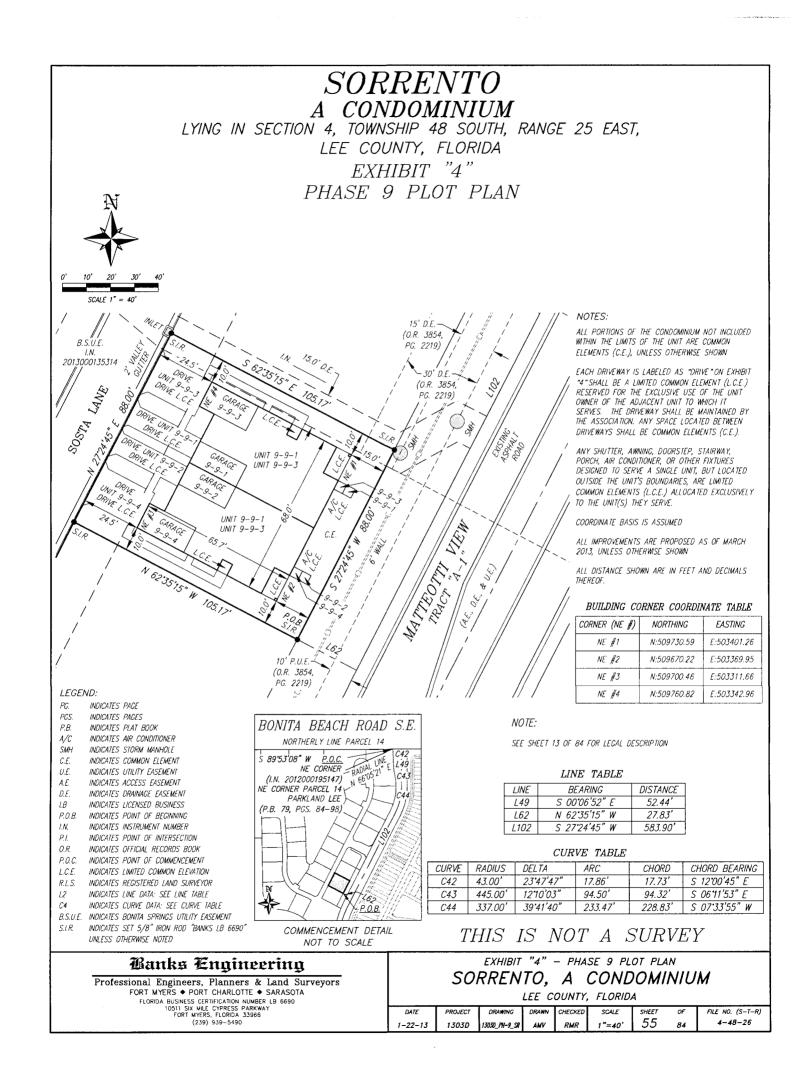


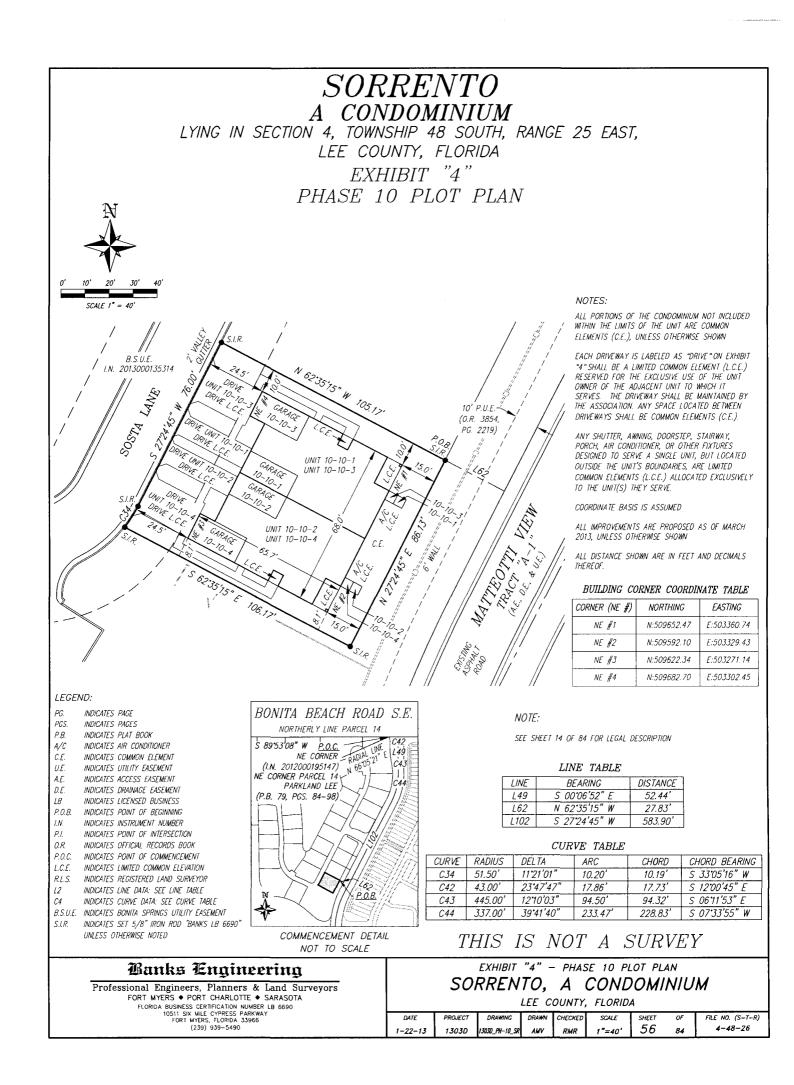


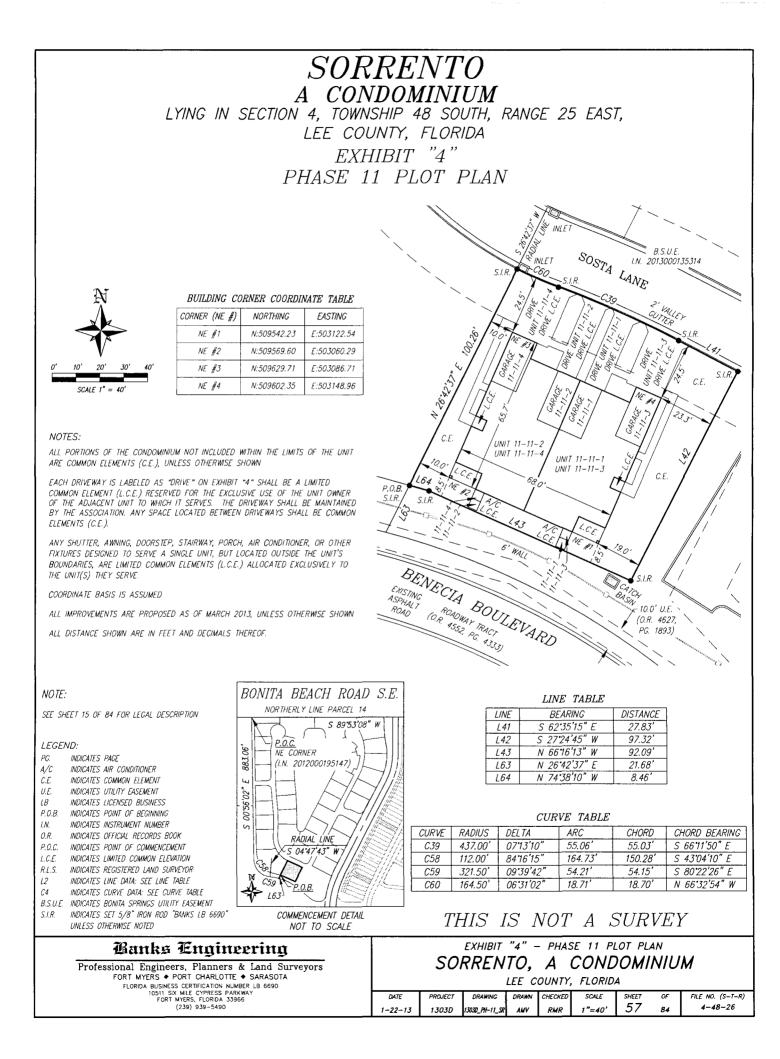


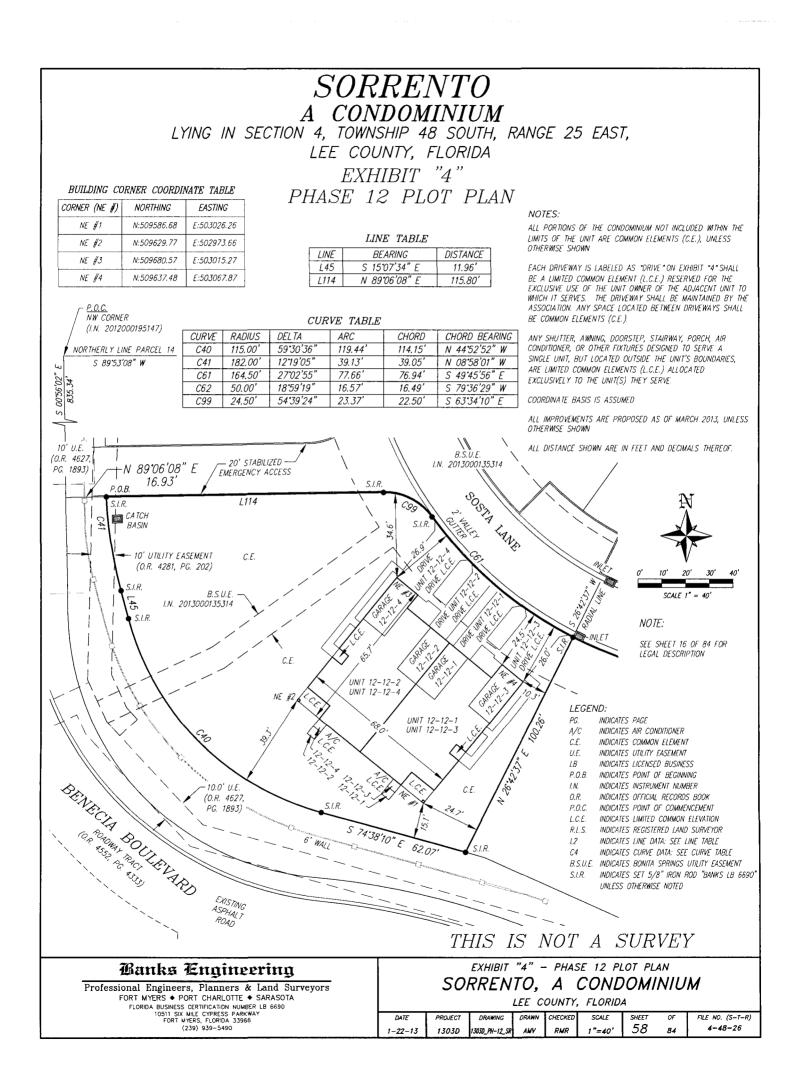


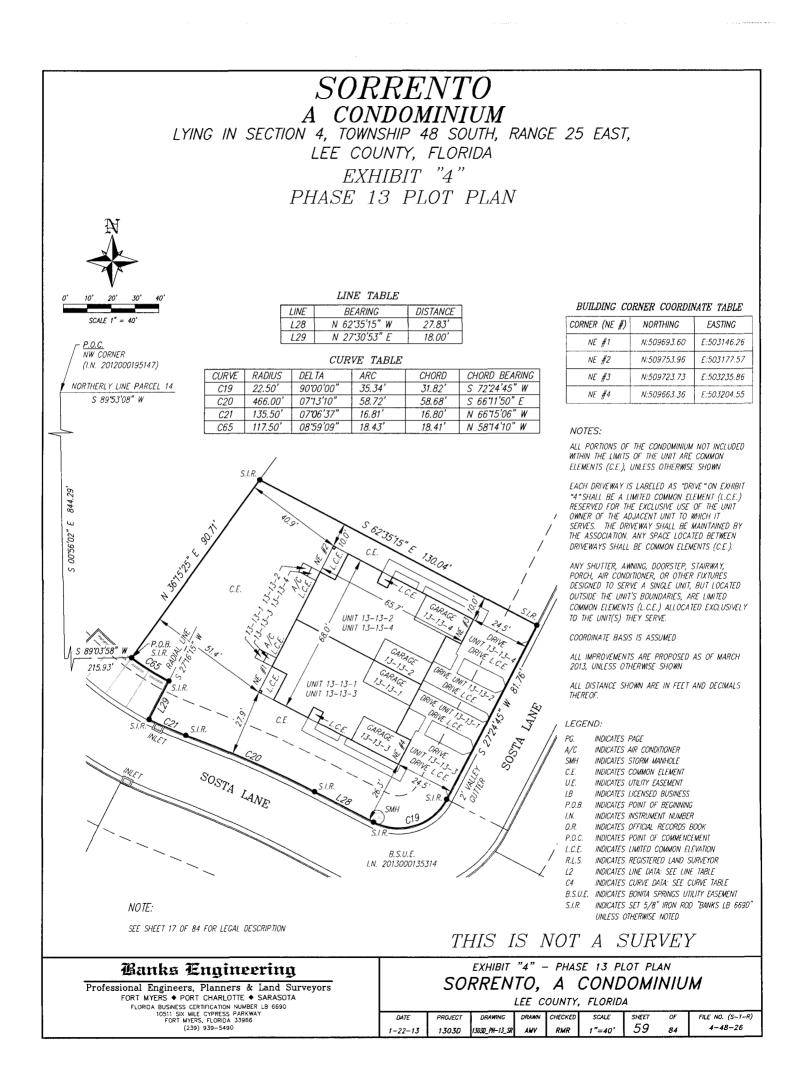


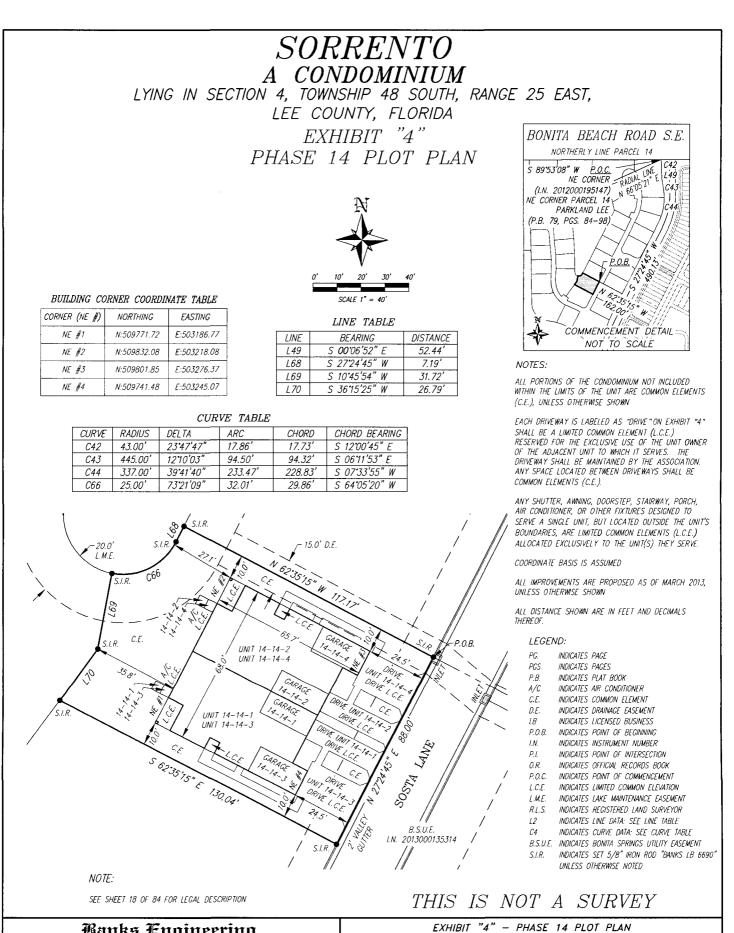












1-22-13

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SORRENTO, A CONDOMINIUM

LEE COUNTY, FLORIDA

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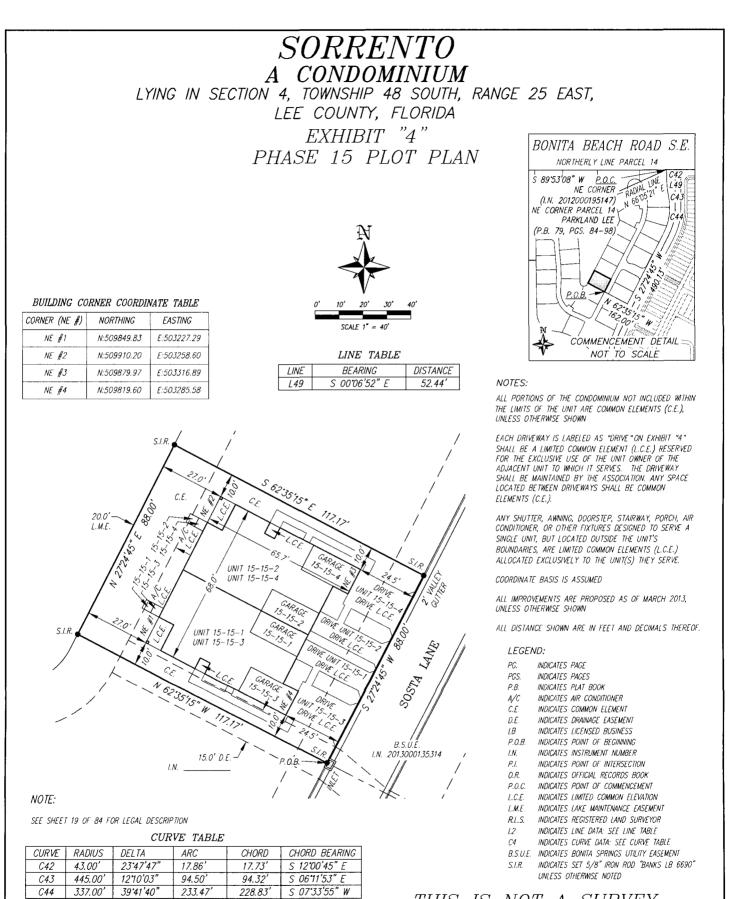
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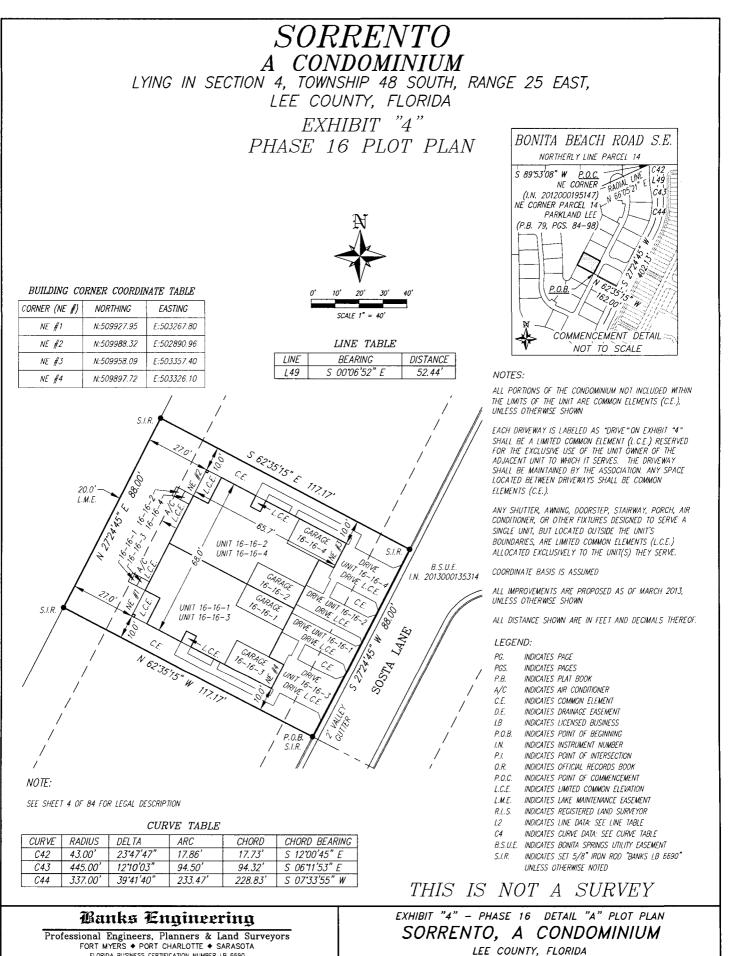
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Professional Engineers, Planners & Land Surveyors FORT MYERS + PORT CHARLOTTE + SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690 10511 SIX MILE CYPRESS PARKWAY FORT WYERS, FLORIDA 3366 (239) 939-5490



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Banks Engineering		EXHIBIT "4" - PHASE 15 PLOT PLAN								
Professional Engineers, Planners & Land Surveyors FORT MYERS ◆ PORT CHARLOTTE ◆ SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690		SORRENTO, A CONDOMINIUM LEE COUNTY, FLORIDA								
10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966 (239) 939-5490	DATE	PROJECT	DRAWING		CHECKED		SHEET	OF	FILE NO. (S-T-R) <b>4-48-26</b>	
(239) 939-3490	1-22-13	1303D	13030_PH-15_SR	AMV	RMR	1"=40'	0/	84	4-40-20	



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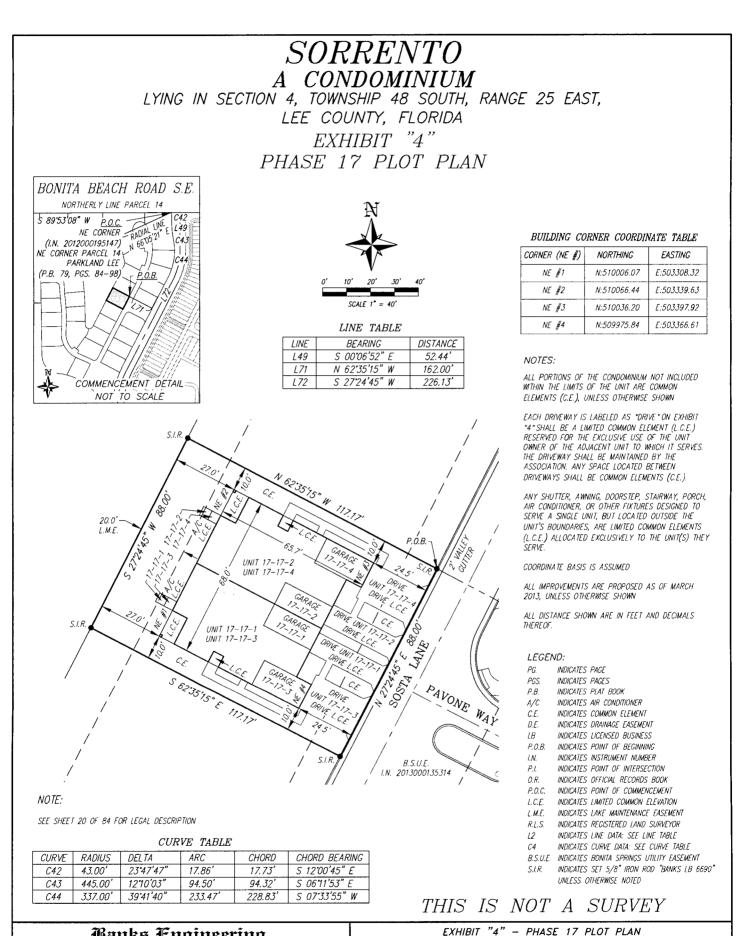
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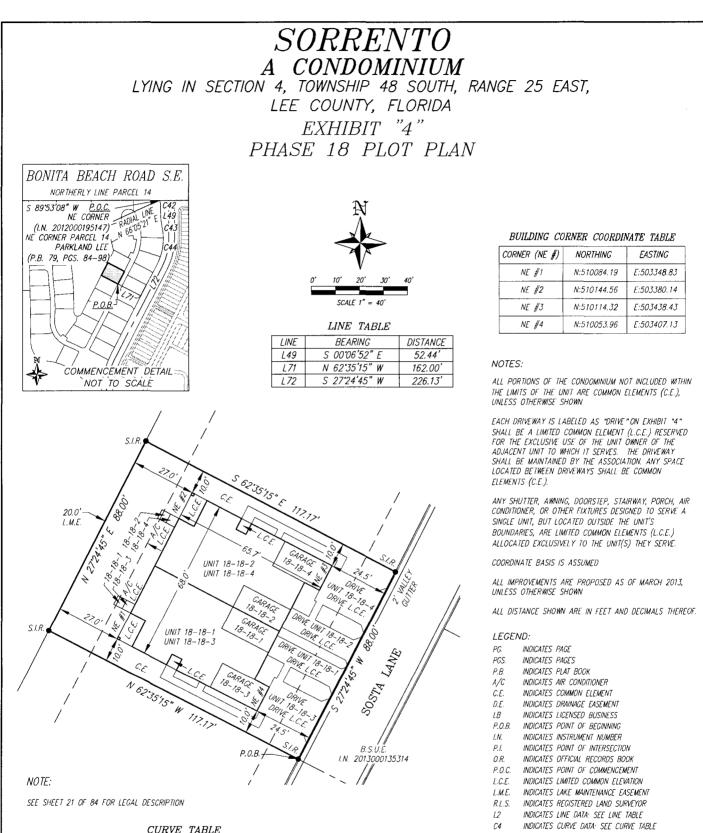
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#### Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS    PORT CHARLOTTE    SARASOTA
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
(239) 939-5490



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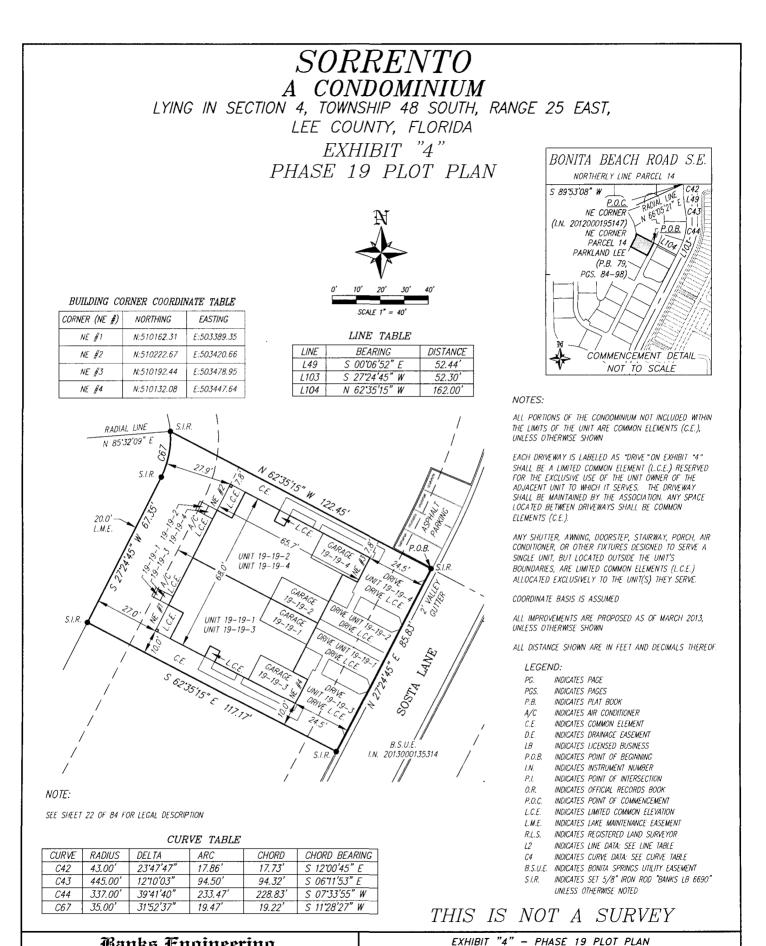
#### Banks Engineering

Professional Engineers, Planners & Land Surveyors FORT MYERS 
PORT CHARLOTTE
SARASOTA FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690 10511 SYX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 39966 (239) 939-5490

PG.	INDICATES PAGE
PGS.	INDICATES PAGES
P.B.	INDICATES PLAT BOOK
A/C	INDICATES AIR CONDITIONER
C.E.	INDICATES COMMON ELEMENT
D.E.	INDICATES DRAINAGE EASEMENT
LB	INDICATES LICENSED BUSINESS
P.O.B.	INDICATES POINT OF BEGINNING
<i>I.N</i> .	INDICATES INSTRUMENT NUMBER
P.I.	INDICATES POINT OF INTERSECTION
0.R.	INDICATES OFFICIAL RECORDS BOOK
P.O.C.	INDICATES POINT OF COMMENCEMENT
L.C.E.	INDICATES LIMITED COMMON ELEVATION
L.M.E.	INDICATES LAKE MAINTENANCE EASEMENT
R.L.S.	INDICATES REGISTERED LAND SURVEYOR
L2	INDICATES LINE DATA: SEE LINE TABLE
C4	INDICATES CURVE DATA: SEE CURVE TABLE
B.S.U.E.	INDICATES BONITA SPRINGS UTILITY EASEMENT
S.I.R.	INDICATES SET 5/8" IRON ROD "BANKS LB 6690"
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1-22-13

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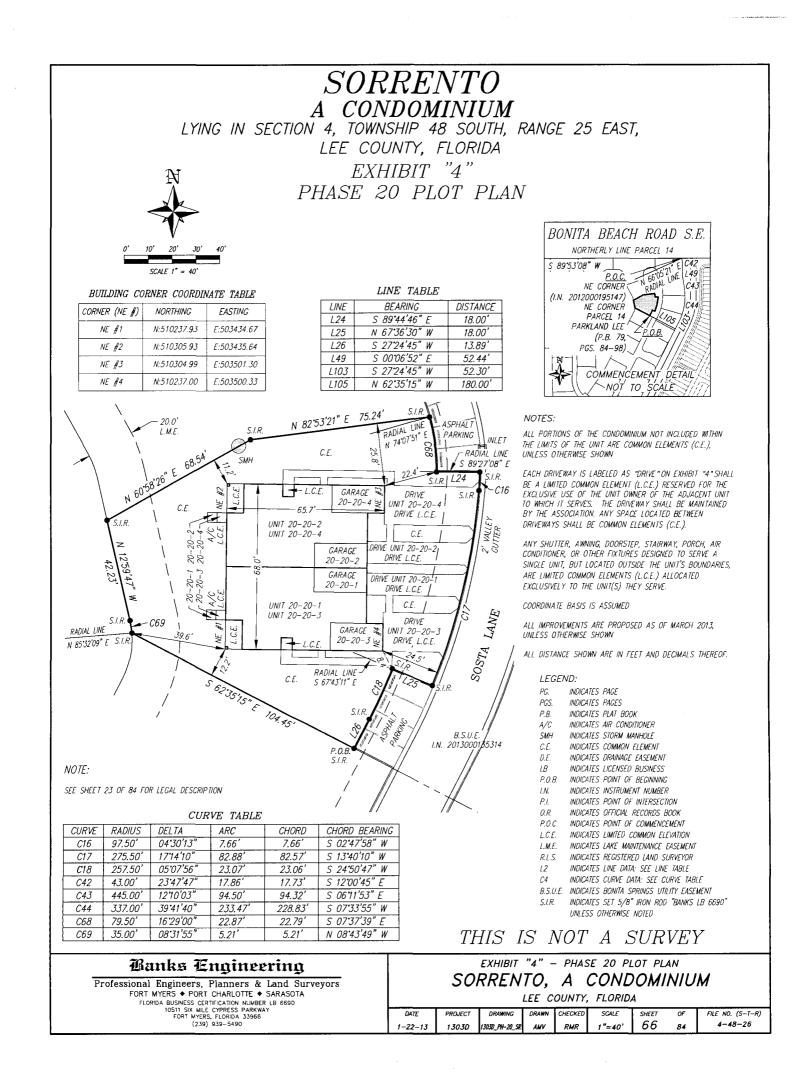
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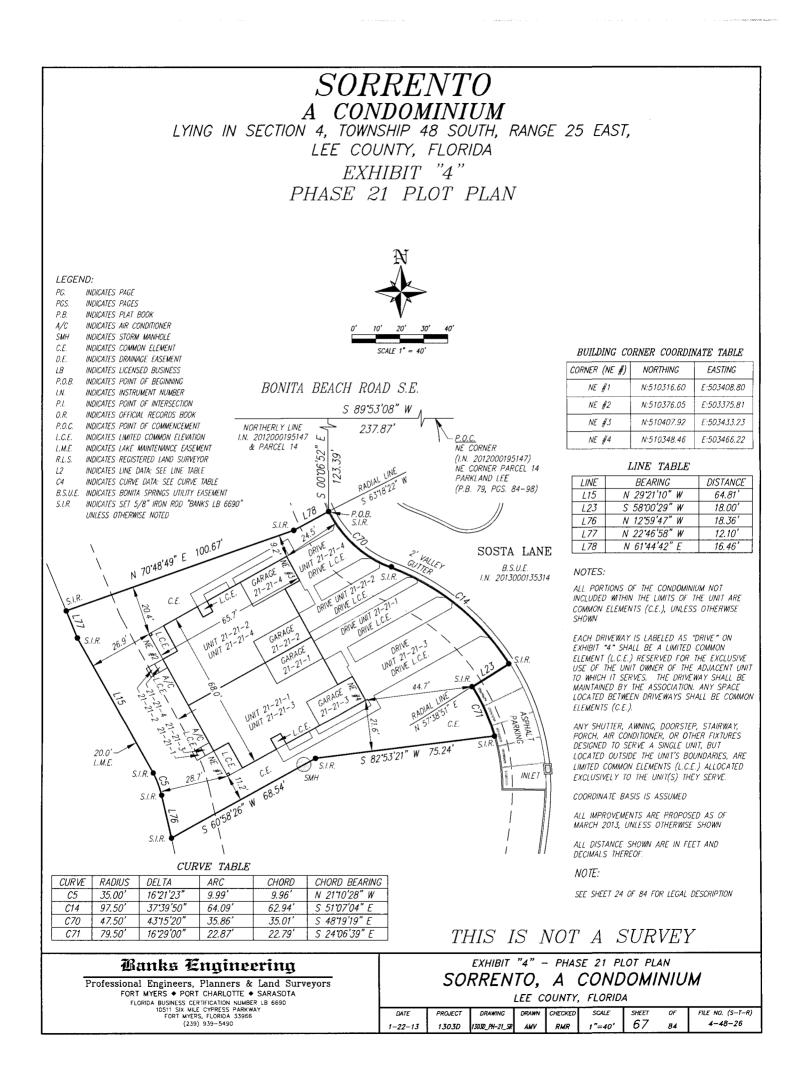
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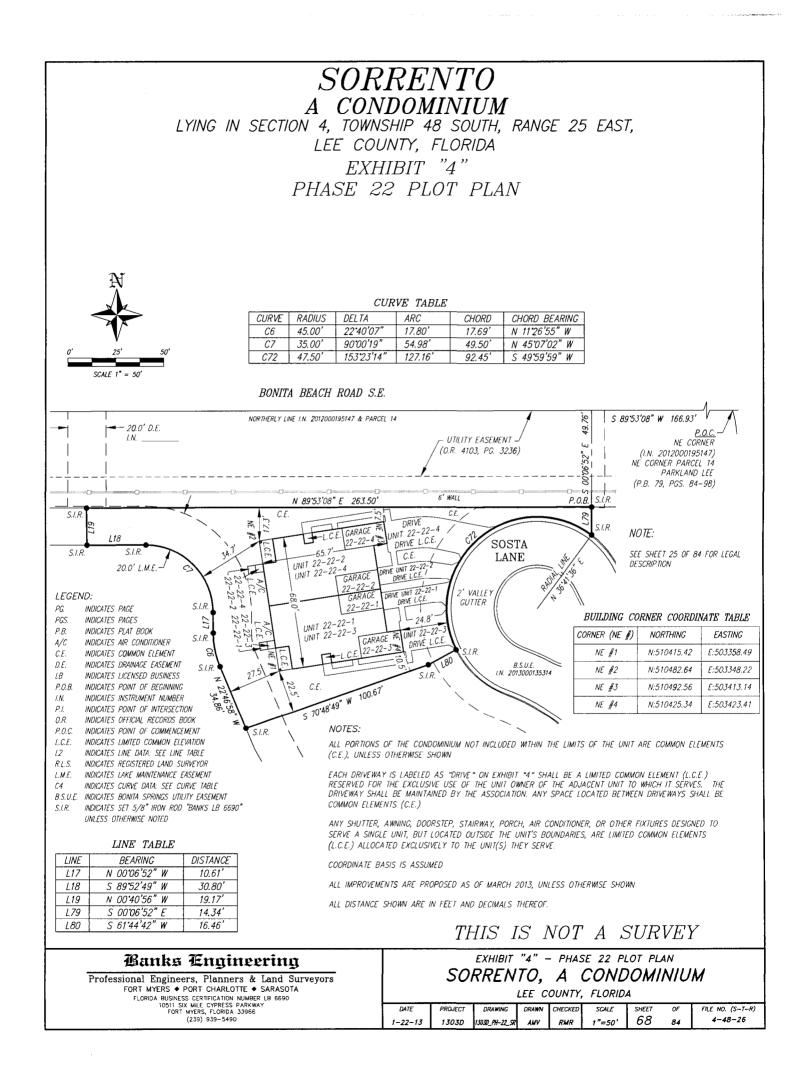
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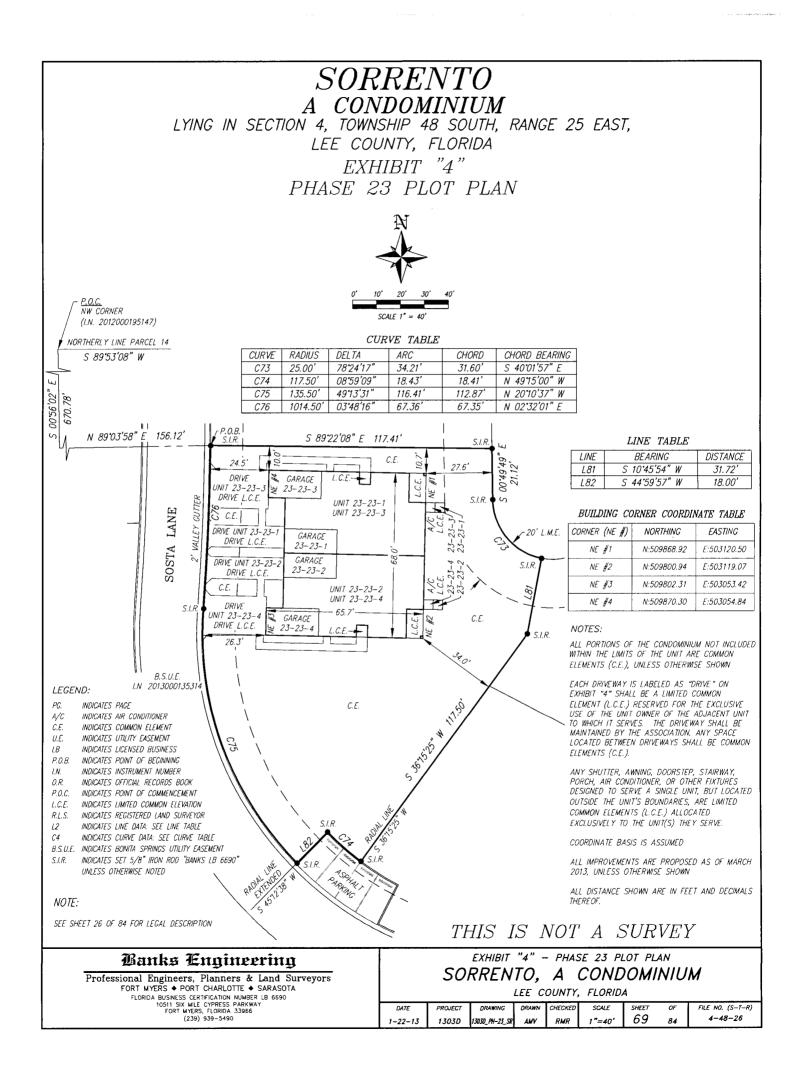
#### Banks Engineering

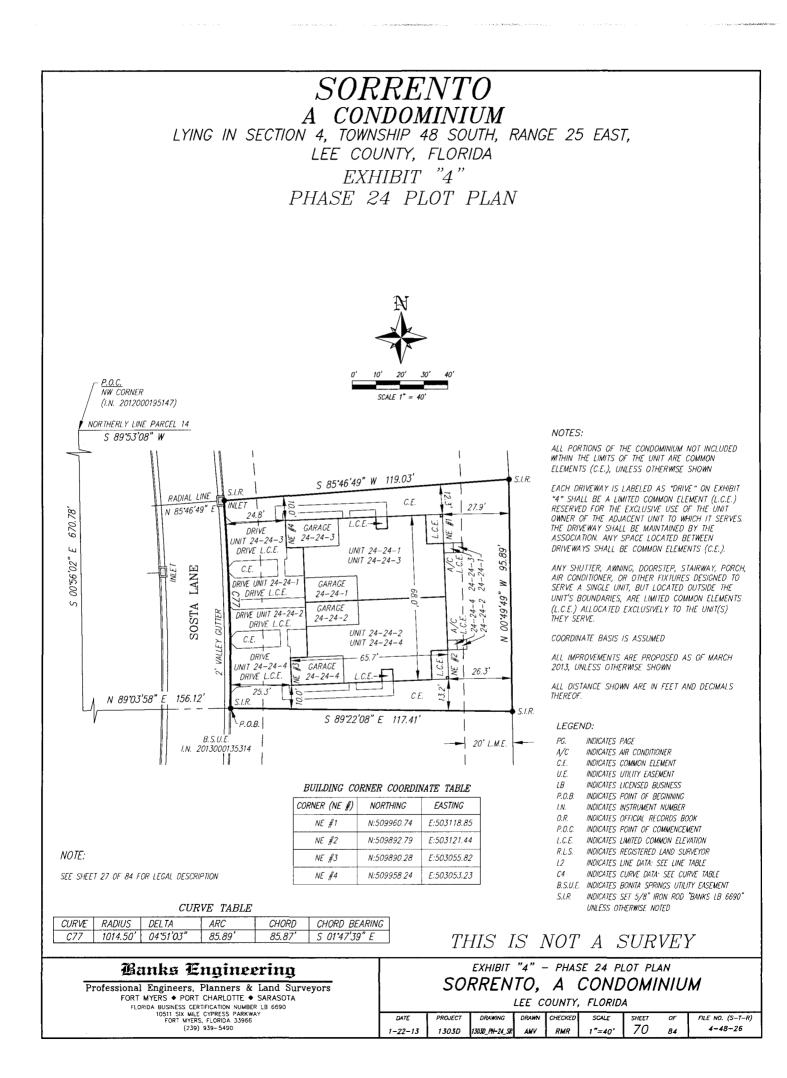
Professional Engineers, Planners & Land Surveyors
FORT MYERS . PORT CHARLOTTE . SARASOTA
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690 10511 SIX MUE CYPRESS PARKWAY FORT MYERS, FLORIDA 33966
(239) 939-5490

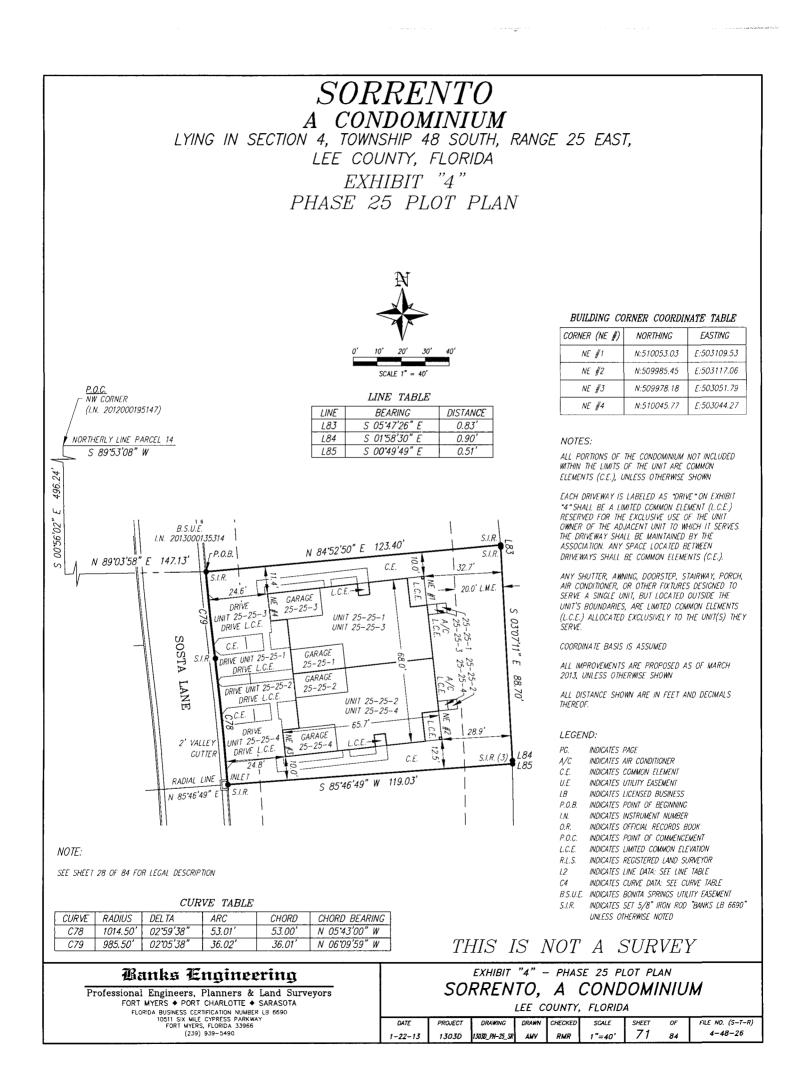


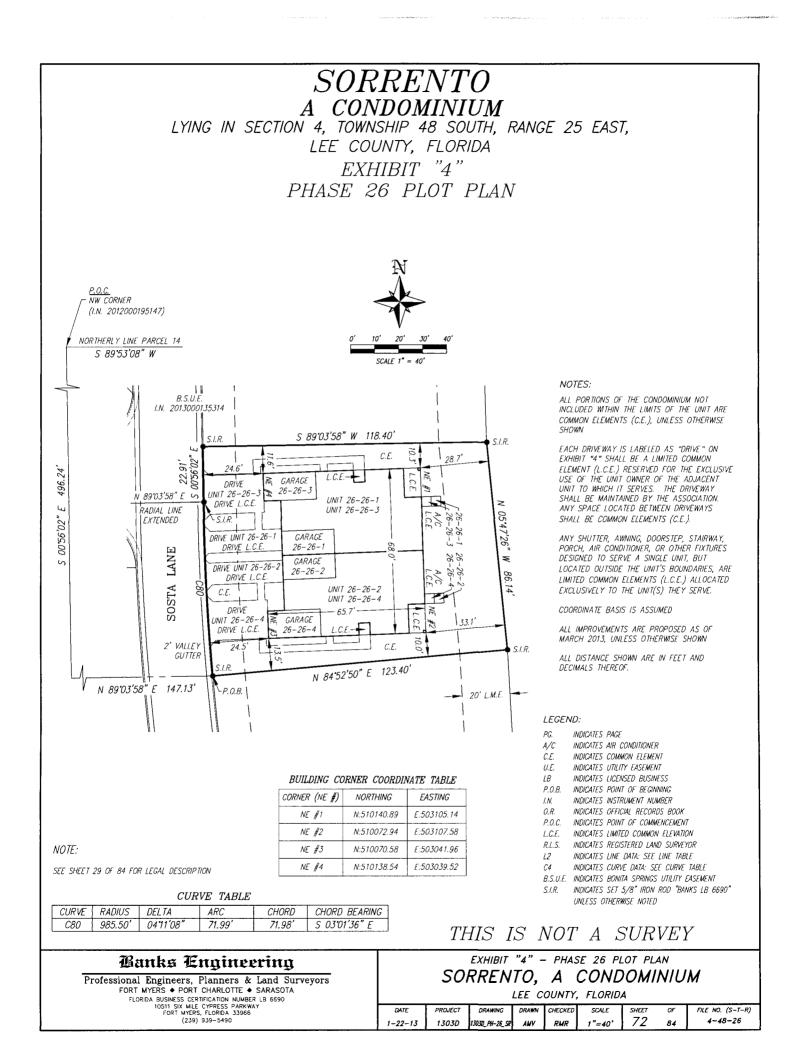


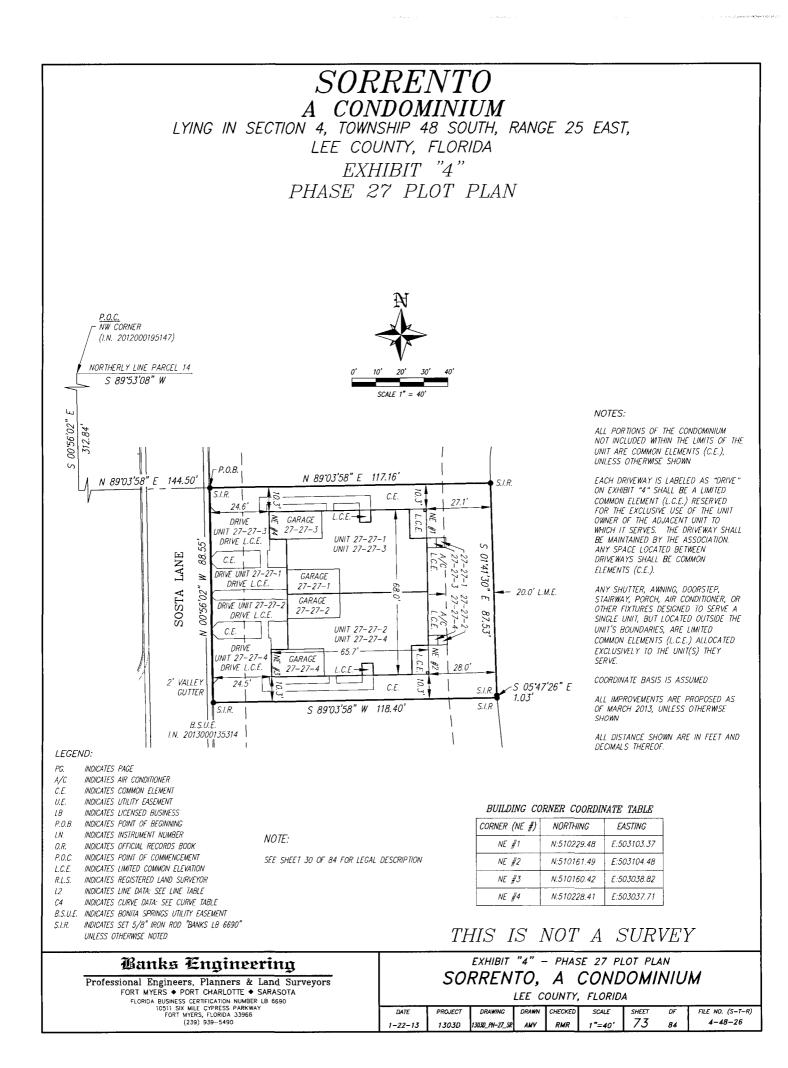


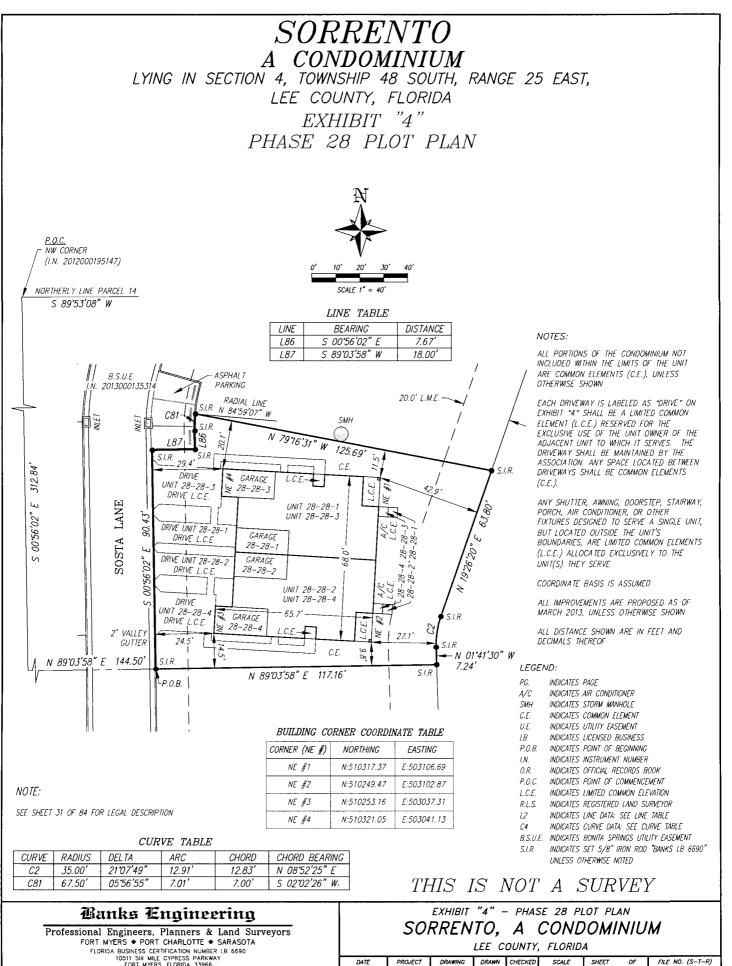












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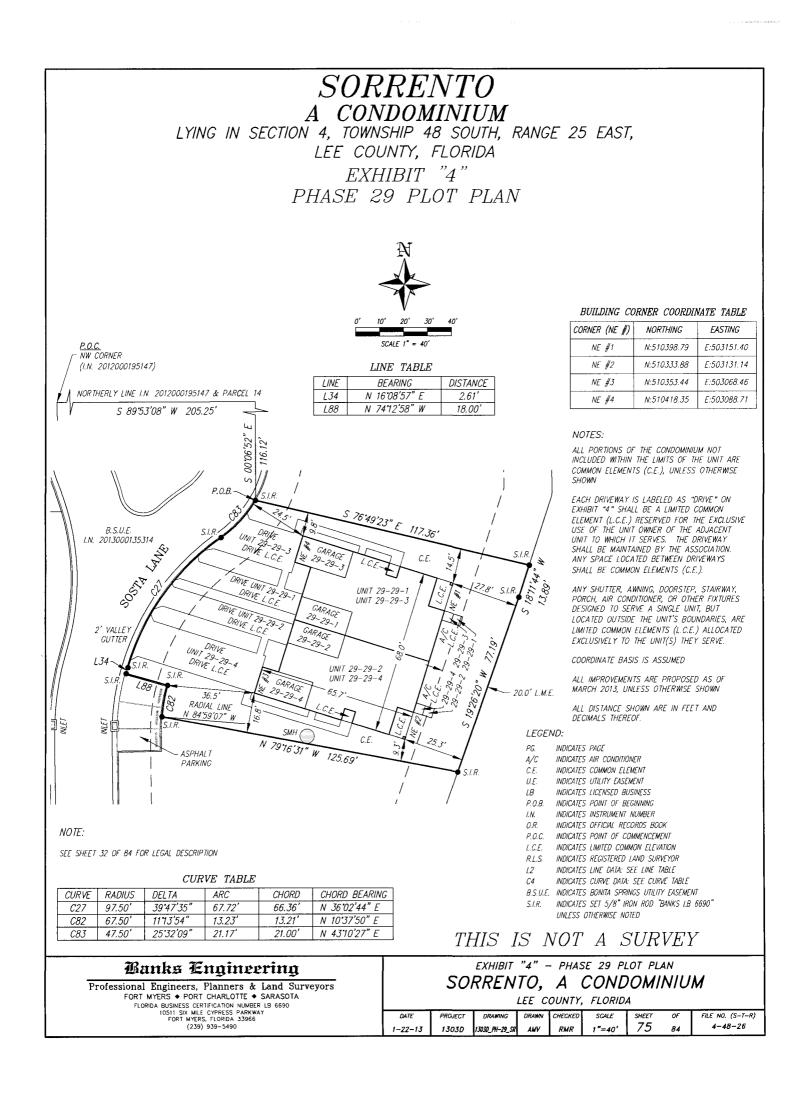
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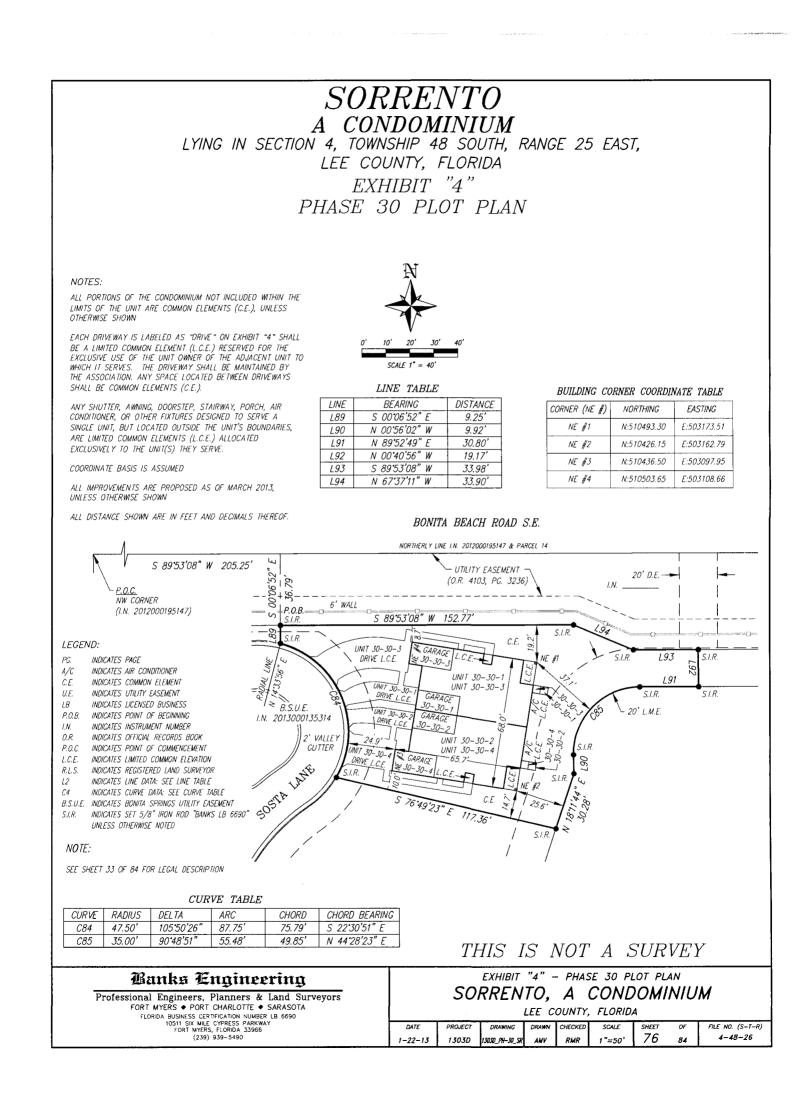
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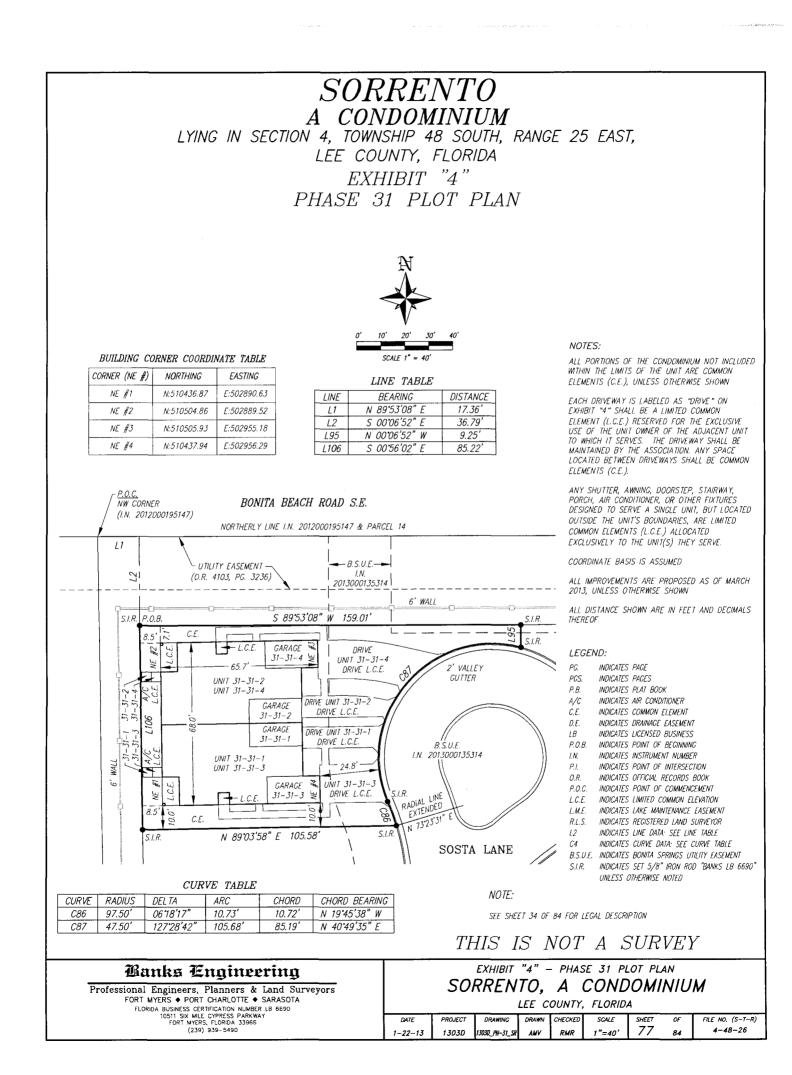
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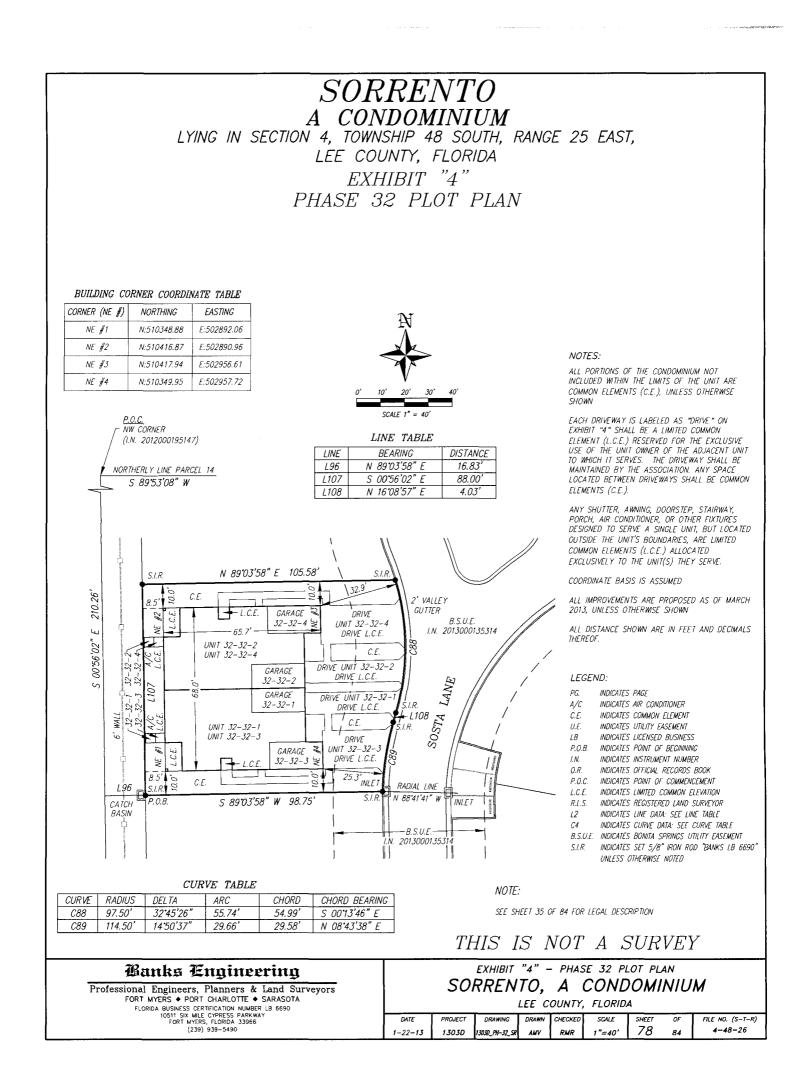
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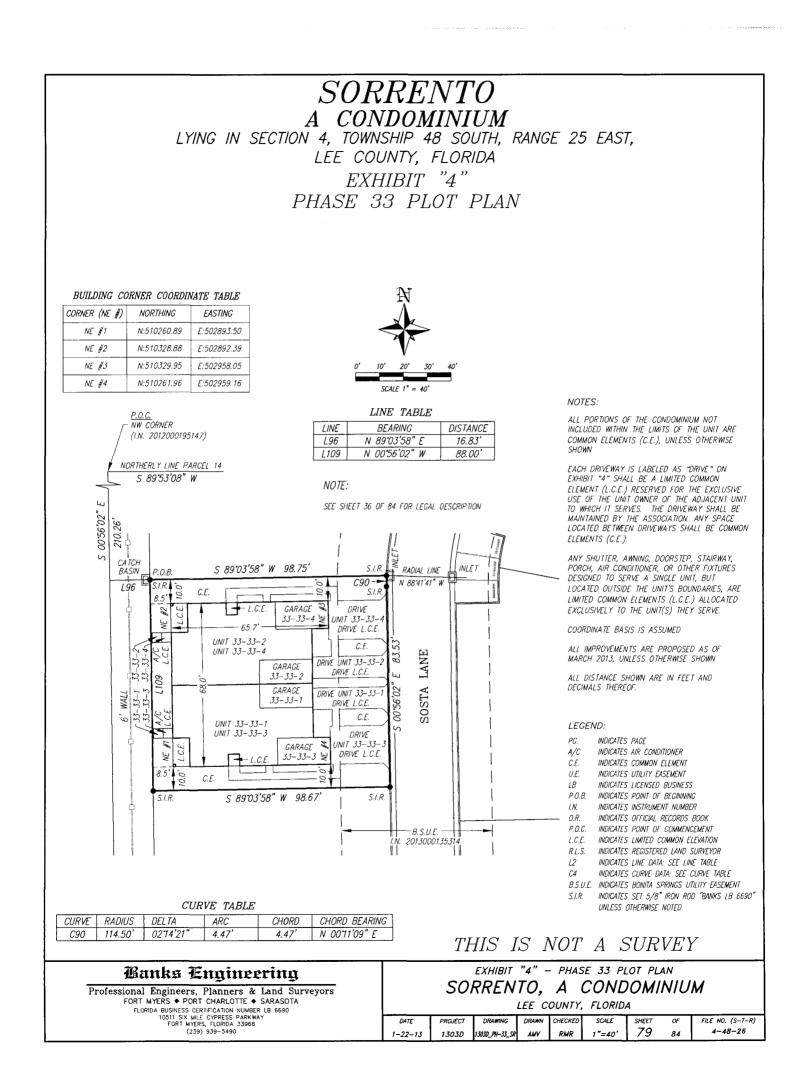
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690 10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 3366 (239) 939-5490

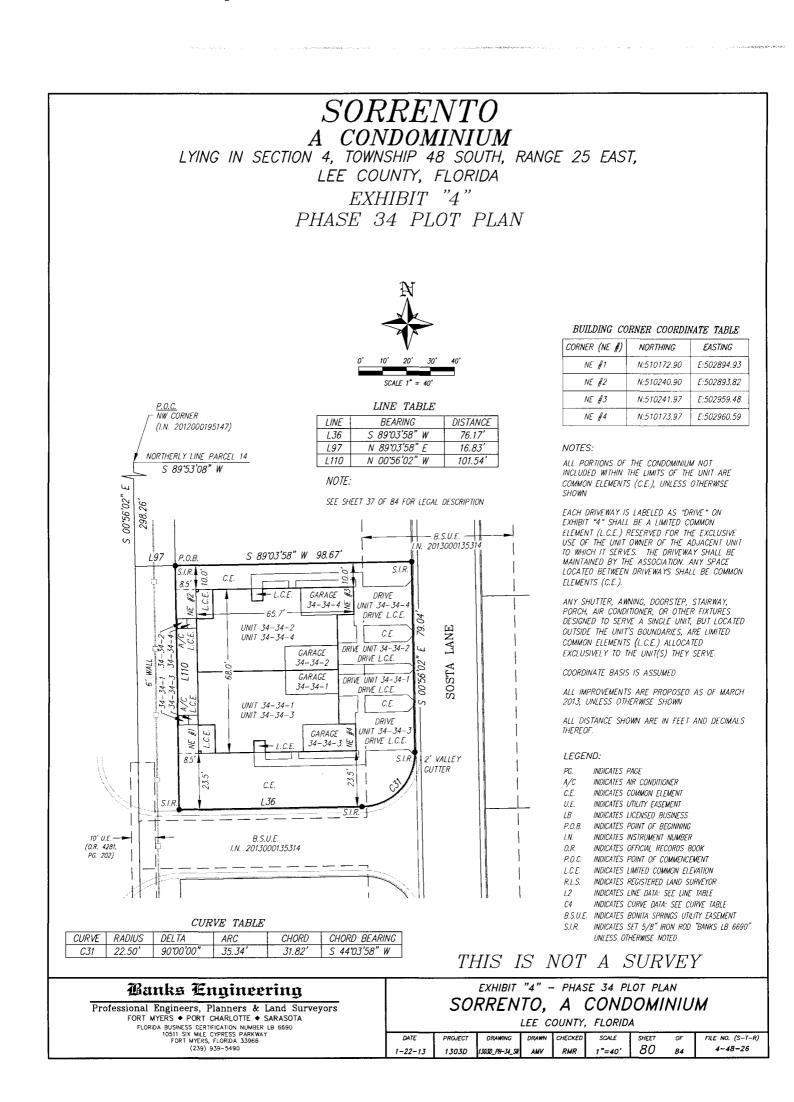


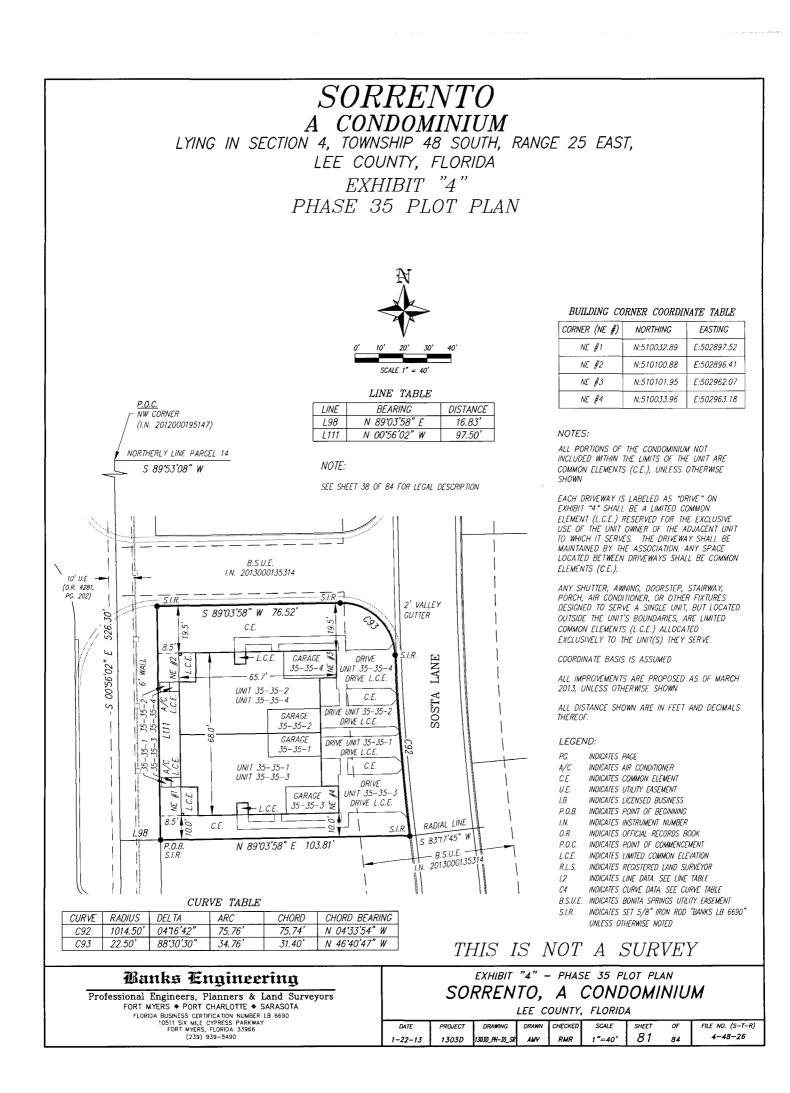


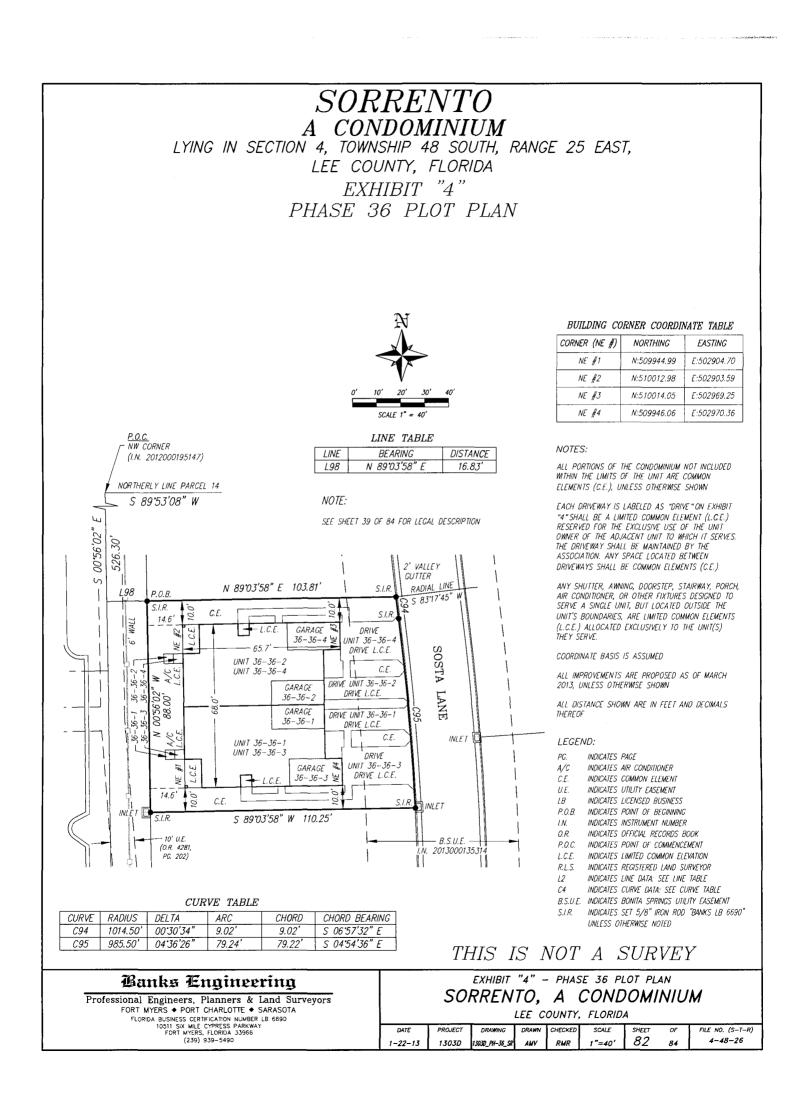


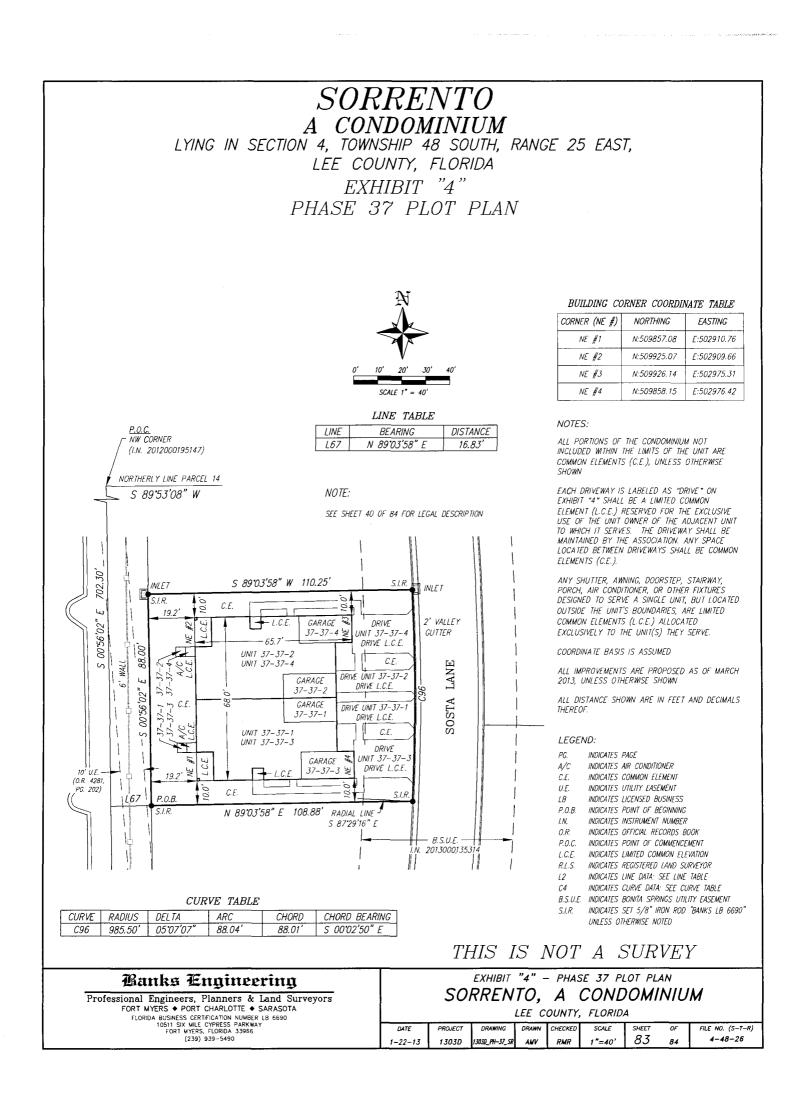


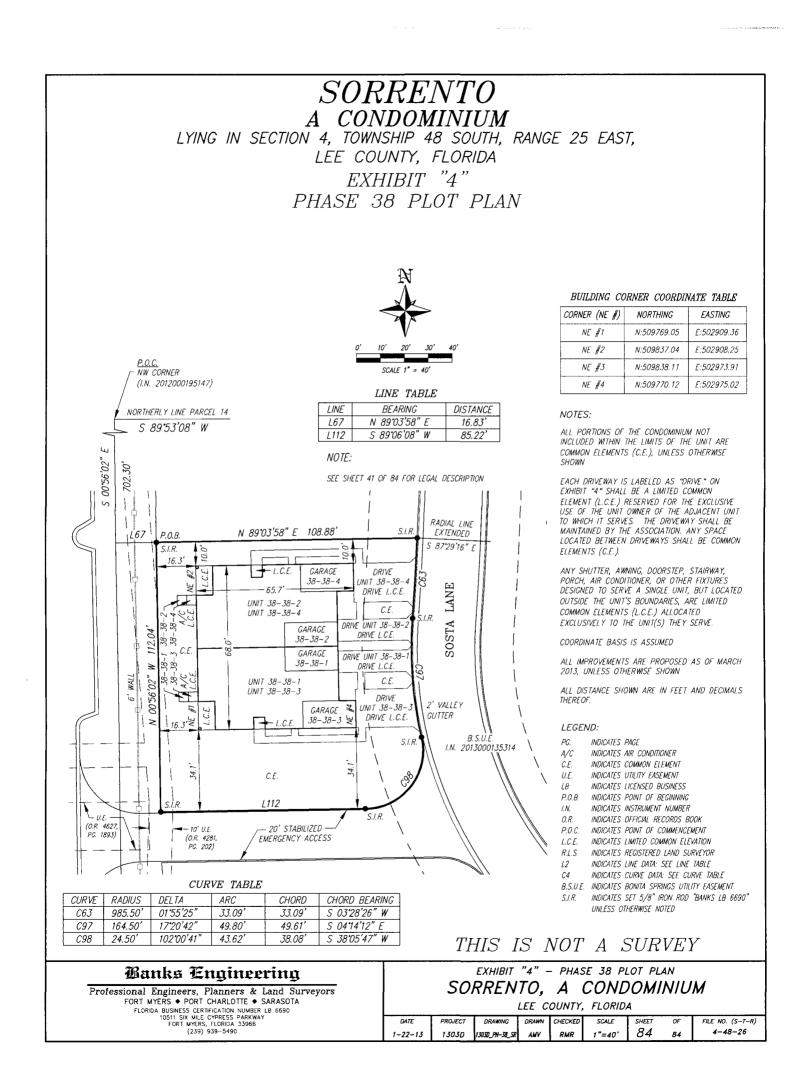












### EXHIBIT "5"

# PERCENTAGE OWNERSHIP AND SHARES IN COMMON ELEMENTS

The percentage ownership for each Unit shall be equal for each Unit in the Condominium.

The percentage ownership shall be determined by a fraction, the numerator being one and the denominator being the total number of Units submitted to the Condominium. For example, when the Initial Phase is submitted to the Condominium Ownership, each Unit shall have a ¼ or 25% percentage ownership in Common Elements and Common Surplus. If and when another Phase is submitted to the Condominium, each Unit shall then have a 1/8 or 12.5% percentage ownership in Common Surplus. If all Phases are submitted to the Condominium, each Unit shall then have a 1/8 or 12.5% percentage ownership and Common Surplus. If all Phases are submitted to the Condominium, each Unit shall then have a 1/208 or 0.4807% percentage ownership in the Common Elements and Common Surplus.

INSTR # 2013000236264, Doc Type RES, Pages 93, Recorded 10/16/2013 at 12:02 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee \$792.00 Deputy Clerk CMASSEY

> **This Instrument Prepared By:** Jennifer M. Lawton, Esq. Broad and Cassel 7777 Glades Road, Suite 300 Boca Raton, Florida 33434

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SORRENTO

This Declaration of Covenants, Conditions and Restrictions is hereby made by **D.R. Horton, Inc., a Delaware corporation**, whose mailing address is 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966.

### WITNESSETH:

D.R. Horton, Inc. is the owner in fee simple of the property described in **Exhibit "A"** attached hereto and made a part hereof (the "Property"); and

D.R. Horton, Inc. for purposes of this Declaration will be the Declarant; and

D.R. Horton, Inc. intends, but shall not be required, to develop the Property as a residential community and to construct homes upon the property described in <u>Exhibit "A"</u>, provided that in any event such construction will be subject to the covenants, conditions, restrictions, reservations, easements, liens and charges hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the property described in **Exhibit** "A" shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the protective covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and plan of development for the same. Said covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the real property described in **Exhibit** "A", and shall be binding upon all parties having and/or acquiring any right, title or interest in said property or any portion thereof, and shall inure to the benefit of each and every person or party, from time to time, owning or holding an interest in said Property.

### **ARTICLE I**

### **DEFINITIONS**

The following words and terms when used in this Declaration or any supplemental declaration hereto or any amendment thereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

Section 1. "<u>Articles</u>" mean and refer to the Articles of Incorporation of the Sorrento Master Association, Inc., a not-for-profit Florida corporation, attached hereto as <u>Exhibit "B"</u>, and all exhibits which are attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

Section 2. "<u>Association</u>" means the Sorrento Master Association, Inc., a not-forprofit Florida corporation, its successors and assigns.

Section 3. "<u>Builder</u>" means any person or entity that purchases more than one Lot from the Declarant or a Builder for the purpose of constructing Homes on such Lots for sale to third party purchasers.

Section 4. "<u>By-Laws</u>" mean the By-Laws of Sorrento Master Association, Inc., attached hereto as <u>Exhibit "C"</u> and all exhibits attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

Section 5. <u>"CDD"</u> shall mean the Parklands Lee Community Development District.

Section 6. <u>"Condominium</u>" shall mean a Condominium created by the recording of a Declaration of Condominium recorded in the Public Records of the County, which is located within the Community and all Common Elements, Limited Common Elements and Units therein. If more than one (1) Condominium is created which is located within the Community, the term Condominium shall refer to each Condominium.

Section 7. <u>"Condominium Association</u>" means a Condominium Association created in connection with the operation of each Condominium located within the Community.

Section 8. "<u>Common Area</u>" is the property owned by or dedicated to the Association for the common use and enjoyment of the Members and all improvements constructed thereon and such other property as determined by Declarant, in its sole and absolute discretion, which may include rights of way, entrance features and gates, recreational facilities, perimeter walls, and surface water management systems. No part of any Lot or Condominium shall be deemed a Common Area of the Association.

Section 9. "<u>County</u>" shall mean Lee County, Florida.

Section 10. "<u>Declarant</u>" means D.R. Horton, Inc., a Delaware corporation, or any successor of Declarant who may be assigned all or a part of the rights and obligations of Declarant pursuant to a written assignment executed by Declarant and recorded among the Public Records of Lee County, Florida. If Declarant assigns only a portion of its rights and obligations as Declarant hereunder to an assignee, then the term Declarant as used in this Declaration shall mean such assignee only when necessary to give such assignee the rights and obligations of Declarant hereunder which were assigned to such assignee to the same extent as if such assignee had been the original Declarant, and said assignee shall not have any of the rights and obligations of Declarant hereunder which were not specifically assigned to such assignee.

Section 11. "<u>Declaration</u>" means this instrument, together with the exhibits attached hereto and made a part hereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms hereof.

Section 12. "<u>Development Period</u>" means the period of time until the Declarant has sold the last Lot or Unit within the Property or any property annexed into and encumbered by this Declaration and becoming a part of the Property as provided herein to a third party purchasers.

Section 13. <u>"Dwelling"</u> means a constructed Home or Condominium Unit within the Community.

Section 14. <u>"Governing Documents"</u> shall mean this Declaration, including the Articles, Bylaws, the Permit, and any promulgated Rules and Regulations duly adopted by the Association.

Section 15. "<u>Home</u>" is a detached single family dwelling constructed upon and including a Lot which is or may be conveyed to an Owner for occupancy and use as a single family dwelling.

Section 16. "<u>Institutional First Mortgage</u>" is a mortgage executed in favor of an Institutional First Mortgagee, which mortgage is a first and prior mortgage encumbering a Dwelling.

Section 17. "<u>Institutional First Mortgagee</u>" is a bank, federal savings bank, and loan association, any insurance company, pension fund, real estate trust, Federal National Mortgage Association or its assigns, Federal Home Loan Mortgage Company or its assigns, or any other party engaged in the business of mortgage financing, which owns or holds a first and prior mortgage encumbering a Home, and shall include any corporate subsidiary of such entity.

Section 18. "<u>Lot</u>" is a designated lot within the property described on the Plat or any property annexed thereto and becoming a part of the Property conveyed or to be conveyed to an Owner upon which there has been constructed or will be constructed a Home. The Condominium Property shall not be considered a Lot.

Section 19. "<u>Member</u>" is every person or entity who is a Member in the Association.

Section 20. "<u>Owner</u>" is the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Unit which is a part of the Property, including contract sellers, but excluding those parties having such interest merely as security for the performance of any obligation.

Section 21. "<u>Plat</u>" shall refer to any recorded subdivision plat of the Property recorded in the Public Records of Lee County, Florida, as the same may be amended or replatted from time to time, if applicable.

Section 22. "<u>Property</u>" is the property described in <u>Exhibit "A"</u>, and such additions thereto as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

Section 23. "<u>Rules</u>" are collectively the rules and regulations which the Board of Directors of the Association may promulgate or impose and thereafter modify, alter, amend, rescind and augment any of the same with respect to the use, operation, and enjoyment of the Property, though excluding the Common Area, and any improvements located thereon.

Section 24. "<u>Sorrento</u>" or "<u>Community</u>" means the residential community planned for development upon the property described in <u>Exhibit "A"</u> or any property annexed as provided herein; the said being within Lee County, Florida.

Section 25. <u>"Unit" or "Condominium Unit"</u> means any portion of the Condominium within the Community subject to a recorded Declaration of Condominium which is or may be conveyed to an Owner for use and occupancy as a single family residential dwelling.

The foregoing definitions shall be applicable to this Declaration and to any supplemental declaration hereto or any amendment to this Declaration, unless otherwise expressly provided herein or therein.

### **ARTICLE II**

### PROPERTY SUBJECT TO THIS DECLARATION

Section 1. <u>Legal Description</u>. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is the property described in <u>Exhibit "A"</u>, and such additions as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration, less the portions thereof dedicated and/or conveyed to other entities.

Section 2. <u>Application of Declaration</u>. The Property shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration, and any and all supplements and lawful amendments hereto and any and all supplements and lawful amendments thereto. By receipt of delivery of a deed to any of the Property or other instrument evidencing ownership, whether or not it shall be so expressed in any such deed or other conveyance or adjudication, each Owner hereby agrees to abide by and accept title to such portion of the Property and all terms and provisions of this Declaration. The filing of this Declaration and subjecting the Property to the covenants, conditions, restrictions, reservations, easements, liens and charges contained herein shall not be construed in any way as inhibiting or prohibiting the Declarant from conveying the Lots or improvements within the Property to third parties free and clear of any covenants, conditions, restrictions, reservations, easements, liens and charges, except for those specifically provided for in this Declaration. Lots so conveyed by the Declarant to third parties shall be used and held by said third parties in accordance with this Declaration.

Section 3. <u>Additional Property</u>. Additional property may become subject to this Declaration or be withdrawn from the terms of this Declaration in the following manner:

(a) <u>Annexation Without Approval of Class "A" Membership</u>. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time to annex, subject to the provisions of this Declaration and the jurisdiction of the Association, all or any portion of the real property described in a Supplemental Declaration. Such Supplemental Declaration shall not require the consent of the Members. Any such annexation shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transfer or assignment is memorialized in a written, recorded instrument executed by Declarant.

(b) <u>Annexation With Approval of Class "A" Membership</u>. Subject to the consent of the owner thereof, after the expiration of the Class B Member, the Association may annex additional real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of not less than sixty-seven (67%) percent of the Class "A" Members of the Association. Annexation shall be accomplished by filing of record in the public records of the County, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by an authorized officer of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the property pursuant to this Section and to ascertain the presence of a quorum at such meeting.

(c) <u>Acquisition of Additional Common Area</u>. Declarant may convey to the Association additional real property, or any interest therein, improved or unimproved, and upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense as a Common Area for the benefit of all of its Members.

Withdrawal of Land. Declarant shall be entitled to withdraw portions of (d) the Property owned by Declarant from the terms and conditions of this Declaration, subject to the terms and conditions of this Section. For purposes of this Declaration, any portion of the Property withdrawn from the terms hereof shall be referred to as the "Withdrawn Property." In order to withdraw such portion of the Property from the terms of this Declaration, Declarant shall record in the Public Records of the County an instrument executed with the formalities of a Deed, which instrument shall make reference to this Declaration, state that the purpose of the instrument is to withdraw the Withdrawn Property from the terms and conditions of this Declaration, and contain a legal description of the Withdrawn Property. Declarant shall have the right to withdraw portions of the Property from the terms and conditions of this Declaration without the joinder, ratification or approval of the Association, any Owner, or any lienholder, provided that Declarant is the fee simple owner of the Withdrawn Property, and provided that the withdrawal of the Withdrawn Property shall not result in the reduction of the number of Lots within the Community or the substantial material reduction of the size of any Lot. Upon the withdrawal of the Withdrawn Property from the terms and conditions of this Declaration, the

Withdrawn Property shall no longer be subject to the terms of this Declaration, including all exhibits hereto, or any other covenants, restrictions and/or regulations provided herein or adopted hereunder, except for those easements, rights-of-way, or other portions hereof which, by their terms, specifically survive the termination of this Declaration, which shall include the withdrawal of such lands from the terms and conditions of this Declaration.

(e) <u>Amendment</u>. This Article II, Section 3 shall not be amended without the prior written consent of Declarant, so long as the Declarant holds Lots or Units for sale in the ordinary course of business.

#### **ARTICLE III**

#### **MEMBERSHIP**

Section 1. <u>Membership</u>. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot or Unit which is subject to the covenants, conditions, restrictions, reservations, easements, liens and charges, of this Declaration, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot or Unit owned. Membership shall be appurtenant to the Lot or Unit and may not be separated from ownership of the Lot or Unit. Ownership of a Lot or Unit shall be the sole qualification for membership. The Owner of record of each Lot or Unit shall be subject to assessment by the Association, as hereinafter provided, and shall be subject to enforcement by the Association in accordance with the terms and provisions of this Declaration.

### **ARTICLE IV**

#### **VOTING RIGHTS**

The Association shall have two (2) classes of voting membership:

<u>Class A</u>. Class A Members shall be those Owners defined in Article III with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot or Unit in which they hold the interest required for membership by Article III. When more than one (1) person or entity holds such interest in any Lot or Unit, all such persons shall be Members. The vote for such Lot or Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot or Unit.

<u>Class B</u>. The Class B Member shall be the Declarant, D.R. Horton, Inc., its successors and assigns. The Class B member shall be entitled to three (3) votes for each Class A Member vote, provided that the Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier, unless otherwise required by applicable law:

(a) Ninety (90%) percent of the Lots and/or Units have been conveyed to third-party purchasers other than Builders;

- (b) Ten (10) years from the date of recording this Declaration; or
- (c) Thirty (30) days after Declarant elects to terminate the Class B Membership.

#### **ARTICLE V**

#### PROPERTY RIGHTS

Section 1. <u>Membership Easements of Enjoyment</u>. Every Member shall have a right and easement of enjoyment in and to the non-exclusive use of the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot and Unit, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area, and in aid thereof to mortgage said Common Area and the rights of such mortgagee in said Common Area shall be subordinate to the rights of the Owners hereunder; the right to mortgage the Common Area provided herein shall not become effective until a Dwelling has been constructed upon each Lot or the Condominium Property within the Property and each Lot or Unit has been conveyed from the Declarant to a purchaser. No such rights to mortgage shall be effective unless an instrument shall be signed by two-thirds (2/3) of the Members other than the Declarant.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes, and subject to such conditions as may be agreed to by the Members, or to mortgage all or any part of the Common Area. No such dedication, transfer or mortgage, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3rds) of the votes of the Class A membership and two-thirds (2/3rds) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the duly called meeting at which the vote on such dedication or transfer is held;

(c) The right of the Declarant or the Association to establish, from time to time, certain easements over the Common Area for utilities, broadband communications, cable television and other common services purposes;

(d) The right of the Association to charge reasonable fees for the use of designated facilities (if any) on the Common Area;

- (e) Existing easements and agreements of record;
- (f) Easements referred to in Article X hereof;

(g) The right to the use and enjoyment of the Common Area and facilities thereon shall extend to all Members and their family, tenants, contract purchasers and invited

guests, provided there is delegation of the right of enjoyment in accordance with the By-Laws and subject to regulation from time to time by the Association in its Rules;

(h) Access to certain Common Areas within the Property may not be obtained from an Owner's or Member's Lot, the Condominium, Condominium Units or other Common Area or publicly dedicated streets or properties. The fact that a Member or Owner shall not have direct access to certain Common Area from his or her Lot, the Condominium, Common Area or publicly dedicated streets or properties does not allow an Owner to escape liability for assessments provided for in Article VI of this Declaration; provided, however, that every owner shall have pedestrian and vehicular access from its Unit or Lot to a right of way; and

(i) The other provisions of this Declaration, the Articles and By-Laws.

Section 2. <u>Common Area</u>.

(a) <u>Ownership</u>. The Declarant hereby represents that the fee simple title to the Common Area has been or will be conveyed to the Association and the Association shall maintain the Common Area. The Association shall be obligated to accept conveyance of any Common Areas from the Declarant as deemed necessary or advisable by Declarant.

Maintenance. The Association shall be responsible for the maintenance of (b)the Common Areas in a continuous and satisfactory manner in good order, condition, and repair. In addition, the Association shall replace as scheduled any and all improvements situated on the Common Areas (upon completion of construction by Declarant), including, but not limited to, all landscaping, paving, drainage structures, street lighting fixtures, signs, irrigation systems, sidewalks, recreational amenities and other structures, including guard gates and entry features, but excepting any public utilities. The Association shall be authorized, but not required, to provide other services, such as installation and maintenance of security gates (manned and/or unmanned), operation of a guardhouse, the employment of stationary or patrolling security guards within the Community and emergency repairs and other work on Lots reasonably necessary for the proper maintenance and operation of the Community, and shall have easement rights necessary to perform same. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments as provided in this Declaration; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of an Owner or its guest, tenants or other invitees or by the failure of an Owner to comply with the lawfully adopted rules and regulations of the Association shall be levied as a Special Assessment against such Owner individually. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

(c) <u>Rules and Regulations</u>. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board of Directors shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided herein and in the Bylaws of the Association. Section 3. <u>Declarant's Reserved Rights</u>. Notwithstanding any provision herein to the contrary, the property rights under this Article V shall be subject to:

(a) The right of Declarant to execute all documents and take such actions and do such acts affecting the Property or the Common Area which, in the Declarant's sole discretion, are desirable or necessary to facilitate the Declarant's actual development, construction, sales and marketing of the Property. However, nothing contained herein shall authorize either Declarant to take any action that will diminish the rights of any lienholder or the holder of any mortgage on any Lot, Unit, or on the Common Area; take any action that will affect title to any of the Lots or Units after conveyance to third parties; or unilaterally change the Declaration, Articles, By-Laws and Rules after the Class B Membership has terminated;

(b) Easements of record on the date hereof and any easements which may hereafter be granted by Declarant to any public or private utilities or governmental bodies for the installation and maintenance of cable television, electrical and telephone conduit and lines, sewers or water pipes, or any other utilities or services to any Lots or the Condominium within the Property or any portion of the Common Area or such easements as Declarant may determine are necessary or beneficial for the maintenance or preservation of the Property;

(c) The Declarant shall have full rights of ingress and egress to and through, and over and about the Property, including all Common Areas, during the Development Period and such additional period of time as Declarant is engaged in any construction or improvement work, sales, leasing or marketing of the Community on or within the Property, and the Declarant shall further have an easement thereon for the purpose of storage of materials, vehicles, tools, equipment, etc., which are being utilized in such development or construction and for the use and maintenance of signs, banners, and the like being used in connection with the sale or promotion of the Property, or any portion thereof. The Declarant shall further have the right to operate and maintain models, sales centers and leasing offices and to operate and open gates and access to the Community to facilitate sales and marketing of the Community in Declarant's sole and absolute discretion. No Owner, his guests, employees, servants, agents and invitees shall in any way interfere or hamper Declarant, its agents, servants, employees, invitees, successors or assigns, in connection with such construction, development, promotion or sales activity; and

(d) The Declarant shall have full right to assign any or all of its right, title and interest in the Property, both as Declarant and as a Member of the Association, to another party by the execution and recording of a proper instrument in the Public Records of the County. This provision shall not, however, be construed to allow Declarant to assign a membership in the Association in a transaction separate from ownership of a Lot or Unit. Notwithstanding the foregoing, the Declarant shall also have the right to grant a Builder certain rights reserved hereunder to the Declarant for the purpose of constructing Dwellings in the Community by executing an assignment of rights in favor of the Builder to be kept in the official records of the Association.

Section 4. <u>No Dedication to Public Use</u>. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area, except for access to and from and throughout the property described in the Plat or any additions thereto.

Section 5. <u>Incorporation of Easements by Reference</u>. Reference in the respective deeds of conveyance, or any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 6. Surface Water Management. It is acknowledged that the surface water drainage and storage system for the Property is one integrated system, and management, accordingly those portions contained within the Property shall be deemed Common Area and an easement is hereby created over the entire Property for the surface water drainage and storage, and for the installation and maintenance of the surface water management, drainage and storage system for the Property; provided, however that such easement shall be subject to improvements constructed within the Property as permitted by controlling governmental authorities from time to time. If pursuant to the permitting requirements of any governmental authority the surface water management system for the Property is required to provide drainage for any other property, such other property shall have an easement for drainage purposes into the surface water management system for the Property. The surface water management, drainage, and storage system of the Property shall be developed, operated, and maintained in conformance with the requirements of, and any permits or approvals issued by the South Florida Water Management District ("WMD") and any other controlling governmental authority. Except as hereafter provided, the Association shall maintain as a regular expense the entire surface water management, drainage, and storage system for the Property, including but not limited to all lakes and canals, swale areas, retention areas, culverts, pipes, pumps, catch basins, and related appurtenances, and any littoral zones in any lakes or other waterway, regardless of whether or not same are natural or man-made within the Property or are owned by the Association. Such maintenance shall be performed in conformance with the requirements of any governmental authority, and an easement for such maintenance is hereby created. The Association will have the right, but not the obligation, to maintain any portion of the surface water management, drainage, and storage system for the Property which is owned and/or maintained by any controlling governmental authority, or which is outside of the Property. The Association will have the right to enter into agreements with any controlling governmental authority or any other property owner or association for the common maintenance of the surface water management, drainage, and storage system serving the Property and any other property. The Property shall be required to accept surface water drainage from any other property pursuant to the requirements of any controlling governmental authority and an easement for such drainage is hereby created, and in connection therewith the Association will have the right, but not the obligation, to maintain any portion of the surface water management system for such other property reasonably required in connection with the maintenance or operation of the surface water management system for the Property.

Section 7. <u>Emergency Access.</u> The Association shall be responsible for the maintenance, repair and replacement, if necessary, of the 20 foot stabilized emergency access shown on the Banks Engineering Plans and Specifications for Sorrento dated May 2, 2012 and on file with the City of Bonita Springs (the "Emergency Access"). The Emergency Access is located between Phases 12 and 38 of the Condominium Property and between Sosta Lane and

Mattiotti View. The Emergency Access shall at all times be kept properly mowed and it shall further be promptly repaired to the specifications in the referenced engineering plans if it is damaged by use or otherwise. In the event the Emergency Access is not so maintained, repaired and replaced, the CDD shall have all right to perform such maintenance, repair or replacement. In the event the CDD is required to do any of the foregoing, the Association shall reimburse the CDD for the actual cost thereof within 30 days of written demand for reimbursement of such costs together with copies of paid invoices evidencing the actual cost to the CDD. If the Association fails to reimburse the CDD as set forth herein, the CDD shall have all rights of collection, including reasonable attorneys' fees and costs related thereto, available at law or in equity.

#### **ARTICLE VI**

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Creation of the Lien and Personal Obligation of Assessments to be Paid to Section 1. the Association. The Declarant, for each Lot or Unit owned by it within the Property, hereby covenants, and each Owner of any Lot or Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance (including any purchaser at a judicial sale), is deemed to covenant, which covenant shall run with the land and be binding on every Owner, and agrees to pay to the Association: (1) any regular assessments or charges (including payment of property taxes which may be assessed against Common Area or any personal property which may in the future be owned by the Association) for common expenses of the Association ("Common Assessments"); and (2) any special assessments for improvements, or to fund any deficits between the amount collected for regular assessments in accordance with the capital annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Common Area, together with other costs and/or expenses levied or imposed against the Association or property of the Association ("Special Assessments"); and (3) any individual assessments or charges incurred by the Association on behalf of one or more Lots or Units but not all Lots or Units ("Individual Assessments"). All such Common Assessments, Special Assessments, and Individual Assessments shall be referred to collectively herein as "Assessments", which shall be fixed, established and collected from time to time as hereinafter provided. Assessments, together with such interest thereon and costs of collection thereof, including attorney's fees, as hereinafter provided and any applicable late fee imposed by the Board of Directors of the Association, shall be a charge on the Property and shall be a continuing lien relating back to the date of recordation of the Original Declaration upon any Lot or Unit against which each such assessment is made, and said lien may be enforced in the same manner in which mortgages are enforced. Each such Assessment, together with interest, costs (including applicable late fees), and reasonable attorneys' fees for its collection, including attorneys' fees involved at all appellate levels and whether or not suit is instituted, shall also be the personal obligation of the person or entity who was the Owner of the Lot or Unit at the time when the Assessment becomes due.

Section 2. <u>Purpose of Assessments</u>. The Common Assessments to be levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Property and shall specifically include, but not limited to:

payment of all water charges for the Common Area billed through the master water meter; any fees due under a bulk service agreement entered into on behalf of the Owners by the Association or Declarant; the maintenance of the Common Area; the payment of taxes and insurance for the Common Area; payment for the improvement and maintenance of the Common Area; and services and facilities related to the use and enjoyment of the Common Area. Special Assessments shall be used to fund capital improvements, deficits in the collection of regular assessment to cover operating expenses of the Association, and other purposes deemed necessary by a majority vote of Owners of the Association as set forth in Section 4 hereof. Individual Assessments shall be for the costs incurred by the Association which by nature are applicable only to one or more Lots or Units, but less than all Lots or Units. By way of example and not limitation, in the event an Owner fails to maintain their Lot or Unit or the Condominium Association fails to maintain the Condominium in a manner required by the Governing Documents, the Association shall have the right, through its agents and employees, to enter upon the Lot or Condominium and to repair, restore, and maintain the Dwellings or Condominium as required by the Governing Documents. The costs of any such repair, restoration and/or maintenance, plus the reasonable administrative expenses of the Association and any costs incurred in bringing a Dwelling or Condominium into compliance with the Governing Documents, shall be an Individual Assessment.

Basis of Annual Assessments. For the first twelve (12) months of Section 3. operation of the Association, the annual Assessments shall be the amount as set forth in the estimated operating budget of the Association for the initial year of operation. From and after the initial year of operation, the annual Assessment shall be determined in accordance with the Articles of Incorporation and By-Laws of the Association taking into account current maintenance costs and future needs of the Association. The estimated operating budget for the Association shall include an itemized budget for Common Assessments to be paid by each Owner, Each Owner acknowledges the Association is responsible for the repair and maintenance of capital improvements that may result in a Special Assessment due to reserves not being collected. Any reserve accounts not being initially provided for by the Declarant, may be established by the Members of the Association after the expiration of the Class B Membership upon the affirmative approval of a majority of the total voting interests of the Association obtained by a vote of the Members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the Association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the Board shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once reserves are established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided by Chapter 720, Florida Statutes. Notwithstanding the same, reserves will not be funded by the Declarant for the Lots or Units Declarant owns so long as Declarant is funding any deficits in operating costs pursuant to Section 12 herein.

Section 4. <u>Uniform Rate of Assessment</u>. All Assessments must be fixed at a uniform rate for all Dwellings (including all Lots and Units) and may be collected on a monthly, quarterly or annual basis or as determined by the Board of Directors. Payments of all Assessments will be

made directly to the Association or its designated management company and in no instance shall any mortgagees have the obligation to collect Assessments.

Section 5. <u>Special Assessment for Capital Improvements</u>. In addition to the annual Assessments authorized above, the Association may levy in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, PROVIDED that any such Special Assessments shall have the assent of a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 15 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Quorum for Any Action Authorized Under Section 5. At each meeting called, as provided in Section 5 hereof, the presence of the meeting of Members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 5 and the required quorum at any such subsequent meeting shall be one-half  $(\frac{1}{2})$  of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual Assessments provided for herein shall commence as to all Lots and Units on the earliest of the following events to occur: a) a Certificate of Occupancy being issued for a Dwelling constructed on a Lot or a Unit in the Condominium; or b) the occupancy by an Owner of a Dwelling; or c) the conveyance by the Declarant of a Lot or Unit to a third party purchaser. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual Assessments against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment for each Dwelling shall be sent to every Owner subject thereto together with the due date of such Assessments established by the Board of Directors. The Board of Directors, if necessary to insure cash flow, may institute reasonable late payment fees for monthly payment of the annual Assessment. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within ten (10) days (or such other period of time established by the Board) after the due date, an administrative late fee of the greater of Twenty-Five and no/100 Dollars (\$25.00) or 5% of the amount of the installment that is past due, together with interest in an amount equal to the maximum rate per annum allowable by law beginning from the due date until paid in full may be levied. The Association, acting through its Board of Directors, may bring an action at law against

the Owner personally obligated to pay the same, or foreclose the lien against the Lot to which the Assessment is levied, and interest, costs and reasonable attorneys' fees, including at all appellate levels and whether or not suit is instituted, in collection or enforcement shall be added to the amount of such Assessment. Additionally, the Board of Directors of the Association may at its discretion accelerate the Assessments then due from a delinquent Owner for the next twelve (12) The Association may also notify any mortgagees or lenders of Owner, any comonths. borrowers and/or guarantor(s) without recourse to Declarant and/or the Association of delinquencies in the payment of Assessments. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. All payments on accounts shall be first applied to fines levied in accordance with the terms of the Declaration, interest accrued by the Association, then to any administrative late fees, then to collection costs and attorney fees, and then to the delinquent Assessments. The allocation of payments described herein shall apply notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment. Additionally, if a Dwelling is occupied by a tenant and the Owner is delinquent in the payment of Assessments, the Association may demand from the tenant payment to the Association of all monetary obligations, including without limitation, Assessments due from the Owner to the Association. So long as the Owner remains delinquent, future rent payments due to the Owner may be collected by the Association and shall be credited to the monetary obligations of the Owner to the Association. If within fourteen (14) days from written demand of the Association, the tenant provides the Association with written evidence of making prepaid rent payments, the tenant shall receive credit for the prepaid rent for the applicable period of such prepaid rent.

Section 9. <u>Individual Assessment Against a Particular Owner of Lot</u>. In the event an Owner of any Lot or Unit in the Property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by a majority of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such exterior maintenance to which such Lot is subject shall be an Individual Assessment; and said Individual Assessment shall be enforced in the same manner as provided for in Section 8.

Section 10. <u>Subordination of the Lien to Mortgages</u>. The lien of the assessments provided for herein shall be superior to all other liens except tax liens and the liens of any bona fide Institutional First Mortgage to an Institutional First Mortgage recorded prior to any lien for assessments by the Association; provided, however, that said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtednesses payable in monthly, quarterly or annual payments over a period of not less than ten (10) years.

Section 11. <u>Exempt Property</u>. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) any portion of the Property dedicated to and accepted by a local public authority; (b) the Common Area of the Association and the Condominium; (c) any portion of the Property which is designated and/or reserved for easements; and (d) any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida; however, no land or improvements devoted to dwelling use shall be exempt from said assessments. Section 12. <u>Declarant's Guarantee of Deficit</u>. Notwithstanding any provision that may be contained to the contrary in this Declaration, for as long as Declarant is the owner of any Lot or Unit, the Declarant shall not be liable for Assessments against such Lots or Units owned by the Declarant, provided that the Declarant funds any deficit in operating expenses exclusive of reserves, cost of capital improvements, non-budgeted repairs or replacement and management fees (if the Declarant is entitled to same). For the purposes hereof, a deficit shall be computed by subtraction from said operating expenses (exclusive of the items described in the foregoing sentence) all Assessments, contributions and other sums received or receivable by the Association. The Declarant may at any time commence to pay Assessments to the Lots that it owns and thereby automatically terminate its obligations to fund a deficit in the operating expenses of the Association, or any time or from time to time elect again to fund deficits as aforesaid. When all Lots within the Property are sold and conveyed to purchasers, the Declarant shall have no further liability of any kind to the Association for the payment of Assessments or deficits other than those that arose prior to such time.

Section 13. <u>Surface Water Management System</u>. The Association is responsible for assessing and collecting fees for the operation, maintenance, and, if necessary, replacement of the surface water management system which is part of the Common Area. Fees shall be assessed and collected through annual Assessments or other Assessments, if necessary.

### **ARTICLE VII**

## CAPITAL CONTRIBUTION

Section 1. <u>Capital Contribution on Sale By Declarant</u>. At the time of the closing of a Dwelling by the Declarant or a Builder, each purchaser shall pay to the Association \$350.00 as a working capital contribution. These monies (hereinafter called "**Capital Contribution**") shall be the Association's property, and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and By-Laws. The Capital Contribution shall be deemed ordinary Association income and need not be separated from or held or applied differently than Assessments. No refund of a Capital Contribution will be made on re-sale.

Section 2. <u>Capital Contribution on Sale By Owner Other Than Declarant</u>. At the time of the closing of a Dwelling pursuant to a sale by an Owner other than Declarant, each purchaser shall pay to the Association a sum to be determined by the Board of Directors annually, which amount shall not exceed \$500.00 unless at least 2/3 of the Members approve a higher amount, as Capital Contribution. These monies shall be the Association's property, and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and By-Laws. The Capital Contribution shall be deemed ordinary association income and need not be separated from or held or applied differently than Assessments. No refund of a Capital Contribution will be made on re-sale.

#### **ARTICLE VIII**

#### ARCHITECTURAL CONTROL

Section 1. Review of Proposed Construction. Subject to Section 2 below, no improvement or alteration of any kind, including, but not limited to, a fence, wall or other addition, structure, or equipment (including landscaping, antennas, awnings, and shutters) shall be installed, painted, erected, removed or maintained within the Property, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, a majority of the Board of Directors of the Association. The Board of Directors of the Association shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property and that the appearance of any improvement or other structure affected thereby will be in harmony with surrounding structures and improvements (or the surrounding area contemplated by Declarant, if within the Development Period) and if otherwise desirable. The Board of Directors of the Association may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Board of Directors of the Association may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Board of Directors of the Association may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the Board of Directors of the Association of any required plans and specifications, the Board of Directors of the Association may postpone review of any plans submitted for approval. The Board of Directors of the Association shall have forty-five (45) days after delivery of all required materials to approve or reject any such plans. During the period of time the Declarant appoints the majority of the Board, if an Owner's plans are not approved within such 45-day period, said plans shall be deemed not approved; however, once Owners other than the Declarant elect a majority of the Board, if an Owner's plans are not approved within such 45-day period, said plans shall be deemed approved. All changes and alterations shall be subject independently to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any alteration or modification to the location and/or placement of exterior walls of any Home shall be further conditioned on compliance with the County ordinances and the obtaining of applicable governmental approvals, if any. All exterior changes to a Condominium, shall be submitted by the Condominium Association to the Association for review and approval. Individual Condominium Owners shall not be required to submit to the Association any modifications to the interior of Condominium Units; provided, however, each Unit Owner shall be required to comply with the covenants and restrictions of the Declaration of Condominium.

Section 2. <u>No Waiver of Future Approvals</u>. The approval of the Board of Directors of the Association of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors of the Association, shall not be deemed to constitute a waiver of any right to

withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whether subsequently or additionally submitted for approval or consent.

Section 3. <u>Liability of the Board of Directors of the Association</u>. No member of the Board of Directors of the Association (or Declarant) shall be liable to any Owner or other person by reason of mistake in judgment, failure to point out deficiencies in plans, or any other act or omission in connection with the approval of any plans. Any Owner submitting plans hereunder by the submitting of same, agrees (i) not to seek any damages or make any claim arising out of approval of plans hereunder, and (ii) to indemnify and hold the Board of Directors of the Association, the Association and Declarant harmless from any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and costs at all tribunal and appellate levels (and whether or not suit is instituted), arising out of the approval of any plans regardless of the negligence of the committee members, their representatives, or appointing entity.

Section 4. <u>Inspection of Work</u>. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required hereunder the applicant for such approval ("**Applicant**") shall give written notice of completion to the Board of Directors of the Association.

(b) Within thirty (30) days thereafter, the Board of Directors of the Association (or its duly authorized representative) may inspect such completed work. If the Board of Directors of the Association finds that such work was not affected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

If an Applicant is notified of any noncompliance, the Applicant shall (c) remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If Applicant does not comply with the Board of Directors of the Association ruling within such period, the Board, at its option, may either remove the noncomplying improvement or remedy the noncompliance (an easement therefore being hereby created), and Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. This amount, together with interest thereon at the rate of eighteen (18%) percent per annum from the date the noncompliance was to have been remedied or removed, the maximum late fee allowed under Florida Statutes for each month that a violation exists if payment is not made within thirty (30) days after announcement, and all costs and reasonable attorneys' fees incurred by the Association in collection, enforcement or abatement, as appropriate (including attorneys' fees incurred at all appellate levels and whether or not suit is instituted) shall be a personal obligation of Owner and shall not pass to the successors in title of Owner unless expressly assumed by such successors. Such amount (including interest, costs, late fees and attorneys' fees as provided above) shall also be a *continuing lien* and run with the land on the Owner's Property if not paid within thirty (30) days after notice enforceable in the same manner in which mortgages are enforced by foreclosure, or by bringing an action at law or equity against the Owner.

(d) If for any reason the Board of Directors of the Association fails to notify the Applicant of any noncompliance within forty-five (45) days after receipt of written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with the approved plans.

Section 5. <u>Variances</u>. The Board of Directors of the Association may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variance must be evidenced in writing and must be signed by at least two (2) members of the Board of Directors of the Association. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot or Unit, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by any governmental or municipal authority.

Section 6. <u>Architectural Review Committee</u>. The Board of Directors of the Association may assign all of its responsibilities under Article VIII to an Architectural Review Committee to be appointed by the Board of Directors of the Association (the "ARC").

Section 7. <u>Declarant's Exemption</u>. Notwithstanding anything to the contrary, this Article does not apply to the Declarant.

### **ARTICLE IX**

#### **USE RESTRICTIONS**

Section 1. No Dwelling shall be used for purposes other than residential purposes. No building shall be erected altered, placed or permitted to remain on any Lot other than a single family dwelling, either attached or detached, or a Condominium Unit, unless such building was originally installed by the Declarant.

Section 2. No structure of a temporary character, trailer, basement, tent, shack, barn, shed or other out-building shall be used on any Lot at any time as a residence or appendage to such residence, either temporary or permanent, except for temporary construction trailer of Declarant.

Section 3. No noxious or offensive activity shall be carried on upon any Lot or within a Dwelling, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood within the Plat, or any matter which affects the health, safety or welfare of the owners or occupants of the Property, in the Association's reasonable discretion.

Section 4. No livestock or poultry shall be kept, maintained, or bred on any Lot or in any Dwelling or elsewhere within the Property, except for fish in an aquarium and birds in cages maintained in the interior of the Home and not more than a total of two (2) domestic dogs (other than pit bull dogs or other dogs which in the reasonable determination of the Board of Directors are determined to be a threat to the safety of the occupants of the Property which shall not be allowed under any circumstances in the Property) or two (2) domestic cats shall be permitted to be kept in a Dwelling or Lot, provided such animals are not kept, bred or raised for commercial purposes. Notwithstanding the foregoing, the Board of Directors shall specifically have the power to either permit additional domestic dogs or cats to be kept as pets by an Owner if in the determination of the Board such pets shall not cause or be deemed by the Board of Directors to constitute a nuisance to any other Owner in the determination of the Board of Directors. Each person bringing or keeping a pet within the Property shall be absolutely liable to the Association, other Owners and their invitees for any damage to persons or property caused by any pet brought upon or kept upon the Property and it shall be the duty and responsibility of each such Owner to clean up after such animals which have deposited droppings or otherwise used any portion of the Property or public street abutting or visible from the Property. Animals belonging to Owners or invitees of any Owner must be kept within an enclosure or, on a leash held by a person capable of controlling the animal. No pets shall be "tied out" in a yard or on a porch or patio and left unattended for any extended period of time. The Association shall have the right to promulgate Rules and Regulations relating to animals and the right to restrict or require removal any such animals determined by the Board to constitute a nuisance. The Board reserves the right to require any Owner with a pet to obtain and maintain adequate liability insurance covering liability related to the ownership of the pet.

Section 5. During the time period Declarant owns any Unit or Lot within the Property, no sign of any kind shall be displayed to the public view on any Lot or from a Unit, except one sign not larger than 3" X 5" and placed in one ground floor window or one second story window advertising that property is for sale or rent, except signs used by the Declarant to advertise the Property during the construction and sale of Dwellings. Once the Declarant has conveyed all Lots it owns within the Property, then the size of the signs can be increased to not more than 18" x 24" to advertise that the property is for sale or rent which sign is to be placed on one ground floor window or one second story window.

Section 6. No Lot shall be used or maintained as a dumping ground for rubbish. All trash and garbage shall be regularly removed from each Lot or Unit and the Condominium Property and shall not be allowed to accumulate thereon. Trash, garbage or other waste shall be kept in sanitary, covered containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. In no event shall such equipment and/or containers be visible from the Common Area streets, from neighboring Property or within property contained in the Plat, except for a reasonable time immediately prior to and after scheduled trash collection, and in all events in compliance with the County Code.

Section 7. No garments, rugs, towels or blankets or any other materials may be hung, exposed or dusted from the windows or from the front facade of any Dwelling. Further, unless otherwise specifically prohibited by applicable local, State or Federal law, no outside clotheslines or other facilities for drying or airing clothes shall be erected in the front yard, side

yard or back yard of any Dwelling. All personal property of Owners or other occupants shall be stored inside; provided, however, patio furniture or other personal property which is specifically for the use and enjoyment of designated outdoor areas of the Dwelling shall be permitted.

There shall be no parking on any portion of any sidewalk which is not part Section 8. of a designated driveway, grass or street within the Property. An Owner may park in the Dwelling's garage or in the driveway on the Lot. Car covers are prohibited and license tags on all vehicles must be current. No vehicle which cannot operate on its own power shall remain in the Community for more than twenty four (24) hours, except in the garage of a Dwelling. No repair or maintenance, except for emergency repairs of vehicles shall be made unless in the garage of a Dwelling. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view. Any trailer, commercial vehicle, recreational vehicle, boat, rowboat, canoe, jet ski or boat trailer shall not be permitted to be parked outside of an enclosed garage. This restriction shall not be deemed to limit service vehicles whose purpose is to perform maintenance and delivery service to the Owners or the Association during normal working hours or for work performed for the Declarant or the Association which are necessary in the development, maintenance or management of the Association. The term "commercial vehicle" includes trucks and vehicular equipment or other vehicles which are used or which are ordinarily intended to be used for commercial purposes or which contain materials regularly used in trade or business. No vehicles displaying commercial advertising shall be parked within the public view. Automobiles issued by the County or other governmental entity (i.e., police cars), shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Lot. No vehicle shall be used as a domicile or residence either temporarily or permanently. No all terrain vehicles (ATVs), golf carts, scooters or mini motorcycles are permitted at any time on any paved surfaces forming a part of the Common Areas. Notwithstanding any other provision in this Declaration to the contrary, the foregoing restrictions shall not apply to construction vehicles utilized in connection with construction, improvement, installation, or repair by Declarant, or its agents. Subject to applicable laws and ordinances, with respect to any vehicle parked in violation of these or other restrictions contained herein, the Association is authorized to order the towing of any vehicle (at said vehicle owner's expense) for a violation of this Section if a vehicle remains in violation of this Section for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such a vehicle was cited for such violation within the preceding fourteen (14) day period. Each Owner by acceptance of title to a Dwelling irrevocably grants the Association and its designated towing service the right to enter a Lot and tow vehicles in violation of this Declaration. Neither the Association nor the towing company shall be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing or removal and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. By accepting title to a Dwelling, the Owner provides to the Association the irrevocable right to tow or remove vehicles parked on the Owner's Lot and Common Area which are in violation of this Declaration. An affidavit of the person posting the foresaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Section 9. No septic tanks or individual wells will be permitted on any Lot or Condominium Property.

Section 10. No garage may be improved for purposes of making same a living area, nor shall garage doors be removed except for replacement (in which case the Owner must obtain approval of any replacement door from the Board of Directors of the Association). No garage may be used for the operation of a business or for any commercial purpose of any kind.

Section 11. No external window covering, reflective window covering or iron or decorative bars(either interior or exterior) may be placed or permitted to remain on any window of any building without the prior written approval of the Board of Directors of the Association. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Dwelling or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Dwelling without prior written approval of the ARC. No awnings, canopies or shutters shall be affixed to the exterior of a Dwelling without the prior written approval of the ARC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ARC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones. Window or wall air conditioner units are prohibited.

Section 12. No flags or banners other than a Flag permitted by Chapter 720.304, Florida Statutes, or other local, state or federal law, which must be displayed in a respectful manner and which is subject to reasonable standards for size, placement and safety as may be adopted by the Association will be permitted. The foregoing sentence shall not apply to the Declarant.

Section 13. In the event that a Home, Dwelling, Condominium or other improvement is damaged or destroyed by casualty loss or other loss, then the Owner thereof or the Condominium Association, as applicable, shall commence to rebuild or repair the damaged improvement in accordance this Declaration. Damage and destruction to the Units shall be governed by the Condominium Declaration. As to any such reconstruction of a destroyed Home or other improvements, the same shall only be replaced as approved by the ARC. Notwithstanding anything to the contrary herein, to the extent that insurance coverage obtained and maintained by the Association covers such casualty destruction, the Owner of such damaged or destroyed Home shall not perform any activities that would negate such coverage or impair the availability of such coverage.

Section 14. Except for normal construction activity, sale, and re-sale of a Dwelling, sale or re-sale of other property owned by Declarant, administrative offices of Declarant, no commercial or business activity shall be conducted in the Community that disrupts the residents, including without limitation, within any Dwelling. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not disrupt the residential nature of the Community unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within the Community. No solicitors of a commercial nature shall be allowed within the Community, without the prior written consent of Association. No day care

center or facility may be operated out of a Dwelling. No garage sales are permitted, except as permitted by Association.

Section 15. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home, Unit or Lot without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, Units or from the Common Areas. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

### ARTICLE X

### **EASEMENTS**

Section 1. Easements are reserved over each Lot, portions of the Condominium Property which do not have improvements constructed thereon, and the Common Area for public service purposes including but not limited to, police protection, fire protection, emergency services, postal service and meter reading.

Section 2. Easements for ingress and egress and for the installation and maintenance of all utilities, surface water management and drainage facilities and landscaping are reserved on and over each Lot, the Common Area and common elements of the Condominium. The right is also reserved to the Declarant and the Association to create additional utility easements by separate instrument as may be required from time to time.

Section 3. Notwithstanding any other provisions contained in this Declaration, in the event that any Dwelling or Condominium, as constructed by the Declarant, encroaches upon any portion of the Common Area, the Condominium, or adjoining Lot, then a perpetual easement appurtenant to such Lot or the Condominium shall exist for the continuance of any such encroachment on the Common Area, the Condominium, or adjoining Lot. In the event any fence, roof, overhanging roof, or portion of the Dwelling or Condominium, as constructed by Declarant, encroaches or overlaps upon any other Lot, the Condominium or the Common Area, then, in such event, a perpetual easement appurtenant to the Lot or Condominium upon which the fence, roof, overhanging roof, or Dwelling is constructed shall exist for the continuation of any such encroachment or overlapping upon the adjoining Lots, Condominium and Common Area.

Section 4. The Association shall have the responsibility to maintain all drainage easements, drainage facilities and drainage pipes and equipment within the Property and the expense for same will be a common expense of the Association.

Section 5. An easement is reserved over the Property, including each Lot and common elements of the Condominium, in favor of the Association for maintenance of the

Common Area and to allow the Association to fulfill any and all of its maintenance obligations hereunder.

Section 6. An easement is reserved over the Property, including each Lot, in favor of the Declarant for the purpose of carrying out any obligations of the Declarant under the terms of this Declaration or any governmental permit, order or applicable law in connection with the development of the community and construction of Dwellings therein. In addition, the Declarant shall also have an easement over, upon, across, and under the Property as may be required in connection with the development of the community and construction of Dwellings, including the right to use all roads and rights of way for vehicular and pedestrian ingress and egress for construction and maintenance purposes. Further, the Declarant shall have an easement to use all portions of the Property, including Common Areas, for all types of promotional and sales activity in connection with marketing, sales, and leasing of Dwellings in the Community. The easements created by this section shall be broadly construed and supplement other rights of the Declarant herein, running with the land until such time as the Declarant no longer owns any Lots or Units in the Community and all of the Declarant's obligations hereunder are satisfied.

### **ARTICLE XI**

#### **COVENANTS FOR HOME MAINTENANCE**

Maintenance of Homes. All Unit Owners shall be responsible for Section 1. maintenance, repair and replacement of their Unit in accordance with the Condominium Documents. The Condominium Association shall be responsible for the maintenance, repair and replacement of the Common Elements of the Condominium, include the exterior of all Condominium buildings. In the event the property consists of Homes which are not Condominium Units, each Home Owner shall be responsible for the maintaining, repairing, and replacing of the Home and all other improvements situated on his Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for all exterior maintenance, structural maintenance, driveways, mailboxes, any windows, window screens, patio screens, screened enclosures, balcony railings, front doors, side doors, rear doors, and/or the framing or casings of any of the foregoing, any air-conditioning or water softening fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Home Lot by any Owner, including its agents, or other designees, and/or any other maintenance obligations designated as the Owners' responsibilities from time to time in the Declaration or the Rules. The Lot Owner shall obtain the written consent of the Association prior to making any modifications requiring approval under Article VIII hereof. If any Lot Owner, Unit Owner or the Association breaches these covenants, the Association may enforce these covenants in accordance with the provisions of this Declaration.

Section 2. <u>Lawn Maintenance</u>. It shall be the duty of the Association to maintain and cut the grass located on the Common Areas. The Condominium Association shall be solely responsible for the maintenance of all grass located within the Condominium or upon Common Elements of the Condominium; provided, however, if the Condominium Association shall fail to maintain the same, the Association shall have the right but not the obligation to enter the Condominium Property and maintain the grass and charge the Unit Owners the cost of such work as an Individual Assessment.

Section 3. Irrigation. It shall be the duty of the Association to maintain the irrigation system for the Community, including irrigation of Common Areas, Lots and Condominium. Said irrigation system will be installed through out the Community on Lots, within Common Areas and the Condominium. The cost of such maintenance of the irrigation system being assumed by the Association for the benefit of the entire Property as if same were Common Area, and such costs being considered part of grounds' maintenance. The Association is hereby granted an easement over and across the Property and the Condominium Common Elements for the purpose of installing and maintaining the irrigation system. Neither the Lot Owners nor the Condominium Association or Unit Owners shall place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the consent of the Association. An Owner or the Condominium Association shall be responsible for payment of any costs related to the repair and/or replacement necessary as a result of any damage done to the irrigation system, whether on the Owner's Lot or the Common Area, caused by Owner or the Condominium Association, any member of Owner's family, any guests, invitees, tenants, contractors, workers or agents of Owner.

Section 4. Landscaping. The Association shall be responsible for the maintenance of all landscaping within any landscape easement or landscaping originally installed by the Declarant or by the Association on the Common Areas. Such maintenance shall include routine trimming, weeding and pruning of the landscaping. The Association is hereby granted an easement over and across an Owner's Lot and the Condominium Common Elements for the purpose of maintaining the landscaping in accordance herewith. Owners hereby acknowledge the landscape material on the Property and within any landscape easement is intended to fulfill required landscape buffers of adjacent properties. Owners shall not cut or remove any landscape materials on landscape easements, landscape materials installed by the Declarant or the Association or any landscape materials required to remain pursuant to a permit or other governmental regulation. Any Owner violating the restrictions of this section resulting in landscaping needing to be repaired or replaced will be charged the cost of such work. The Condominium Association shall be responsible for all landscape maintenance within the Condominium Property, such cost an expense being billed to the Unit Owners pursuant to the terms of the Declaration of Condominium; provided, however, if the Condominium Association shall fail to maintain the same, the Association shall have the right but not the obligation to enter the Condominium Property to maintain the landscaping and charge the Unit Owners the cost of such work as an Individual Assessment.

Section 5. <u>Insurance</u>. Each Owner of a Lot shall obtain insurance coverage upon the Lot insuring the Home and any improvements located thereon in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs. Such coverage shall afford protection against (i) loss or damage by fire, hurricane, tornado, windstorm, or other hazards covered by a standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to similar construction, location and use as the Home including but not limited to vandalism and malicious mischief. Such coverage shall name the Association as an additional insured party. The Owner shall furnish proof of insurance to the Association at the time of purchase of a Home and shall furnish proof of renewal of such insurance on the anniversary date thereof. If an Owner shall fail to provide such insurance, the Association shall have the right but not the obligation to obtain such

insurance and shall assess the Owner for the cost of same in accordance as a specific assessment as defined herein. The Condominium Association and each Unit Owner shall obtain and maintain insurance coverage in accordance with Chapter 718, Florida Statutes, and the Declaration of Condominium.

Section 6. <u>Exterior Painting and Pressure Cleaning</u>. Each Lot Owner shall be responsible for exterior painting and pressure cleaning of the Home and improvements thereon as required by the Association in accordance with this section. If any Lot Owner fails or refuses to paint or pressure wash its Home or other improvements as required herein, the Association may perform the work and charge the Owner the cost thereof as an Individual Assessment. The Condominium Association shall be responsible for all exterior paint and cleaning of the Condominium Units and common elements in accordance with the time frames set forth herein; provided, however, if the Condominium Association fails to perform the painting and cleaning as required, the Association has the right but not the obligation to perform such work and bill the Unit Owners for the cost and expense of the same as an Individual Assessment.

## **ARTICLE XII**

### COVENANTS RELATING TO FIRST MORTGAGEES

The following actions will require the prior written approval of two-thirds Section 1. (2/3) of the holders of record of Institutional First Mortgages on Lots within the Property, (based upon one (1) vote for each Institutional First Mortgage holder): the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area by the Association, other than the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area; a material change in the method of determining the assessments or other charges that may be levied against an Owner; the failure of the Association to maintain fire and extended coverage on any insurable improvements hereafter on the Common Area and any insurable improvements thereon in an amount that shall not be less than one hundred (100%) percent of the insurable value, based on the current replacement costs; the use of the insurance proceeds paid to the Association for any loss to the Common Area, or the improvements thereon, for any purpose other than the repair, replacement or reconstruction of the Common Area and the improvements thereon; the amendment of the Declaration in any manner which materially affects or impairs the rights of an Institutional First Mortgagee; the conveyance, encumbrance or hypothecation in any manner of the Common Area.

Section 2. An Institutional First Mortgage encumbering any Lot in the Property may singly or jointly with other Institutional First Mortgagees: pay the taxes or other charges which are in default and which may or have become a charge against the Common Area; pay overdue premiums on hazard insurance policies for the Common Area; or secure new hazard insurance coverage for the Common Area after lapse of the existing coverage. In the event any Institutional First Mortgagee makes any of the aforementioned payments, such Institutional First Mortgagee shall be entitled to immediate reimbursement from the Association for the payments advanced, and such Mortgagee shall be subrogated to the assessment and lien rights of the Association against the Owners for the repayment of such advance, and the expense of making such reimbursement to the Institutional First Mortgagee shall be deemed a common expense of the Association. Section 3. No provision of this Declaration shall be interpreted to give an Owner, or any other party, priority over the rights of any Institutional First Mortgagee pursuant to the terms of its Mortgage on any Lot on the Property in the event of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Any Institutional First Mortgagee of a Lot on the Property who obtains Section 4. title to a Lot pursuant to the remedies provided in said Mortgagee's Institutional First Mortgage on that Lot, or obtains title by deed in lieu of foreclosure, shall not be jointly and severally liable with the prior owner for unpaid assessment or charges accrued against said Lot prior to the acquisition of title to said Lot by such Mortgagee; however, such Mortgagee, or its successors or assigns as a subsequent holder of the first mortgage, acquiring title to a Lot by foreclosure or by deed in lieu of foreclosure, shall be liable for the unpaid Assessments that became due before the mortgagee's acquisition of title in the amount equal to the lesser of (i) the Lot's unpaid Assessments and Special Assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (ii) one percent of the original mortgage debt on the Lot. The limitations on Assessment liability for Institutional First Mortgagees obtaining title through foreclosure provided by this paragraph apply only if the Institutional First Mortgagee filed suit against the Lot Owner and initially joined the Association as a defendant in the mortgagee foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable. Institutional First Mortgagees shall be responsible for all Assessments on the Lot as of the date of acquisition, including any Special Assessment assessed or coming due after the date of acquisition of title to the Lot.

Section 5. The Institutional First Mortgagee of any Lot on the Property is entitled, upon request, to written notification from the Association of any default in the performance by the Owner of any of such Owner's obligations pursuant to the terms of this Declaration, which default is not cured after sixty (60) days notice to such Owner.

Section 6. Any Institutional First Mortgagee who acquires title to any portion of the Property by way of foreclosure, deed in lieu of foreclosure, or otherwise, shall be entitled to any exemption from the restrictions on sales and leasing of Dwellings and Lots to the same extent that Declarant would be exempt from such restrictions.

## **ARTICLE XIII**

## LEASE AND OCCUPANCY RESTRICTIONS

Section 1. <u>Leases</u>. All leases shall be in writing, be approved by the Association and shall provide that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of the Declaration, the Articles of Incorporation, By-Laws of the Association and applicable rules and regulations, if any. Leasing of Lots and Dwellings shall be subject to the prior written approval of the Association. The Association may require an interview of the prospective tenant. The Owner or lessee requesting the approval shall pay to the Association a fee of One Hundred and No/100 (\$100.00) Dollars to cover the costs of reviewing the lease, examining records and interviewing

the tenant. No lease shall be approved for a term of less than six (6) months. No Dwelling may be leased more than two (2) times in any calendar year unless otherwise approved by Association in the case of hardship. The prior written approval of the Association for a lease shall not apply to Lots and/or Dwellings acquired by an Institutional Mortgagee who has acquired title to the Lot and/or Dwelling through foreclosure or deed in lieu of foreclosure. The Owner will be jointly and severally liable with the tenant to the Association for any sum which is required by the Association to affect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The Board of Directors may by a majority vote establish a requirement that a sum of money not to exceed One Thousand and No/100 (\$1,000.00) Dollars or one month's rent, whichever is greater, be deposited in escrow with the Association as a security deposit for the purpose of covering the cost of any damage to the Common Area or other portions of the Property resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The number of occupants must comply with applicable codes regarding the size of the Dwelling. The tenant, as part of the lease, shall agree to abide by and adhere to the terms and conditions of this Declaration together with all Rules and Regulations and all policies adopted by Association. By acceptance of a deed to a Home, the Owner hereby agrees to remove, at the Owner's sole expense, by legal means including eviction, his or her tenant should the tenant refuse or fail to abide by and adhere to this Declaration, the Rules and Regulations and any other policies adopted by Association. Notwithstanding the foregoing, should an Owner fail to perform his or her obligations under this Section, the Association shall have the right, but not the obligation, to evict such tenant and the costs of the same shall be charged to the Owner as an Individual Assessment. During such time as a Dwelling is leased, the Owner of such Dwelling shall not enjoy the use privileges of the Common Areas appurtenant to such Dwelling. If a Lot or Dwelling is occupied by a tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association all rental payments becoming due and continue to make such payments until all the monetary obligations of the Owner related to the Lot have been paid in full and the Association releases the tenant or until the tenant discontinues tenancy, in accordance with the terms of Florida law.

### ARTICLE XIV

## WATER MANAGEMENT SYSTEMS

Section 1. <u>Transfer of Surface Water Management System</u>. Should the Association cease to exist, the surface water management system, property containing the surface water management system and water management portions of Common Area shall be conveyed to an agency of local government determined to be acceptable by the WMD. If said agency of local government declines to accept the conveyance, then the surface water management system, property containing the surface water management system and water management system.

Section 2. <u>Amendments Pertaining to Surface Water Management System</u>. Any Amendment proposed to this Declaration which would affect the surface water management system, conservation areas or water management portions of Common Area shall be submitted to the WMD for review prior to finalization of the Amendment. WMD shall determine if the proposed Amendment will require a modification of the environmental resource or surface water management permit. If a permit modification is necessary, the modification must be approved by WMD prior to the Amendment of the Declaration.

Section 3. Surface Water Management. No Owner or any other person or entity other than Declarant shall do anything to adversely affect the surface water management and drainage of the Property without the prior written approval of the Association and any controlling governmental authority, including but not limited to the excavation or filling in of any lake or canal, or the changing of the elevation of any portion of the Property, provided the foregoing shall not be deemed to prohibit or restrict the initial construction of improvements upon the Property by Declarant or by the developer of any portion of the Property in accordance with permits issued by controlling governmental authorities. In particular, no Owner other than Declarant or the Association shall install any landscaping, place any fill on a Lot, remove or cut littoral plantings or native vegetation, spray herbicide or grade portions of the Property which would adversely affect the drainage of any contiguous Lot. No construction activities may be conducted relative to any portion of the surface water management system, including but not limited to digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the system as permitted. No Owner or other person or entity shall unreasonably deny or prevent access to water management areas for maintenance, repair or landscaping purposes by the Declarant, the Association, the WMD or any appropriate governmental agency that may require access to carry out obligations set forth in the Permit. No person shall fill, dike, rip-rap, block, divert or change the water retention and drainage areas that have been or may be created without the prior written consent of the Association and WMD. If such actions are permitted by the Permit and WMD, the Declarant or Association may draw water for irrigation or other purposes from any water management area. All recreational activities, including without limitation, boating, swimming, wading or fishing, in water management areas are strictly prohibited.

Section 4. <u>Rights of WMD</u>. The WMD has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel the Association to correct any outstanding problems with the surface water management system facilities or any mitigation or conservation areas under the responsibility or control of the Association.

Section 5. <u>WMD Permit</u>. The Environmental Resource or Surface Water Management Permit is made a part of this Declaration and attached hereto as <u>Exhibit "D"</u>. Copies of the permit and any future permit actions of the WMD shall be maintained by the Registered Agent of the Association for the benefit of the Association.

## ARTICLE XV

## **INSURANCE AND HAZARD LOSSES**

Section 1. <u>Authority</u>. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if available at commercially reasonable rates, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not available at commercially reasonable rates, then at a minimum an

insurance policy providing fire and extended coverage shall be obtained. Insurance that shall be carried on the Common Areas and the Association Property, to the extent provided in this Article XV, shall be governed by the following provisions:

Section 2. <u>Named Insured</u>. All insurance policies upon the Common Areas and the Association Property shall be purchased by the Association and shall be placed in a single agency or company, if possible, licensed by the State of Florida. The named insured shall be the Association. The Association has the authority to use its discretion in obtaining the coverage listed hereinafter, as some of the requirements may be or become unobtainable, or may be cost prohibitive.

Section 3. <u>Coverage</u>. The Association shall use its best efforts to maintain insurance covering the following:

(a) <u>Casualty</u>. The Common Areas including any structures thereon, and all fixtures, installations or additions comprising that part of the Common Areas to be insured under the Association's policy(ies) and such improvements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Areas or owned by the Association (collectively the "Insured Property"), shall be insured in an amount not less that 100% of the full insurance replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

(b) <u>Loss or Damage by Fire and Other Hazards</u> covered by a standard extended coverage endorsement; and

(c) <u>Such Other Risk</u> as from time to time are customarily covered with respect to the Common Areas and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(d) <u>Flood Insurance</u>. If any part of the Common Areas or Association Property is in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Association may maintain a master or blanket policy of flood insurance. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

(e) <u>Liability Insurance</u>. If the policy does not include "severability of interest" in its terms, a specific endorsement must be obtained to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or of other Owners.

(f) <u>Public Liability Insurance</u>. The Association shall obtain public liability and property damage insurance covering all of the Common Areas and the Association Property and insuring the Association and the Members as their interests appear in such amounts and providing such coverage as the Board of Directors of the Association may determine from time to time. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage. (g) <u>Workmen's Compensation Insurance</u>. The Association shall obtain workmen's compensation insurance in order to meet the requirements of law, as necessary.

(h) <u>Directors and Officers Liability Insurance</u>. The Association shall obtain directors and officers liability insurance providing such coverage as the Board of Directors of the Association may determine from time to time.

(i) <u>Other Insurance</u>. The Board of Directors of the Association shall obtain such other insurance as they shall determine from time to time to be desirable.

Section 4. <u>Subrogation Waiver</u>. If available, the Association shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.

Section 5. <u>Premiums</u>. Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Section shall be assessed against and collected from Members as part of the Annual Assessments.

Section 6. <u>Association's Power to Compromise Claims</u>. The Board of Directors of the Association is hereby irrevocably appointed agent for each Member and for each holder of a mortgage or other lien, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon payment of claims.

## ARTICLE XVI

## **GENERAL PROVISIONS**

Section 1. <u>Covenants Run With Land</u>. All covenants, conditions, restrictions, reservations, easements, liens and charges contained in this Declaration shall constitute covenants running with the land, and all grantees, devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions of (a) this Declaration of Covenants, Restrictions, Conditions and Easements, and (b) the Articles of Incorporation and By-Laws of the Association. The Association shall be the entity responsible for the operation and maintenance of the Common Area.

Section 2. <u>Enforcement</u>. The Declarant or the Association shall have the right during the Development Period to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceedings at law or in equity. After the Development Period, the Association or any Lot Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In any such legal or equitable proceedings to enforce any restriction, condition, covenant, reservation, lien or charge now or hereafter imposed by these covenants, the prevailing party

shall be entitled to recover its reasonable attorneys' fees and costs including at all appellate levels.

Section 3. <u>Severability</u>. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 4. <u>Duration</u>. The covenants, conditions, restrictions, reservations, easements, liens and charges provided for in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. In the event the Association ceases to exist, except as provided in Article XIV, Section 13 herein, any Owner may petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association and all Common Area and the corresponding infrastructure will be dedicated or conveyed to a similar non-profit organization or entity to assure continued maintenance and operation.

Section 5. <u>Amendment</u>. So long as there is a Class B Membership, Declarant reserves the right to amend this Declaration without the consent of the Lot Owners. Such amendments shall <u>not</u> require the consent of the Institutional First Mortgagee Lenders and shall become effective when executed by Declarant and recorded in the Public Records of the County, Florida. After the Class B Membership terminates, the covenants and restrictions of this Declaration may be amended by an instrument signed by not less than thirty (30%) percent of the Lot Owners. Notwithstanding anything in this Declaration to the contrary, any amendment to the Declaration, Articles or By-Laws affecting any aspect of the surface water management system must receive prior written approval of the South Florida Water Management District. Any amendments must be properly recorded in the Public Records of the County, Florida.

Section 6. <u>Remedies for Violation</u>. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) <u>Notice</u>: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of a committee of the Association seated for the purpose of hearing such violation matters, at which time the Owner shall present reasons why a fine(s) should not be imposed. At least fourteen (14) days notice of such meeting shall be given.

(b) <u>Hearing</u>: The alleged non-compliance shall be presented to the committee after which the Compliance Committee shall hear reasons why a fine(s) should not be imposed. A written decision of the committee shall be submitted to the Owner by not later than fifteen (15) days after the committee's meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) <u>Amounts</u>: The Board of Directors (if the committee's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

(1) First non-compliance or violation which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day not to exceed One Thousand and No/100 (\$1,000.00) Dollars in the aggregate.

(2) Second non-compliance or violations which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day without a limitation on the aggregate amount of the amount due.

(d) <u>Payment of Penalties</u>. Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(e) <u>Collection of Fines</u>. Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein.

(f) <u>Application of Proceeds</u>. All monies received from fines shall be allocated as directed by the Board of Directors of the Association.

(g) <u>Non-Exclusive Remedies</u>. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

Right of Entry. In addition to the foregoing rights, whenever (a) there (h) shall have been built within the Property any structure which is in violation of this Declaration or in the event of any damage or destruction of any of the Property or portion thereof by an Owner or any of its guests, invitees, lessees or occupants, into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, or (b) any portion of the Property and/or Home owned by an Owner has fallen into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, a duly authorized representative of the Association may enter upon the Property where such violation, damage or destruction exists and summarily abate, remove or correct the same at the expense of the Owner; provided, however, that the Association shall then make the necessary repairs, constructions, etc., to insure that the Property and improvements where such violation occurred is restored to the same condition in which it existed (or should have existed) prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass. All amounts expended by the Association, together with interest thereon at the rate of eighteen (18%) percent per annum from thirty (30) days after the date of notification of the violation and all costs and reasonable attorneys fees incurred by the Association shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein.

Section 7. <u>Effect of Waiver of Violation</u>. No waiver of a breach of or violation of any of the terms, provisions and covenants in this Declaration, or in the Articles or By-Laws,

shall be construed to be a waiver of any succeeding breach or violation of the same term, provision or covenant of this Declaration, or the Articles or By-Laws.

Section 8. <u>Instruments Governing Common Area and Owners of Lots</u>. This Declaration and the Articles and By-Laws, and any lawful amendments thereto shall govern the Common Area and the rights, duties and responsibilities of the Owners of Lots.

Section 9. <u>HUD/FHA, VA, FNMA Approval</u>. If the Property is approved by the Department of Housing and Urban Development ("HUD") as a Planned Unit Development, as long as there is a Class B membership, the following actions will require the prior approval of HUD/FHA or the Veterans Administration or the Federal National Mortgage Association: Annexation of additional properties, mergers and consolidations, mortgaging of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions affecting or modifying rights of Institutional First Mortgagees hereunder.

Section 10. <u>Agreements for Professional Management</u>. Any agreement for professional management, or any other contract providing for services of the Declarant may not exceed three (3) years. Any such agreement must provide for the termination by either party without cause and payment of a termination fee on sixty (60) days or less written notice.

Section 11. Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the development of the Property or surrounding land can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant is or will be subjected to this Declaration, or that any such real property (whether or not is have been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants and other provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant and other provisions herein shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant harmless therefrom.

Section 12. <u>Notice to Owners</u>. Whenever notices are required to be given hereunder, the same shall be sent to the Owner by United States First Class Mail, postage prepaid, at the address of the Dwelling situated upon the Lot. Such notices shall be deemed given when deposited in the United States Mail. Any Owner may change his mailing address by written notice given to the Declarant or the Association in the official records of the Florida Department of State, Division of Corporations, or the official address of the Association as it may be designated from time to time.

Section 13. <u>Grammatical Construction</u>. Wherever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular.

Section 14. <u>Conflicts</u>. In the event of any conflict between the provisions of this Declaration, the Articles and the By-Laws, the provisions of this Declaration, the Articles and the By-Laws shall control in that order.

CABLE TELEVISION, INTERNET AND HOME SECURITY Section 15. MONITORING SERVICES. THE ASSOCIATION IS NOT OBLIGATED TO BUT MAY ENTER TO AN AGREEMENT WITH A CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY PURSUANT TO WHICH ALL OF THE OWNERS WILL BE PROVIDED CABLE TELEVISION AND/OR INTERNET SERVICE AND/OR HOME SECURITY MONITORING SERVICES WHICH WILL BE CHARGED AS ASSESSMENTS. THE ASSOCIATION MAY REFUSE ENTRY INTO THE PROPERTY BY ANY REPRESENTATIVE OF ANY CABLE TELEVISION COMPANY. INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANIES OTHER THAN THE CABLE TELEVISION, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY WHICH HAS ENTERED INTO AN AGREEMENT WITH THE ASSOCIATION. IN THE EVENT SECURITY MONITORING IS PROVIDED TO THE OWNERS BY THE ASSOCIATION, DECLARANT AND THE ASSOCIATION WILL HAVE NO LIABILITY OF ANY KIND OR NATURE DUE TO THE FAILURE OF THE SECURITY MONITORING COMPANY TO DETECT OR REACT TO FIRE, UNAUTHORIZED ENTRY, OR OTHER SECURITY PROBLEM IN ANY HOME.

Section 16. LIMITATION OF LIABILITY OF ASSOCIATION. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

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

(b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND (c) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING USE OF ANY PORTION OF THE PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OF MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT AND ITS AFFILIATES, WHICH SHALL BE FULLY PROTECTED HEREBY.

CDD. Each Owner is hereby advised that the Condominium Property and Section 17. all Condominium Units are within the Parklands Lee Community Development District. THE COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THE UNITS. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS, ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW AND ASSOCIATION ASSESSMENTS. The Developer makes no representation or warranty regarding the facilities and services provided by the Community Development District or the amount of the Community Development District's taxes and assessments on the Units. Each Owner shall be deemed to have waived and released any claim against the Developer or the Association for losses or damages resulting from actions or inactions of the Community Development District.

[signatures to appear on the following pages]

IN WITNESS WHEREOI	F, D.R. Horton,	Inc. has executed this Declaration, this
1'7th day of Septen her 2013.		$\frown$
Signed, sealed and delivered		D.R. Horton, Inc.,
in the presence of:		A Delaware corporation
Bebeure Server		By
Name: REDECCA SARVER		Jonathon Pentecost, Vice-President
HayPlen		
Name: Kaly + lei a	<u> </u>	/
4		
STATE OF FLORIDA	)	
COUNTY OF LEE	) SS )	

The foregoing instruction was acknowledged before me this <u>17th</u> day of <u>September</u> 2013, by Jonathon Pentecost, as Vice President, of D.R. Horton, Inc., a Delaware corporation, on behalf of said Corporation. He is personally known to me or has produced as identification.

(Signature of Notary Public) 5

(Typed name of Notary Public) Notary Public, State of Florida Commission No. \_\_\_\_\_ My commission expires: \_\_\_\_\_

KAY PLEIN MY COMMISSION # DD969712 EXPIRES March 09, 2014 (407) 398-0153 FloridaNotaryService com

## **JOINDER**

Sorrento Master Association, Inc., a not-for-profit Florida corporation, whose mailing address is 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966, hereby approves and joins in the Declaration of Covenants, Restrictions, Conditions and Easements of Sorrento and the Exhibits attached thereto, and agrees to be bound by the terms thereof and will comply with and perform the terms and conditions of the Declaration.

In Witness Whereof, Sorrento Master Association, Inc. has executed this Joinder on this / Thday of \_\_\_\_\_, 2013.

September

Signed, sealed and delivered in the presence of:

STATE OF FLORIDA

:SS. )

)

COUNTY OF LEE

Sorrento Master Association, Inc., a not-for-profit Florida corporation

(Corporate Seal)

The foregoing instruction was acknowledged before me this  $17^{\pm}$  day of System 2013, by Steven Boyette, as Nice President of Sorrento Master Association, Inc., a not-for-profit Florida corporation, on behalf of said Corporation. He/she is personally known to me or has produced \_\_\_\_\_\_\_ as identification.

(Signature of Notary Public) (Typed name of Notary Public)

Notary Public, State of Florida Commission No. \_\_\_\_\_ My commission expires: \_\_\_\_\_



### **JOINDER**

Parklands Lee Community Development District, whose mailing address is 9220 Bonita Beach Road, Suite 214, Bonita Springs, Florida 34135, hereby approves and joins in the Declaration of Covenants, Restrictions, Conditions and Easements of Sorrento to accept the rights delegated to the CDD therein and agrees to be bound by the terms and conditions of the Declaration.

In Witness Whereof, the Parklands Lee Community Development District has executed this Joinder on this  $\underline{10}$  day of  $\underline{0cr}$ , 2013.

Signed, sealed and delivered in the presence of:

Name:

Cle Name:

Parklands Lee Community Development District

By: Name Title: < ECRETAR

(Corporate Seal)

STATE OF FLORIDA

COUNTY OF

The foregoing instruction was acknowledged before me this and day of OCT 2013, by Chesley Adams Thas Secretary, of the Parklands Lee Community Development District, on behalf of the District. He/she is personally known to me or has produced \_\_\_\_\_\_ as identification.

) :SS.

)

CLEO CRISMOND MY COMMISSION # EE 147913 EXPIRES: December 12, 2015 onded Thru Notary Public Underwrite

(Signature of Notary Public)

(Typed name of Notary Public) Notary Public, State of Florida Commission No. \_\_\_/47913 My commission expires: \_\_\_\_\_77/13/15

## EXHIBIT "A" PROPERTY

# SORRENTO, MASTER ASSOCIATION LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING A PORTION OF LANDS DESCRIBED IN EXHIBIT "A" OF INSTRUMENT NUMBER 2012000195147, A PORTION OF PARCEL 14, PARKLANDS LEE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 79, PAGES 84 THROUGH 98, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147; THENCE N 89'53'08" E ALONG THE NORTH LINE OF SAID LANDS FOR 824.87 FEET TO THE BEGINNING OF A NON-TANCENT CURVE TO THE RIGHT HAVING A RADIUS OF 43.00 FEET TO WHICH POINT A RADIAL LINE BEARS N 66'05'21" E; THENCE SOUTHERLY ALONG SAID CURVE AND THE EASTERLY LINE OF SAID LANDS THROUGH A CENTRAL ANGLE OF 23'47'47" FOR 17.86 FEET; THENCE S 00'06'52" E ALONG SAID EASTERLY LINE FOR 52.44 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 445.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID EASTERLY LINE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 94.50 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 337.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID EASTERLY LINE THROUGH A CENTRAL ANGLE OF 39'41'40" FOR 233.47 FEET; THENCE S 27'24'45" W ALONG SAID EASTERLY LINE FOR 630.41 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 545.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID EASTERLY LINE THROUGH A CENTRAL ANGLE OF 17'5'33" FOR 170.51 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 545.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AND SAID EASTERLY LINE THROUGH A CENTRAL ANGLE OF 17'5'33" FOR 170.51 FEET TO THE DEDINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 44.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND THE SOUTHERLY LINE OF SAID LANDS THROUGH A CENTRAL ANGLE OF 94'4'5'39" FOR 73.60 FEET TO THE BEGINNING OF A NON-TANCENT CURVE TO THE RIGHT HAVING A RADIUS OF 106.14 FEET TO WHICH POINT A RADIAL LINE BEARS S 11'34'46" W; THENCE NORTHWESTERLY ALONG SAID CURVE AND SAID SOUTHERLY LINE THROUGH A CENTRAL ANGLE OF 28'32'23" FOR 78.237 FEET; THENCE N 49'52'50" W FOR 85.65 FEET TO THE BEGINNING OF A NON-TANCENT CURVE TO THE LEFT HAVING A RADIUS OF 321.50 FEET TO WHICH POINT A RADIAL LINE BEARS N 40'D7'10" E; THENCE WESTERLY ALONG SAID CURVE AND SAID SOUTHERLY LINE THROUGH A CENTRAL ANGLE OF 35'19'27" FOR 198.21 FEET. TO THE PO

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS:

### LAKE PARCEL

COMMENCING AT THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147; THENCE N 89'53'08" E ALONG THE NORTH LINE OF SAID LANDS FOR 17.36 FEET; THENCE'S 00'06'52" E FOR 36.79 FEET; THENCE N 89'53'08" E FOR 311.78 FEET; THENCE'S 67'37'11" E FOR 33.90 FEET; THENCE N 89'53'08" E FOR 33.98 FEET; THENCE S 00'40'56" E FOR 19.17 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE'S 89'52'49" W FOR 30.80 FEET TO THE DEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE S 00'56'02" E FOR 9.92 FEET; THENCE S 18'11'44" W FOR 44.17 FEET; THENCE S 19'26'20" W FOR 141.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE S 00'46'02" E FOR 9.92 FEET; THENCE S 18'11'44" W FOR 44.17 FEET; THENCE S 19'26'20" W FOR 141.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21'07'49" FOR 12.91 FEET; THENCE S 01'41'30" E FOR 94.77 FEET; THENCE S 05'47'25" E FOR 88.01 FEET; THENCE S 03'07'11" E FOR 88.70 FEET; THENCE S 01'83'30" E FOR 0.90 FEET; THENCE S 00'94'94" E FOR 117.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 151'45'26" FOR 66.22 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 151'45'26" FOR 66.22 FEET; THENCE EASTERLY ALONG SAID CURVE TO THE BEGINNING OF A CURVE TO THE LEFT N 27'24'45" E FOR 426.54 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 151'45'26" FOR 66.22 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 151'45'26" FOR 66.22 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16'124'32" FOR 24.68 FEET;

NOTE: SEE SHEET 5 THR SEE SHEET 2 THR								VERAL	L PLOT PLAN
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# SORRENTO, MASTER ASSOCIATION LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

### LEGAL DESCRIPTION CONTINUED:

THENCE N 12'59'47" W FOR 60.59 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16'21'23" FOR 9.99 FEET; THENCE N 29'21'10" W FOR 64.81 FEET; THENCE N 22'46'58" W FOR 46.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 45.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22'40'07" FOR 17.80 FEET; THENCE N 00'06'52" W FOR 10.61 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22'40'07" FOR 17.80 FEET; THENCE N'00'06'52" W FOR 10.61 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'19" FOR 54.98 FEET; THENCE S 89'52'49" W FOR 30.80 FEET TO THE POINT OF BEGINNING.

### PARCEL "A"

COMMENCING AT THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2012000195147; THENCE N 89'53'08" E ALONG THE NORTH LINE OF SAID LANDS FOR 17.36 FEET; THENCE S 00'06'52" E FOR 36.79 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89'53'08" E FOR 311.78 FEET; THENCE S 67'37'11" E FOR 33.90 FEET; THENCE N 89'53'08" E FOR 33.98 FEET; THENCE S 00'40'56" E FOR 19.17 FEET; THENCE S 89'52'49" W FOR 30.80 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'48'51" FOR 55.48 FEET; THENCE S 00'56'02" E FOR 9.92 FEET; THENCE S 1811'44" W FOR 44.17 FEET; THENCE S 19'26'20" W FOR 141.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21'07'49" FOR 12.91 FEET; THENCE S 01'41'30" E FOR 94.77 FEET; THENCE S 05'47'26" E FOR 88.01 FEET; THENCE S 03'07'11" E FOR 88.70 FEET; THENCE S 01'58'30" E FOR 0.90 FEET; THENCE S 00'49'49" E FOR 117.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 151'45'26" FOR 66.22 FEET; THENCE N 27'24'45" E FOR 426.54 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40'24'32" FOR 24.68 FEET; THENCE N 12'59'47" W FOR 60.59 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16'21'23" FOR 9.99 FEET; THENCE N 29'21'10" W FOR 64.81 FEET; THENCE N 22'46'58" W FOR 46.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 45.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22'40'07" FOR 17.80 FEET, THENCE N 00'06'52" W FOR 10.61 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'19" FOR 54.98 FEET; THENCE S 89'52'49" W FOR 30.80 FEET; THENCE INKUUGH A LENIMAL ANGLE OF 90'00'19" FOR 54.98 FEET; THENCE S 89'52'49" W FOR 30.80 FEET; THENCE N 00'40'56" W FOR 19.17 FEET; THENCE N 89'53'08" E FOR 406.26 FEET; THENCE S 00'06'52" E FOR 20.02 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 472.83 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 100.41 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 30.917 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12'10'03" FOR 100.41 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 30.917 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 214.19 FEET; THENCE S 27'24'45" W FOR 219.05 FEET TO THE BEGINNING OF A CURVE THROUGH A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CURVE THE RIGHT HAVING A RADIUS OF 50.07 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CURVE TO THE RIGHT HAVING A RADIUS OF 50.07 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CURVE TO THE RIGHT HAVING A RADIUS OF 50.07 FEET; THENCE S 27'24'45" W FOR 219.05 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 50.07 FEET; THENCE S 57'5'' STOR 200 FEET TO THE BEGINNING OF A CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 23 FE FET. THENCE MESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 23.56 FEET; THENCE N 62'35'15" W FOR 67.80 FEET; THENCE S 26'19'49" W FOR 29.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 26°19'49" W; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9104'57" FOR 35.77 FEET; THENCE N 27'24'45" E FOR 202.48 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 304.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 55'45'56" FOR 296.37 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET TO WHICH POINT A RADIAL LINE BEARS N 59'33'18" E; THENCE SOUTHERLY AND THEN WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 219'30'17" FOR 181.98 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37'39'50" FOR

> SEE SHEET 5 THROUGH 7 OF 9 FOR COMMONS ASSOCIATION SURVEY AND OVERALL PLOT PLAN. SEE SHEET 3 THROUGH 4 OF 9 FOR CONTINUED LEGAL DESCRIPTION.

Banks Augineering Professional Engineers, Planners & Land Surveyors		EXHIBIT "1" - LEGAL DESCRIPTION OF REAL PROPERTY SORRENTO, MASTER ASSOCIATION									
FORT MYERS + PORT CHARLETTE + SARASOTA FLORDA RUSHERS CRYFICATON MANER LB AREG	LEE COUNTY, FLORIDA										
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NOTE

# SORRENTO, MASTER ASSOCIATION LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

### LEGAL DESCRIPTION CONTINUED:

64,09 FEET; THENCE S 58'00'29" W FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 79,50 FEET TO WHICH POINT A RADIAL LINE BEARS N 57'38'51" E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32'58'00" FOR 45.74 FEET, THENCE 5 89'44'46" E FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 89'27'08" E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04'30'13" FOR 7.66 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 275.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1714'10" FOR 82.88 FEET; THENCE N 67'36'30" W FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 257.50 FEET TO WHICH POINT A RADIAL LINE BEARS 5 67'43'11" E: THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05'07'56" FOR 23.07 FEET; THENCE S 27'24'45" W FOR 13.89 FEET; THENCE S 62'35'15" E FOR 18.00 FEET; THENCE S 27'24'45" W FOR 607.59 FEET TO POINT "A" AND THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'' FOR 35.34 FEET; THENCE N 62'35'15" W FOR 27.83 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 466.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07"13"10" FOR 58.72 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 135.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07'06'37" FOR 16.81 FEET; THENCE N 27'30'53" E FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 117.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 2716'15" W; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'58'19" FOR 36.86 FEET; THENCE S 44'59'57" W FOR 18.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 135.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 45'12'38" W; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 4973'31" FOR 116.41 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 1,014.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11'38'57" FOR 206.27 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 985.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0616'47" FOR 108.01 FEET; THENCE N 00'56'02" W FOR 201.90 FEET; THENCE N 89'03'58" E FOR 18.00 FEET; THENCE N DO'56'02" W FOR 7.67 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF THENLE N DUSS UZ W FOR 7.67 FEET TO THE BEGINNING OF A CORVE TO THE HIGHT HAVING A RADIUS OF 67.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1710'49" FOR 20.24 FEET; THENCE N 7412'58" W FOR 18.00 FEET; THENCE N 16'08'57" E FOR 2.61 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'47'35" FOR 67.72 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET; THENCE WESTERLY AND THEN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'47'35" FOR 67.72 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET; THENCE WESTERLY AND THEN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 258'51'18" FOR 214.60 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 97.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39'03'43" FOR 66.47 FEET; THENCE \$ 16'08'57" W FOR 4.03 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 114.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'04'59" FOR 34.14 FEET; THENCE'S 00'56'02" E FOR 162.57 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 35.34 FEET; THENCE S 89'03'58" W FOR 76.17 FEET TO POINT "B"; THENCE N 00'56'02" W FOR 362.76 FEET TO THE POINT OF BEGINNING.

### PARCEL "B"

COMMENCING AT SAID POINT "B"; THENCE S 00'56'02" E FOR 29.00 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89'03'58" E FOR 76.52 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88'30'30" FOR 34.76 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 1,014.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF

> NOTE: SEE SHEET 5 THROUGH 7 OF 9 FOR COMMONS ASSOCIATION SURVEY AND OVERALL PLOT PLAN. SEE SHEET 4 OF 9 FOR CONTINUED LEGAL DESORIPTION.

Banks Engineering Professional Badneers, Planners & Land Surveyors						IPTION D			
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# SORRENTO, MASTER ASSOCIATION LYING IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA EXHIBIT "1"

### LEGAL DESCRIPTION CONTINUED:

04'47'16" FOR 84.77 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 985.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11'38'57" FOR 200.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 164.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17'20'42" FOR 49.80 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 24.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 102'00'41" FOR 43.62 FEET; THENCE S 89'06'08" W FOR 85.22 FEET TO POINT "C"; THENCE N 00'56'02" W FOR 385.54 FEET TO THE POINT OF BEGINNING.

### PARCEL "C"

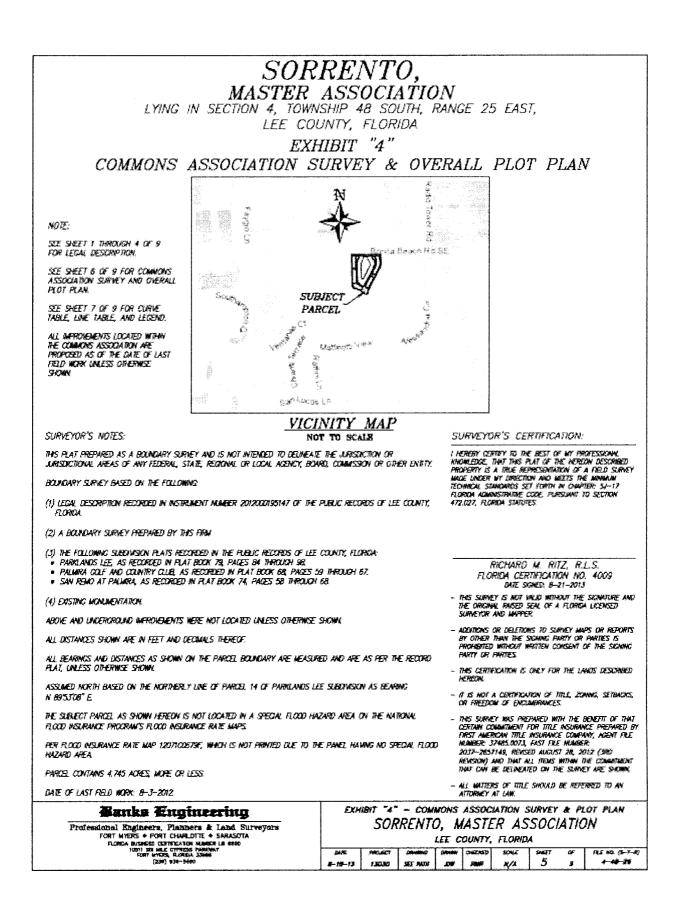
COMMENCING AT SAID POINT "A"; THENCE S 62'35'15" E FOR 29.00 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 27'24'45" E FOR 326.33 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 22.50 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00"00" FOR 35.34 FEET; THENCE S 27'24'46" W FOR 12.33 FEET; THENCE S 62'35'15" E FOR 67.67 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET; THENCE S 02'35'15" E FOR 67.67 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET; THENCE S 00THERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90'00'00" FOR 23.56 FEET; THENCE S 27'24'45" W FOR 331.63 FEET; THENCE N 62'35'15" W FOR 106.17 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 51.50 FEET TO WHICH POINT A RADIAL LINE BEARS S 51'14'14" E; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11'21'01" FOR 10.20 FEET TO THE POINT OF BEGINNING.

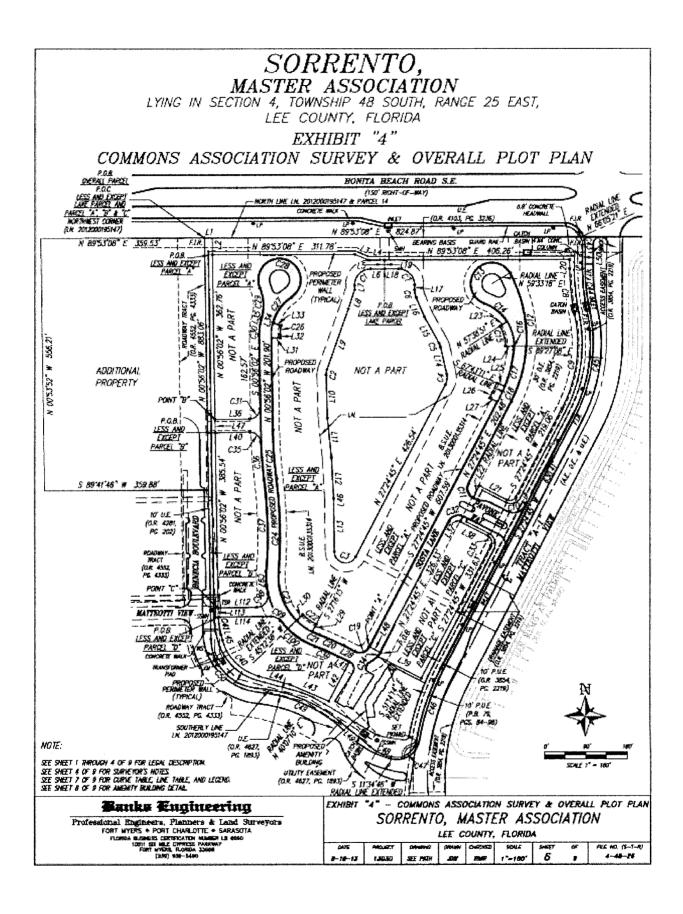
#### PARCEL "D"

COMMENCING AT SAID POINT "C"; THENCE S 01'11'58" E FOR 21.00 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89'06'08" E FOR 115.80 FEET TO THE BEGINNING OF A CURVE TO THE RICHT HAVING A RADIUS OF 24.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 54'39'24" FOR 23.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 164.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33'33'56" FOR 96.37 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RICHT HAVING A RADIUS OF 437.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07'13'10" FOR 55.06 FEET; THENCE & 62'35'15" E FOR 27.83 FEET; THENCE S 27'24'45" W FOR 97.32 FEET; THENCE N 66'16'13" W FOR 92.09 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CURVE TO THE RIGHT HAVING A RADIUS OF 115.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 119.44 FEET; THENCE N 74'38'10" W FOR 70.53 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 115.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 119.44 FEET; THENCE N 15'07'34" W FOR 11.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 182.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 19.44 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 19.44 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59'30'36" FOR 19.44 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39.13 FEET TO THE POINT OF BEGINNING.

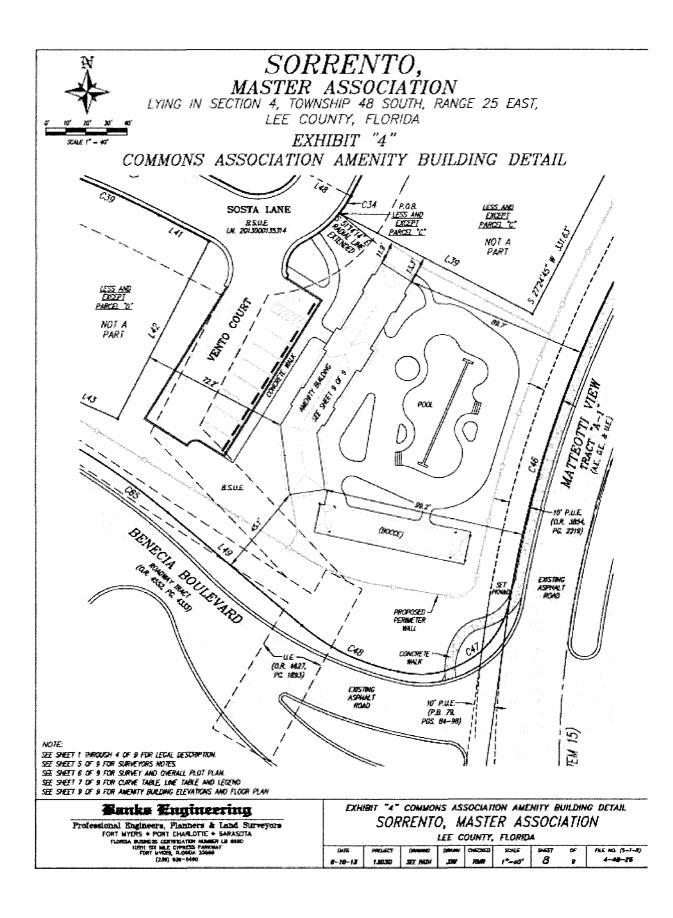
> NOTE: SEE SHEET 5 THROUGH 7 OF 9 FOR COMMONS ASSOCIATION SURVEY AND OVERALL PLOT PLAN.

Banks Engineering	EXHIBIT "I" - LEGAL DESCRIPTION OF REAL PROPERTY								
Professional Engineers, Planners & Land Surveyors Fort MIDES + PORT CHARLOTE + SARASOTA FLORES RESEASE CONTEXAND REMOVE DESCO	SORRENTO, MASTER ASSOCIATION LEE COUNTY, FLORIDA								
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	C48 105.14' 28'32'2 C49 377.50' 3579'2		N 640902 # N 673234 #	<u> 28</u> 27	45.00 2274007 15.00 900079	17.80"		(112635*W) (430702*#
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	<u> </u>		5 6334'10" E	<u>C10</u> C11	15.00' 90700'00' 22.50' 91'04'57'	35.77		( 180745° ¥
	C100 164.50 JJJJ3		5 53701'27" E	C12	304.50 554556	296.37	284.51 1	( 00728713 <sup>°</sup> ¥
				C13 514	47.50' 219'30'17' 97.50' 37'39'50'	181.98'		5 <b>3948'39" W</b> 5 51'07'04" E
				C/5	79.50' .5258'00'	45.74	45.11	5 1532'09" E
				C18 C77	97.50° 04'30'13° 275.50° 17'14'10°	7.55' EZ.88'		5 524758* W 5 154570* W
	ACREAGE SUMMAR	Y		C18	257.50 0507'56"	23.57		5 2430'47" W
	OVERALL PARCEL CONTAINS	16.900 ACRES. M	ORE OR LESS	C/9	22.50 900000	XX'		7224 45 ₩
	LAKE PARCEL CONTAINS	-2.460 ACRES, N		<u>C20</u> C21	466.00 071370" 135.50" 0706'37"	58.72' 16.87'		<u>667150" W</u> 6671576" W
	PARCEL A CONTAINS	-7.238 ACRES, &	KORE OR LESS	C22	117.50 175879*	.¥.85		1 55744'35" *
	PARCEL & CONTAINS	-0.937 ACRES, N	KOAE OR LESS	C23 C24	135.50' 4973'31" 1014.50' 11'38'37"	116.41		<u>2070'37" #</u>
	PARCEL C CONTAINS	-0.840 ACRES, N		23	265.50 0516'47	IDE DI'	107.95 1	040425 #
	PARCEL D CONTAINS	-0.680 ACRES, M	and the second se	C26 C27	67.50' 1710'49" 97.50' 39'47'35'	67.72		<u>( 0739'23" E</u> ( 36'02'44" E
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				<u>010</u>	114.50 1704 59" 22.50" 9000'00"	35.34		1 4405'58" #
				C.17	22.50 900000	35.34		17724 45 E
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ar	MORALES OFTICAL RECORDS BOOK	140 <u>N 89703'58' E</u> 141 5 62'35'15' E	78.52' 123	S 58'05'2 S 99'44'4		15	<u>S 0040'56' E</u> S 89'52'49' W	<u>19.17</u> 30.87
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1519 121_5	nocaes relevante senare reev Nocaes relevended land surveyor	(46 \$ 0158'30" E	0.90° L29	N 2730/5	J'E 18.00'	211	5 054726" E	<b>88</b> .01'
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# XHIBIT "B"

ARTICLES

# EXHIBIT "B"

850-617-6381



September 24, 2013

FLORIDA DEPARTMENT OF STATE

SORRENTO MASTER ASSOCIATION, INC. 10541 BEN C. PRATT SIX MILE CYPRESS PKWY SUITE 100 FORT MYERS, FL 33966

The Articles of Incorporation for SORRENTO MASTER ASSOCIATION, INC. were filed on September 23, 2013, and assigned document number N13000008598. Please refer to this number whenever corresponding with this office.

This document was electronically received and filed under FAX audit number H13000211079.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. It is your responsibility to remember to file your annual report in a timely manner.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Contact the IRS at 1-800-829-4933 for an SS-4 form or go to www.irs.gov.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have any questions regarding corporations, please contact this office at (850) 245-6052.

Sincerely, Thomas Chang Regulatory Specialist II New Filings Section Division of Corporations

Letter Number: 413A00022389

P.O BOX 6327 - Tallahassee, Florida 32314

Fax Audit Number: <u>H13000211079 3</u>

# ARTICLES OF INCORPORATION FOR Sorrento Master Association, Inc. (a corporation not-for-profit)

The undersigned, acting as Incorporator(s) of a corporation pursuant to Chapter 617, <u>Florida</u> <u>Statutes</u>, and Chapter 720, <u>Florida Statutes</u>, adopt(s) the following Articles of Incorporation:

# **ARTICLE I. - NAME**

The name of the corporation shall be Sorrento Master Association, Inc., a Florida corporation not for profit (the "Association").

# **ARTICLE II. – DEFINITIONS**

Except as otherwise defined herein, capitalized terms defined in the Declaration of Covenants, Conditions, and Restrictions of Sorrento (the "Declaration") recorded, or to be recorded, among the Public Records of Lee County, Florida by D.R. Horton, Inc., a Delaware corporation (the "Developer") shall have the same meaning or definition as the meaning or definition ascribed thereto in the Declaration when used in these Articles.

# ARTICLE III. PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS

The principal place of business and mailing address of the corporation shall be 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966.

### ARTICLE IV. - PURPOSE(S)

The corporation is organized as a corporation not-for-profit under Chapter 617 of the laws of the State of Florida, subject to the extent applicable, to Chapter 720 of the laws of the State of Florida. The specific purposes for which the corporation is organized are:

1. To promote the health, safety and social welfare of the Owners of Property within the residential community of Sorrento as described in the Declaration.

2. To own and maintain, repair and replace the Association Property and the Common Areas and other items, including landscaping and other improvements in and/or benefiting said Association Property and Common Areas, for which the obligation to maintain and repair has been delegated and accepted.

3. To control the specifications, architecture, design, appearance, elevation and location of, and landscaping around, all buildings and improvements as provided in the Declaration, which may include walls, fences, sewers, drains, disposal systems or other structures constructed, placed or permitted to remain in the Property, as well as the alteration, improvement, addition or change thereto.

Fax Audit Number: <u>H13000211079 3</u> 4816-9999-0037.1 37485/0073 JML jml

4. To operate without profit for the benefit of its Members.

5. To perform those functions granted to or reserved by the Association in the Declaration.

### **ARTICLE V. - GENERAL POWERS**

The Association shall have all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws or the Declaration including, without limitation, the following:

1. To hold funds solely and exclusively for the benefit of the Members for the purposes set forth in these Articles of Incorporation.

2. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

3. To delegate power or powers where such is deemed in the interest of the Association.

4. To affix assessments to be levied against Lots and Units within the Property and the costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors, in its discretion, to enter into agreements with mortgage companies and other organizations for the collection of such assessments.

5. To pay taxes and other charges, if any, on or against the Association Property and the Common Area.

6. To have all express powers conferred upon the Association by the Declaration, Chapter 617 and Chapter 720, <u>Florida Statutes</u>, except as prohibited herein.

7. To engage in activities which will actively foster, promote and advance the common interests of all Owners of any portion of the Property, including contracting for services to be provided to the Association.

8. To own, convey, buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real, personal and mixed property of all kinds and any right or interest therein of the Association for purposes of advancing the common interests of all Owners of any portion of the Property.

9. To borrow money for any purpose subject to all limitations in the Declaration or Bylaws.

10. To sue and be sued.

11. To adopt, alter and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration.

12. To operate and maintain surface water management system facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes,

floodplains compensation areas, wetlands and any associated buffers and wetland mitigation areas, preserve areas and conservation easements, as applicable and required by the Permit, and to contract for services to provide for such operation and maintenance.

13. To contract for services for the operation, maintenance, and management of Common Areas and Association Property and all other property dedicated to or maintained by the Association.

14. To mortgage or convey Common Area with the affirmative vote of at least two-thirds of the Class A Membership.

### ARTICLE VI. MANNER OF ELECTION OF DIRECTORS

Directors shall be elected or appointed in accordance with the provisions of the Bylaws of the Association.

### **ARTICLE VII. - MEMBERS**

1. Every Owner of a Lot or Unit which is subject to Assessment shall be a Member of the Association and subject to the terms and conditions of the Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Unit which is subject to Assessment.

2. The Association shall have two classes of voting membership:

<u>Class A.</u> Class A Members shall be all Owners, with the exception of the Developer and shall be entitled to one vote for each Lot or Unit owned. When more than one person holds an interest in any Lot or Unit, all such persons shall be Members. The vote for such Lot or Unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot or Unit.

<u>Class B.</u> The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each of the votes held by all other Members of the Association plus one; <u>provided</u>, <u>however</u>, that notwithstanding any provision to the contrary, the Developer shall have the right to appoint the entire Board of Directors of the Association until three months after 90% of the Lots have been conveyed to Owners other than the Developer or its designated successor or assigns or to Builders, or at an earlier date at the sole discretion of the Developer or as required by applicable law ("Turnover"). At such time, the Developer shall call a meeting in accordance with the provisions herein for Special Meetings, to provide for the turnover of control of the Board of Directors to the Owners. The Developer shall have the right, in its sole discretion, to appoint one member of the Board of Directors for so long as the Developer owns at least five percent (5%) of the Lots or Units within the Property.

### **ARTICLE VIII. - DIRECTORS**

The Board of Directors of the Corporation shall be comprised of at least three (3) directors. The members of the Board of Directors and their street addresses are:

4816-9999-0037.1 37485/0073 JML jml Fax Audit No. H13000211079 3 3

Jill H. Meeks

Steven Boyette

Rebecca L. Sarver

10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966

10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966

10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966

As long as Developer or its designated successor or assigns shall have the right to appoint the entire Board of Directors, Directors need not be Members of the Association and need not be residents of the State of Florida. All Directors appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director may be appointed at any time by the Developer.

At the first annual election to the Board of Directors where Directors are elected by the Members, the term of office of the elected Director receiving the highest plurality of votes shall be established at two (2) years, with the other elected Directors to serve for a term of one (1) year. Elections shall be by plurality votes. All Directors shall hold office until the election of new directors at the next annual meeting or resignation of said Director. Each year thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them.

### **ARTICLE IX. - OFFICERS**

The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time, by resolution, create. Any two or more offices may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedures set forth in the Bylaws. The names of the Officers who are to manage the affairs of the Association until the next annual meeting of the Board of Directors and until their successors are duly elected and qualified are:

President: Jill H. Meeks

Vice President: Steven Boyette

Secretary and Treasurer:

Rebecca L. Sarver

### ARTICLE X. REGISTERED AGENT, MAILING ADDRESS AND STREET ADDRESS

The street and mailing address of the Corporation's initial registered office is 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966 and the name of the initial Registered Agent at such address is D.R. Horton, Inc.

# **ARTICLE XI.- CORPORATE EXISTENCE**

The Association shall have perpetual existence. If the Association is dissolved, the control or right of access to the property containing the surface water management system facilities and other dedicated property and related infrastructure shall be conveyed or dedicated to an appropriate governmental unit or public unit and that if not accepted, then the surface water management system facilities shall be conveyed to a non-profit corporation similar to the Association.

### **ARTICLE XII. - BYLAWS**

The Board of Directors shall adopt Bylaws consistent with these Articles.

# ARTICLE XIII. AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS

Amendment of these Articles requires the approval of at least two-thirds of the membership votes. Notwithstanding the foregoing; (a) for so long as the Developer has the right to appoint the entire Board of Directors of the Association, the Developer or its successor or assign shall be permitted to unilaterally amend these Articles; and (b) for so long as Developer owns any portion of the Property, no amendment of these Articles shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Developer, unless the Developer joins in the execution of the amendment.

Such amendments shall be subject to the prior approval required by any appropriate governmental agency. Notwithstanding anything to the contrary herein contained, amendments for correction of scrivener's errors may be made by the Board of Directors of the Association alone without the need of consent of any other person. Notwithstanding the foregoing, matters stated herein to be or which are in fact governed by the Declaration may not be amended except as provided in such Declaration. Additionally, the provisions which are governed by the By-laws of this Association may not be amended except as provided in the By-laws.

Any amendment to these Articles that would alter the surface water management or drainage systems, conservation areas, preserve areas, easements related thereto or any water management areas of the Common Areas must have the prior approval of the SFWMD. Any such proposed amendments must be submitted to the SFWMD for a determination of whether the amendment

necessitates a modification to the SFWMD Permit. If the proposed amendment necessitates a modification to the SFWMD Permit, the modification to the SFWMD Permit must be approved by the SFWMD prior to the amendment to these Articles.

### ARTICLE XIV. INDEMNIFICATION OF OFFICERS AND DIRECTORS

1. The Association hereby indemnifies any Director or Officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

a. Whether civil, criminal, administrative or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability or penalty on such person for any act alleged to have been committed by such person in his capacity of Director or Officer of the Association, or in his capacity as a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or Officer did not act in good faith in the reasonable belief that such action was in the best interests of the Association or that he had reasonable grounds for belief that such action was unlawful.

b. By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or Officer of the Association, or by reason of his being or having been a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

2. The Board of Directors shall determine whether amounts for which a Director or Officer seeks indemnification were properly incurred and whether such Director or Officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

3. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

### ARTICLE XV. TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED

1. With the exception of Directors and Officers appointed by the Class B Members, any financial or familial interest of an Officer or Director in any contract or transaction between the Association and one (1) or more of its Directors or Officers, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Directors or Officers are directors or officers, or have a financial interest, shall be disclosed, and further shall not be voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction or solely because his or their votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

2. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction, but must abstain from voting on the issue.

### **ARTICLE XVI, - DISSOLUTION**

The Association may be dissolved if three-fourths (3/4) of the votes cast at a duly held meeting of the Members of the Association vote in favor of dissolution. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

### **ARTICLE XVII – INCORPORATOR**

The name and address of the Incorporator is:

Name:	D.R. Horton, Inc.
Address:	10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100,
	Fort Myers, Florida 33966

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation as Incorporator thereof this  $\underline{a3}^{2}$  day of  $\underline{August}$ , 2013. D.R. Horton, Inc., a Delaware corporation By: Jonathon Pentecost, Division Vice President

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this  $23^{th}$  day of <u>August</u>, 2013, by <u>Jown How</u> Past, who is personally known to me or who has produced a Florida driver's license as identification.

e	Notary Public
KAY PLEIN MY COMMISSION # DD969712 EXPIRES March 09, 2014 (407) 398-0163 FlondeNoteryBervice com	Name: Kay + b. n

**REGISTERED AGENT** 

The undersigned hereby accepts appointment as Registered Agent of Sorrento Master Association, Inc. this <u>3</u> day of <u>August</u> 2013. D.R. Horton, Inc., a Delaware corporation Name: JONAMON Title: VICE PEESIDEN

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EXHIBIT "C"

**BYLAWS** 

# BYLAWS OF SORRENTO MASTER ASSOCIATION, INC. A corporation not-for-profit organized under the laws of the State of Florida

- 1. <u>Identity</u>. These are the Bylaws of SORRENTO MASTER ASSOCIATION, INC., (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purpose of administering that residential Community now known as Sorrento located in Lee County, Florida (the "Property").
  - 1.1 <u>Principal Office</u>. The principal office of the Association shall be at 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office.
  - 1.2 <u>Fiscal Year</u>. The fiscal year of the Association shall be the calendar year.
  - 1.3 <u>Seal</u>. The seal of the Association shall bear the name of the corporation, the word "Florida," the words "Corporation Not for Profit," and the year of incorporation.
- 2. <u>Definitions</u>. For convenience, these Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the "Articles." The other terms used in these Bylaws shall have the same definition and meaning as those set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sorrento (the "Declaration"), unless herein provided to the contrary, or unless the context otherwise requires.
- 3. <u>Members</u>. The members of the Association ("Members") shall be as specified in the Articles and Declaration.
  - 3.1 <u>Annual Meeting</u>. The annual Members' meeting shall be held on the date, at the place and at the time determined by the Board from time to time, provided that there shall be an annual meeting every calendar year. To the extent possible, the annual meeting shall be held on a date agreed to by the Board no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to Members in advance thereof.
  - 3.2 <u>Special Meeting</u>. Special Members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board. A special meeting must be called by the President or Secretary upon receipt of a written request from a majority of the Members of the Association. The business conducted at a special meeting shall be limited to the purposes stated in the notice of the meeting.
  - 3.3 <u>Notice of Meeting; Waiver of Notice</u>. Notice of a meeting of Members stating the time and place and the purpose(s) for which the meeting is called shall be given

by the President or Secretary. A copy of the notice shall be posted at a conspicuous place within the Property. The notice of the annual meeting shall be hand delivered or sent by mail to each Owner, unless the Owner waives in writing the right to receive notice of the annual meeting by signing a waiver of notice, in person or by proxy, either before or after the meeting. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members described in Section 10 hereof. The posting and mailing of the notice shall be effected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of posting or hand delivery may be given by affidavit, and proof of mailing of the notice may be given by retention of post office receipts, or by affidavit. Notice of an annual meeting is called. Notice of a special meeting must include a description of the purpose for which the meeting is called.

Notice of Member annual or special meetings may be waived before or after the meeting. The attendance of any Member (or person authorized to vote for such member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

- 3.4 <u>Quorum</u>. A quorum at Members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast thirty percent (30%) of the votes of Members, unless a higher number is specifically provided elsewhere in the Declaration, the Articles or these Bylaws. If voting rights of any Member are suspended pursuant to the provisions of the Declaration or these Bylaws, the vote(s) of such Member shall not be counted for the purpose of determining the presence of a quorum and the total number of authorized votes shall be reduced accordingly during the period of such suspension.
- 3.5 <u>Voting</u>.
  - (a) <u>Classes of Voting Membership</u>. The Association shall have two (2) classes of Members, each with voting rights as follows:

<u>Class A</u>. Class A Members shall be all Owners, including Declarant. Class A Members shall be entitled to one (1) vote for each Lot they own. <u>Class B</u>. The Class B Member shall be Declarant. The Class B Member shall be entitled to three(3) votes for each of the Class A Member votes. The Class B Membership shall cease upon the first to occur of the following, unless otherwise provided by applicable law:

(i) the date which is ten (10) years from the date upon which the Declaration is recorded in the Public Records of the County; or

(ii) three (3) months after ninety percent (90%) of the Lots or

Units in the Property that will ultimately be operated by the Association have been conveyed to Members other than Builders; or

(iii) termination of the Class B Membership by resignation of all Declarant-appointed directors and delivery to the Secretary of the Association of a certificate in recordable form, signed by Declarant and stating that Declarant elects to terminate the Class B Membership. Upon termination of the Class B Membership, Declarant shall retain any voting rights it may have as a Class A Member.

Notwithstanding the foregoing, Declarant shall be entitled to appoint at least one (1) member of the Board of Directors of the Association as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots within the Property. After Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant owned voting interest in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the Members of the Board of Directors.

- (b) <u>Majority Vote</u>. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Members for all purposes except where otherwise provided by law, the Declaration, the Articles or these Bylaws. As used in these Bylaws, the Articles or the Declaration, the terms "majority of the Members" and "majority of the Members" shall mean a majority of the votes of Members and not a majority of the Members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Members at which a quorum shall have been attained. Similarly, if some greater percentage of Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Members themselves.
- (c) <u>Voting Owner</u>. If a Lot or Unit is owned by one person, his right to vote shall be established by the roster of Members. If a Lot or Unit is owned by more than one person, the person entitled to cast the vote for the Dwelling shall be designated by a certificate signed by all of the record Owners of the Dwelling according to the roster of Owners and filed with the Secretary of the Association. Such person need not be a Dwelling Owner, nor one of the joint owners. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot or Unit concerned. A certificate designating the person entitled to cast the vote for a Dwelling may be revoked by any record owner of an undivided interest in the Dwelling. If a certificate designating the person entitled to cast the vote for a Dwelling is not on file or has been revoked, the vote of the Member(s) of such Dwelling shall not

be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed, except if the Dwelling is owned jointly by a husband and wife. If a Dwelling is owned jointly by a husband and wife, they may, without being required to do so, designate a voting Member in the manner provided above. Such designee need not be an Owner. In the event a husband and wife do not designate a voting member, the following provisions shall apply:

- (i) If both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting, and their vote shall not be considered in determining whether a quorum is present on that subject at the meeting (and the total number of authorized votes in the Association shall be reduced accordingly for such subject only).
- (ii) If only one is present at a meeting, the person present shall be counted for purposes of a quorum and may cast the Dwelling vote just as though he or she owned the Dwelling individually, and without establishing the concurrence of the absent person.
- (iii) If both are present at a meeting and concur, either one may cast the vote.
- (d) Corporation. If a Lot or Unit is owned by a corporation or other entity, the Chairman of the Board, President, Vice President, Secretary, or Treasurer of the Corporation holding such Membership in the Association, and any like officer of a foreign corporation whether for profit or not for profit, holding a Membership in the Association, shall be deemed by the Association to have the authority to vote on behalf of the Corporation and to execute proxies and written waivers and consents in relation thereto, unless before a vote is taken on a waiver of consent is acted upon it is made to appear by certified copy of the Bylaws or Resolution of the Board of Directors or executive committee of the Corporation that such authority does not exist or is vested in some other officer or person. In absence of such certification, the person executing any such proxies, waivers or consents or presenting himself at a meeting as one of such officers of a Corporation shall be for the purposes of this Section conclusively deemed to be duly elected, qualified and acting as such officer and be fully In the case of conflicting representation, the corporate authorized. Member shall be deemed to be represented by its Senior Officer, in the order first stated in this subsection.
- 3.6 <u>Proxies</u>. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. In no event shall any proxy be valid

for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be dated, must state the date, time, and place of the meeting for which it was given, and signed by the person authorized to cast the vote for the Lot (as above described) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies need not be Owners. If the proxy form expressly so provided, any proxy holder may appoint, in writing, a substitute to act in his place.

- 3.7 <u>Adjourned Meetings</u>. Adjournment of an Annual or Special meeting to a different date, time, or place must be announced at the meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to the notice provision of the Bylaws. If a new record date for the adjourned meeting is or must be fixed, notice of the adjourned meeting must be given to persons who are entitled to vote and are Members as of the new record date but were not Members as of the previous record date. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as provided by law, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting.
- 3.8 <u>Order of Business</u>. If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:
  - (a) Call to order by President;
  - (b) Appointment by the President of a chairman of the meeting (who need not be a Member or a Director);
  - (c) Proof of notice of the meeting or waiver of notice;
  - (d) Reading of minutes;
  - (e) Reports of officers;
  - (f) Reports of committees;
  - (g) Appointment of inspectors of election;
  - (h) Determination of number of Directors;
  - (i) Election of Directors;
  - (j) Unfinished business;

- (k) New business;
- (l) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

- 3.9 <u>Minutes of Meeting</u>. Minutes of all meetings of the Members of an Association must be maintained in written form or in another form that can be converted into written form within a reasonable time. The minutes of all meetings of Members shall be kept in a book available for inspection by Members or their authorized representatives or board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.
- 3.10 <u>Delinquent Members</u>. If any Assessment or portion thereof imposed against a Member remains unpaid for ninety (90) days following its due date, such Member's voting rights in the Association shall be automatically suspended until all past due Assessments and other sums then due are paid, whereupon the voting rights shall be automatically reinstated. Delinquent Members shall not be eligible to serve on the Board of Directors.
- 3.11 <u>Action Without A Meeting</u>. Anything to the contrary herein notwithstanding, to the extent lawful, any action herein required to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken shall be signed by the Members (or persons authorized to cast the vote of any such Member as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of such Members at which a quorum of such Members (or authorized persons) entitled to vote thereon were present and voted.

Written consent shall not be effective to take the Association action referred to in the consent unless the consent is signed by the Members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and is delivered in the manner required by this Section.

Any written consent may be revoked prior to the date that the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Association, or received by the Secretary or other officer or agent of the Association.

A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Whenever action is taken pursuant to this Section, the written consent of the Members consenting to such action or the written reports of inspectors appointed to tabulate such consents must be filed with the minutes of proceedings of the Members.

Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

- 3.12 <u>Recording</u>. Any Member may tape record or videotape meetings of the Membership. The Board of Directors of the Association may adopt reasonable rules governing the taping of meetings of the Membership.
- 4. Directors
  - 4.1 <u>Membership</u>. The affairs of the Association shall be managed and governed by a Board of Directors (the "Board") of not less than three (3) prior to the Declarant's turnover of control of the Association to Members other than Declarant; of not less than three (3) after the Declarant's turnover of such control; and in no event more than **five (5)** "Directors", the exact number initially to be as set forth in the Articles, and thereafter, except as provided herein, to be determined from time to time upon majority vote of the membership.
  - 4.2 <u>Election of Directors</u>. The election of Directors shall be conducted in accordance with Chapter 720.306, Florida Statutes, and the following manner:
    - (a) Election of Directors shall be held at the annual Members' meeting, except as provided herein to the contrary.
    - (b) Nominations for Directors and additional directorships created at the meeting shall be made from the floor or in advance if absentee ballots are accepted.
    - (c) The election shall be by written ballot (unless dispensed with by majority consent of the Owners represented at the meeting) and decided by a plurality of the votes cast for each candidate.
    - (d) All Members of the Association shall be eligible to serve on the Board of Directors unless otherwise provided by Florida law, and a Member may nominate himself as a candidate for the Board at a meeting where the election is to be held.
  - 4.3 <u>Vacancies and Removal</u>.
    - (a) Except as to vacancies resulting from removal of Directors by Members, vacancies on the Board occurring between annual meetings of Members shall be filled by majority action of the remaining Director(s), provided that all vacancies in directorships to which Directors were appointed by the Declarant pursuant to the provisions of Section 4.17 hereof shall be filled by the Declarant without the necessity of any meeting.
    - (b) Any Director elected by the Members may be removed from office with or without cause by the vote or agreement by a majority of all votes of the

Membership. The vacancy in the Board so created shall be filled by the Members at the same meeting or at a meeting of the Membership shortly thereafter. The conveyance of all Lots owned by a Director in the Community who owned one or more Lots at the time he was elected or appointed (other than appointees of the Declarant) shall constitute the resignation of such Director.

- (c) Until a majority of the Directors are elected by the Members other than the Declarant, no Directors named by the Declarant shall be subject to removal by Members other than the Declarant. Directors appointed by the Declarant and Directors replacing them may be removed and replaced by the Declarant without the necessity of any meeting.
- (d) If a vacancy on the Board of Directors results in there being no incumbent Directors, any Member may apply to the Circuit Court within whose jurisdiction the Property lies for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Member shall mail to the Association and post in a conspicuous place in the Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancy(ies), the Member may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.
- 4.4 <u>Term</u>. Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the Members and subsequently until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.
- 4.5 <u>Organizational Meeting</u>. The organizational meeting of newly-elected or appointed members of the Board shall be held within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting at which they were elected or appointed, and no further notice to or by the Board of the organizational meeting shall be necessary.
  - (a) All meetings of the Board must be open to all Members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by attorney client privilege. Notices of all Board meetings must be posted in a conspicuous place in the Property at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Property , notice of each Board meeting must be mailed or delivered to each Member at least seven (7)

days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committees or other similar body, including anybody vested with the powers to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a Member.

- 4.6 <u>Regular Meetings</u>. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting. Regular meetings of the Board shall be open to all Members and notice of such meetings shall be posted conspicuously in the Community at least forty-eight (48) hours in advance for the attention of the Members of the Association, except in the event of an emergency. Members shall not be permitted to participate, and need not be recognized at any such meeting.
- 4.7 <u>Special Meetings</u>. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of two-thirds (2/3rds) of the Directors. Notice of the meeting shall be given personally by mail, telephone or telegraph to each Director, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than three (3) days prior to the meeting. Special meetings of the Board shall be open to all Members and notice of a special meeting shall be posted conspicuously in the Property at least forty-eight (48) hours in advance for the attention of the Members of the Association, except in the event of an emergency. Members shall not be permitted to participate, and need not be recognized, at any such meeting.
- 4.8 <u>Waiver of Notice</u>. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.
- 4.9 <u>Quorum</u>. A quorum at Directors' meetings shall consist of a majority of the then incumbent Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these Bylaws.
- 4.10 <u>Adjourned Meetings</u>. If, at any proposed meeting of the Board, there is less than a quorum present, the majority of those present may adjourn the meeting from

time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

- 4.11 <u>Presiding Officer</u>. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside).
- 4.12 <u>Order of Business</u>. If a quorum has been attained, the order of business at Directors' meetings shall be:
  - (a) Proof of due notice of meeting;
  - (b) Reading and disposal of any unapproved minutes;
  - (c) Reports of officers and committees;
  - (d) Election of officers;
  - (e) Unfinished business;
  - (f) New business;
  - (g) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

- 4.13 <u>Minutes of Meetings</u>. Minutes of all meetings of the Board of Directors must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each Director present at the Board meeting must be recorded in the minutes. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Members or their authorized representative or board member at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.
- 4.14 <u>Recording</u>. Any Member may tape record or videotape meetings of the Board of Directors. The Board of Directors of the Association may adopt reasonable rules governing the taping of meetings of the Board of Directors.
- 4.15 <u>Committees</u>. The Board of Directors by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the Articles of Incorporation or the Bylaws, shall have and may exercise all of the authority of the Board of Directors, except that no such committee shall have the authority to:

- (a) Approve or recommend to members actions or proposals required by this act to be approved by members;
- (b) Fill vacancies on the Board of Directors or any committee thereof; or
- (c) Adopt, amend, or repeal the Bylaws.

The provisions of the Bylaws governing meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors shall apply to all committees and their members as well.

Each committee must have two or more members who serve at the pleasure of the Board of Directors. The Board, by resolution adopted, may designate one or more director(s) as alternative members of any such committee who may act in the place instead of any absent member at any meeting of such committee.

Neither the designation of any such committee, and delegation thereto of authority, nor action by such committee pursuant to such authority shall alone constitute compliance by any member of the Board of Directors not a member of the committee in question with his responsibility to act in good faith, in a manner he reasonably believes to be in the best interest of the Association, and with such care as an ordinary prudent person in a like position would use under similar circumstances.

- 4.16 <u>Architectural Review Committee</u>. As provided in the Declaration, the Board of Directors shall create an Architectural Review Committee ("ARC"), composed of not less than three (3) nor more than five (5) persons appointed by the Board, or, in the Board's discretion, the Board from time to time may constitute itself as the ARC. To the extent not inconsistent with the Declaration, the provisions of Section 4.15 shall apply to the ARC.
- 4.17 <u>Declarant Control of Board; Turnover</u>. So long as there shall be a Class B Membership as set forth in the Declaration, vesting voting control of the Association in the Declarant, the Declarant shall have the right to appoint and replace all Directors and Officers.

Declarant shall be entitled to appoint at least one (1) member of the Board of Directors of the Association as long as Declarant holds for sale in the ordinary course of business at least five (5%) percent of the Lots in the Community. After Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant owned voting interest in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the Members of the Board of Directors.

The Declarant shall turn over control of the Association to Members other than the Declarant upon termination of the Class B Membership by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Members other than the Declarant to elect Directors and assume control of the Association. Provided at least thirty (30) days' notice of Declarant's decision to cause its appointees to resign is given to Members, neither the Declarant, nor such appointees, shall be liable in any manner in connection with such resignations even if the Members other than the Declarant refuse or fail to assume control. Control of the Association shall be deemed "turned over" upon (i) termination of the Class B Membership and (ii) resignation of all Declarant appointed Directors. Upon such turnover the Declarant shall retain all voting rights incident to its ownership of Lots or Units.

Within a reasonable time after control of the Association is turned over to Members other than the Declarant, (but not more than ninety (90) days after such event) the Declarant shall deliver to the Association all property of the Members and of the Association held by or controlled by the Declarant, including, but not limited to, the following items, if applicable:

- (a) The original or a photocopy of the recorded Declaration, and all amendments thereto. If a photocopy is provided, the Declarant must certify by affidavit that it is a complete copy of the actual recorded Declaration;
- (b) A certified copy of the Articles of Incorporation for the Association;
- (c) A copy of the Bylaws of the Association;
- (d) The Minute Books, including all minutes, and other books and records of the Association;
- (e) Any rules and regulations which have been adopted;
- (f) Resignations of resigning officers and Board members who were appointed by the Declarant;
- (g) The financial records, including financial statements of the Association, and source documents since the incorporation of the Association to the date of turnover. The records may be reviewed, at the Association's expense, by an independent certified public accountant;
- (h) Association funds or the control thereof;
- (i) All tangible personal property that is the property of the Association, and an inventory of such property;
- (j) Insurance policies;
- (k) Copies of any Certificates of Completion which may have been issued for the Common Areas;

- (1) Any other permits issued by governmental bodies applicable to the Common Areas in force or issued within one (1) year prior to the date the Members take control of the Association;
- (m) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective with respect to the Common Areas;
- (n) A roster of Members and their addresses and telephone numbers, if known, as shown on the Association's records;
- (o) Leases to which the Association is a party, if applicable;
- (p) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Members have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service; and,
- (q) All other contracts to which the Association is a party.
- (r) All deeds to the Common Areas owned by the Association.
- (s) A list of the names, addresses and telephone numbers of all contractors, subcontractors and others in the employ of the Association at the time the control of the Association is turned over to Members other than Declarant.
- 4.18 <u>Official Records</u>. The Association shall maintain each of the following items, when applicable, which constitute the Official Records of the Association:
  - (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Areas or other property that the Association is obligated to maintain, repair, or replace, if any;
  - (b) A copy of the Bylaws of the Association and of each Amendment to the Bylaws;
  - (c) A copy of the Articles of Incorporation of the Association and of each Amendment thereto;
  - (d) A copy of the Declaration of Covenants and a copy of each Amendment thereto;
  - (e) A copy of the current Rules of the Association;
  - (f) The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least seven (7) years;

- (g) A current roster of all Members and their mailing addresses and parcel identification;
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years;
- A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has an obligation or responsibility. Bids received by the Association for work to be performed must also be considered Official Records and must be kept for a period of one (1) year;
- (j) The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:
  - (i) Accurate, itemized, and detailed records of all records and expenditures.
  - (ii) A current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay assessments, the due date and the amount of each assessment or other charge against the Member, the date and amount of each payment on the account, and the balance due.
  - (iii) All tax returns, financial statements, and financial reports of the Association.
  - (iv) Any other records that identify, measure, record, or communicate financial information.
- 4.19 <u>Inspection and Copying of Records</u>. The Official Records shall be maintained within the State and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. This subsection may be complied with by having a copy of the Official Records available for inspection or copying in the Property.
  - (a) The failure of the Association to provide access to the records within ten (10) business days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this subsection.
  - (b) A Member who is denied access to the Official Records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this subsection. The minimum damages are to be \$50.00

per calendar day up to ten (10) days, the calculation to begin on the eleventh (11th) business day after receipt of the written request.

- (c) The Association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the Official Records, including, without limitation, the costs of copying. The Association shall maintain an adequate number of copies of the recorded governing documents, to insure their availability to Members, and prospective members and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.
- 5. <u>Powers and Duties</u>. The Board shall have the powers and duties necessary for the management and administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board by the Members. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein), the following:
  - (a) Operating and maintaining the Common Areas and other property owned by the Association.
  - (b) Determining the expenses required for the operation of the Association.
  - (c) Collecting the Assessments for all expenses of the Association from all Owners as set forth in the Declaration.
  - (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Areas and other property owned by the Association.
  - (e) Adopting and amending rules and regulations concerning the details of the operation and use of the Property and any Association Property, subject to a right of the Members to overrule the Board as provided in Section 13 hereof.
  - (f) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
  - (g) Purchasing, leasing or otherwise acquiring Lots or other property in the name of the Association, or its designee.
  - (h) Purchasing Lots at foreclosure or other judicial sales, in the name of the Association, or its designee.
  - (i) Selling, leasing, mortgaging or otherwise dealing with Lots acquired by the Association.

- (j) Settling or compromising claims of or against the Association in which all Members have a common interest.
- (k) Obtaining and reviewing insurance for the Common Areas and other property owned by the Association.
- (1) Making repairs, additions and improvements to, or alterations of, the Common Areas in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (m) Enforcing obligations of the Members, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Property.
- (n) Levying fines against appropriate Members for violations of the Declaration or rules and regulations established by the Association to govern the conduct of such Members.
- (0)Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Common Areas or the acquisition of property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the consent of the holders of at least two-thirds (2/3rds) of the votes of the Membership. If any sum borrowed by the Board on behalf of the Association pursuant to the authority contained in this subsection (o) is not repaid by the Association, any Member who pays to the creditor such portion thereof as his interest in the property owned by the Association bears, to the interest of all the Members in the property owned by the Association, shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Member's Lot. The Association shall take no action authorized in this subsection without the prior written consent of the Declarant as long as the Declarant owns any Lots.
- (p) Contracting for the management and maintenance of the Common Areas or other property owned by the Association and authorizing a management agent (who may be an affiliate of the Declarant) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Areas or other Association property with funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf

of the Association.

- (q) At its discretion, authorizing Members or other persons to use portions of the Common Areas or other property owned by the Association for private parties and gatherings and imposing reasonable charges for such private use.
- (r) Exercising (i) all powers specifically set forth in the Declaration, the Articles, and these Bylaws, and (ii) all powers incidental thereto, and all other powers of a Florida corporation not for profit.
- (s) Imposing a lawful fee in connection with the approval of the transfer, lease, or sale of Lots, not to exceed the maximum amount permitted by law in any one case.
- (t) Contracting with and creating special taxing districts.
- (u) Adopt and appoint executive committees.

Anything herein to the contrary notwithstanding, no general funds of the Association shall be utilized for bringing, supporting, investigating, or otherwise abetting any legal action, claim or extra-judicial action except for (i) imposition, enforcement and collection of assessments, including lien rights, (ii) collecting of debts owned to the Association, (iii) bringing any contest or appeal of tax assessments relating to any property owned by the Association, (iv) actions brought by the Association to enforce the provisions of the Declaration, and (v) counterclaims brought by the Association in proceedings instituted against it, unless such legal action, claim or extra-judicial action shall be specifically approved for such purposes by seventy-five percent (75%) of the vote of the Members of the Association.

- 6. Officers.
  - 6.1 <u>Executive Officers</u>. The executive officers of the Association shall be a President, Vice-President, a Treasurer and a Secretary, all of whom shall be elected by the Board and who may be peremptorily removed at any meeting at which a quorum of Directors is attained by concurrence of a majority of all of the present Directors. The President and Vice- President shall be Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers need not be Members.
  - 6.2 <u>President</u>. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.

- 6.3 <u>Vice-President</u>. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as shall otherwise be prescribed by the Directors.
- 6.4 <u>Secretary</u>. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving of all notices to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 <u>Treasurer</u>. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.
- 6.6 <u>Declarant Appointees</u>. No officer appointed by the Declarant may be removed except as provided in **Section 4.17** hereof and by law.
- 7. <u>Compensation</u>. Neither Directors nor officers shall receive compensation for their services as such, but may be compensated for services performed outside the scope of their service as officers or Directors.
- 8. <u>Resignations</u>. Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such later date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Lots owned by any Director or officer (other than appointees of the Declarant or other Directors or officers who are not Owners when elected or appointed) shall constitute a written resignation of such Director or officer.
- 9. <u>Fiscal Management</u>. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:
  - 9.1 <u>Budget</u>.

(a) <u>Adoption By Board; Items</u>. The Board shall from time to time, and at least annually, prepare a budget for the common expenses and any expenses related to and to be charges only to Homes of the Association, determine the

amount of Assessments payable by the Members to meet the expenses of the Association, and allocate and assess such expenses among the Members, in accordance with the provisions of the Declaration.

The budgets must reflect the estimated revenues and expenses for the year and the estimated surplus or deficit as of the end of the current year including all fees and charges for exterior maintenance, landscaping, upkeep and insurance, if applicable, of Common Areas and structures thereon. In addition to the annual operating expenses, and to the extent applicable, the budgets may include reserve accounts for capital expenditures and deferred maintenance. Reserves, however, may be waived in accordance with the Declaration and applicable Florida law. In the event of such waiver, the budget need not reflect or include reserve accounts for capital expenditures and deferred maintenance; provided, however the budget shall contain a disclosure stating reserves have been properly waived.

The adoption of the budgets for the Association by the Board shall comply with the requirements hereinafter set forth. A copy of the proposed budget shall be mailed to each Member not less than fourteen (14) days prior to the meeting of the Board at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting. The Board shall have the power to adopt the budget at the duly noticed meeting by a majority vote.

(b) <u>Adoption by Membership</u>. In the event that the Board shall be unable to adopt a budget in accordance with the requirements of Subsection 9.1(a) above, the Board may call a special meeting of Members for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection. Alternatively, the Board may propose a budget in writing to all Members of the Association or a specified sub-group of Members, where applicable. If either such budget is adopted by a majority of the votes of Members to which the budget applies, present at such meeting, or receiving such written budget, upon ratification by a majority of the Board, it shall become the budget for such year.

- 9.2 <u>Depository</u>. The depository of the Association shall be such bank(s) or savings and loan association(s) in the State of Florida as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors. All sums collected by the Association from Assessments or contributions to working capital or otherwise may be commingled in a single fund or divided into more than one fund, as determined by the Board.
- 9.3 <u>Acceleration of Assessment Installments upon Default</u>. If a Member shall be in default in the payment of an installment upon an Assessment for more than thirty (30) days, the Board or its agent may accelerate the remaining installments of the annual Assessment upon written notice to such Member, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice, but not

less than five (5) days after delivery of the notice or ten (10) days after mailing of the notice, whichever shall first occur.

- 9.4 <u>Fidelity Bonds</u>. Fidelity bonds may be required by the Board for all persons handling or responsible for Association funds in such amount as shall be determined by a majority of the Board, but no less than \$10,000 for each such person so bonded, if any. The premiums on such bonds shall be paid by the Association as a Common Expense.
- 9.5 <u>Accounting Records and Reports</u>. The Association shall maintain accounting records in the State of Florida, according to accounting practices normally used by similar associations or the manager under any applicable management contract. The records shall be open to inspection by Members or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Lot designating the name and current mailing address of the Member, the amount of each Assessment, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due.

Within ninety (90) days following the end of the fiscal year, the Association shall prepare or contract with a third party to prepare and complete a financial report for the previous twelve (12) months. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall provide each Member with a copy of the annual financial report or a written notice that a copy of the annual financial report is available upon request at no charge to the Member. The financial report shall be prepared in accordance with Chapter 720, Florida Statutes, and may consist of either financial statements presented in conformity with general accepted accounting principals or a financial report of actual receipts and expenditures, cash basis, which report must show the amounts of expenses by accounts and receipt classifications, including, if applicable, but not limited to, the following:

- (a) Cost for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Cost for Common Areas;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Cost for building maintenance and repair;

- (h) Insurance costs;
- (i) Administrative and salary expenses;
- (j) General reserves, maintenance reserves and depreciation reserves; and
- (k) Beginning and ending cash balances of the Association.
- 9.6 <u>Application of Payment</u>. All payments made by a Member shall be applied as provided in these Bylaws and in the Declaration or as determined by the Board.
- 9.7 <u>Notice of Meetings</u>. Notice of any meeting where Assessments against Members are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such assessments.
- 9.8 <u>Declarant Exemption From Assessments for Lawsuits</u>. The Declarant shall not be liable for the payment of any Assessments applicable to Lots it owns which relate in any way to the payment of legal or other fees to persons or entities engaged for the purpose of suing, or making, preparing or investigating possible claims against the Declarant.
- 10. <u>Roster of Owners</u>. The Association shall maintain current information regarding the title holders of all Owners. Such information shall be obtained by requiring each Member to file with the Association a copy of the deed or other document showing his ownership. The Association may rely upon the accuracy of any such information for all purposes until notified in writing of changes therein.

Only Members of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Members shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

- 11. <u>Parliamentary Rules</u>. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.
- 12. <u>Amendments</u>. Except as otherwise provided in the Declaration, these Bylaws may be amended in the following manner:
  - 12.1 A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than 1/3 of the votes of Members of the Association. A majority of the Board shall thereupon adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be the annual or a special meeting.
  - 12.2 Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member entitled to vote thereon within the time and in the manner provided in these Bylaws for the giving of

notice of a meeting of the Members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

- 12.3 At such meeting, a vote of the Members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of at least a majority of the Members present in person or by proxy at the meeting (at which a quorum is attained).
- 12.4 Any number of amendments may be submitted to the Members and voted upon by them at any one meeting.
- 12.5 If all of the Directors and all of the Members eligible to vote sign a written statement manifesting their intention that an amendment to these Bylaws be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.
- 12.6 No amendment shall make any changes in the qualifications for membership nor in the voting rights of Members without approval by all of the Members and the joinder of all Institutional Mortgagees holding Institutional Mortgages upon the Lot(s). No amendment shall be made that is in conflict with the Declaration or the Articles. Prior to the closing of the sale of all Lots within the Community, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant shall join in the execution of the amendment, including, but not limited to, any right of the Declarant to appoint Directors pursuant to these Bylaws.
- 12.7 No amendment to these Bylaws shall be made which discriminates against any Member(s), or affects less than all of the Members within the Community, without the written approval of all of the Members so discriminated against or affected.
- 12.8 Upon the approval of an amendment to these Bylaws, the certificate of amendment shall be executed and a copy shall be recorded in the public records of the County.
- 12.9 Notwithstanding the foregoing, the Federal Housing Administration and the Veterans Administration shall have the right to veto any amendments to these Bylaws as long as there is a Class B membership.
- 13. <u>Rules and Regulations</u>. The Board may, from time to time, adopt, modify, amend or add to rules and regulations concerning the use and operation of the Community, except that subsequent to the date control of the Board is turned over by the Declarant to Members other than the Declarant, Members of a majority of the Lots represented at a meeting at which a quorum is present may overrule the Board with respect to the adoption or modification of any rules and regulations. Copies of such rules and regulations shall be

furnished by the Board to each affected Member not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Declarant.

- 14. <u>Construction</u>. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders. If any portion hereof shall be found by competent judicial authority to be unenforceable, then only that portion shall be deemed deleted and the remainder shall be given its nearest permissible meaning and effect.
- 15. <u>Captions</u>. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.
- 16. <u>Conflict</u>. In the event there should be found any irreconcilable conflict among or between the Declaration, the Articles and/or these Bylaws and in the absence of any express language indicating which document controls the particular subject matter, then the provisions of the Declaration shall be paramount, the Articles next paramount and these Bylaws subordinate.
- 17. Indemnification of Officers and Directors. Subject to the further provisions of this Section, the Association shall indemnify and hold harmless all officers and Directors, (and members of a Committee or Tribunal, as provided in Section 18.3 hereof) past or incumbent, from and against all costs, claims, damages, expenses and liabilities of any kind whatsoever, including attorneys' fees and costs at all tribunal levels, arising out of the performance of such person's duties hereunder. Such indemnification and hold harmless provision shall (i) exist regardless of whether the Association itself is named as a party defendant or alleged to have any liability, (ii) include the payment of any settlements upon approval by the Board, and (iii) include indemnification of the estate and heirs of the indemnified party. Such indemnification and hold harmless provision shall not be applicable (i) to the extent the claim or liability is covered by insurance, or (ii) in the event a court of competent jurisdiction finally determines, after all appeals have been exhausted or not timely pursued, that the indemnified party did not act in good faith within what he reasonably believed to be the scope of his duty and/or authority and for purposes which he reasonably believed to be in the best interests of the Association or its Members generally and such court further specifically determines that indemnification should be denied. The provision of this Section may not be amended to terminate the effect hereof as to any persons who became officers or Directors while this Section was effective.
- 18. <u>Suspension of Privileges; Fines</u>. In the event of an alleged violation of the Declaration, the Articles, these Bylaws or the rules and regulations adopted hereunder, and after written notice of such alleged failure is given to the Member in the manner herein provided, the Board shall have the right, after the alleged violator has been given an opportunity for an appropriate hearing and upon an affirmative vote of the Board, to suspend or condition said Member's and his family's, guests' and tenants' right to the use of the Common Areas (except for the portions thereof which are necessary as a means of

ingress and egress) and to fine such Member. Any such suspension shall be for a period of not more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any Assessment after the same becomes delinquent) the suspension may be imposed for so long as the violation continues. No fine shall exceed the sum of \$100.00 per violation. Repair or replacement costs shall not be deemed fines subject to the foregoing limitation. Any continuing violation shall be a separate violation for each day it continues. The failure of the Board to enforce the rules and regulations, these Bylaws, the Articles or the Declaration shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth above and otherwise provided by these Bylaws or by law shall be cumulative and none shall be exclusive. However, any individual must exhaust all available internal remedies of the Association prescribed by these Bylaws, or by any rules and regulations adopted by the Association, before that Member may resort to a court of law for relief from any provision of the Declaration, the Articles, these Bylaws or the rules and regulations. The rights of the Association to suspend voting rights, to impose interest charges, accelerate Assessment payments, or to otherwise enforce the payment of Assessments, as elsewhere provided in the Declaration and these Bylaws, shall not be subject to the provisions of this Section or require the notice and hearing provided for herein.

- 18.1 <u>Written Complaint</u>. A hearing to determine whether a right or privilege of a Member or any of his family or tenants ("Respondent") under the Declaration or these Bylaws should be suspended or conditioned or a fine imposed shall be initiated by the filing of a written Complaint by any Member or by any officer or Director with the President or Secretary of the Association. The Complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Respondent is charged, to the end that the Respondent will be able to prepare his defense. The Complaint shall specify the specific provisions of the Declaration, the Articles, these Bylaws or the rules and regulations which the Respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such provisions without supporting facts.
- 18.2 <u>Discovery</u>. After initiation of a proceeding in which the Respondent is entitled to a hearing, the Respondent and the individual filing the Complaint, upon written request made to the other party, prior to the hearing and within fifteen (15) days after service by the Board of Directors of the Complaint or within ten (10) days after service of any amended or supplemental Complaint, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, and (2) inspect and make a copy of any statements, writings and investigative reports relevant to the subject matter of the hearing. Nothing in this Section, however, shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as work product.
- 18.3 <u>Tribunal</u>. The Board shall appoint a Tribunal of at least three Members where applicable upon receipt of a written Complaint. No member of the Tribunal shall be a Director, Officers or employee of the Association, nor shall any member of

the Tribunal be involved in any prior investigation of the matter on behalf of the Board nor related by blood or marriage to either the complaining party or the Respondent. In appointing the members of the Tribunal, the Board should make a good faith effort to avoid appointing any Members who are witnesses to the alleged violation giving rise to the Complaint or otherwise biased. The decision of the Board shall be final, except that the Respondent may challenge any member of the Tribunal for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence of the hearing. In the event of such a challenge, the Board shall meet to determine the sufficiency of the challenge, without the President voting. If such challenge is sustained, the President shall appoint another Member to replace the challenged member of the Tribunal. All decisions of the Board in this regard shall be final. The Tribunal shall elect a Chairman. The Tribunal shall exercise all other powers relating to the conduct of the hearing. If the Tribunal, by majority vote does not approve a proposed fine or suspension, it may not be imposed.

- 18.4 <u>Notice of Hearing</u>. The Tribunal shall serve a notice of hearing, as provided herein, on all parties at least fourteen (14) days prior to the hearing.
- 18.5 <u>Hearing</u>.
  - (a) Whenever the Tribunal has commenced to hear the matter and a member of the Tribunal is forced to withdraw prior to a final determination by the Tribunal, the remaining members shall continue to hear and decide the case. Oral evidence shall be taken only on oath or affirmation administered by an officer of the Association. The use of affidavits and written interrogatories in lieu of oral testimony shall be encouraged by the Tribunal.
  - (b) Each party shall have the right to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If the Respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.
  - (c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be

recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

- (d) Neither the accusing Member nor the allegedly defaulting Member must be in attendance at the hearing. The hearing shall be open to attendance by all Members where applicable. In rendering a decision, official notice may be taken at any time of any generally accepted matter within the Declaration, the Articles, these Bylaws, the rules and regulations or the workings of the Association.
- 18.6 The Tribunal will prepare written findings of fact and Decision. recommendations for consideration by the Board of Directors. The Tribunal shall make its determination only in accordance with the evidence presented to it and in accordance with these Bylaws. After all testimony and documentary evidence has been presented to the Tribunal, the Tribunal shall vote by secret written ballot upon the matter, with a majority of the entire Tribunal controlling. A copy of the findings and recommendations of the Tribunal shall be posted by the Board at a conspicuous place on the Common Areas, and a copy shall be served by the President on each party in the matter and his attorney, if any. Disciplinary action and fines under the Declaration, these Bylaws or the rules and regulations shall be imposed only by the Board, and based upon the findings and recommendations of the Tribunal. The Board may adopt the recommendations of the Tribunal in their entirety, or the Board may reduce the proposed penalty and adopt the balance of the recommendations. In no event shall the Board impose more stringent disciplinary action than recommended by the Tribunal. The decision of the Board shall be in writing and shall be served and posted in the same manner as the findings and recommendations of the Tribunal. The decision of the Board shall become effective ten (10) days after it is served upon the Respondent, unless otherwise ordered in writing by the Board. The Board may order reconsideration at any time within fifteen (15) days following service of its decision on the parties on its own motion or upon petition by a party.
- 18.7 <u>Suspension of Privileges for Failure to Pay Assessments</u>. The Association may, without notice of a hearing, or an opportunity for a hearing, impose a suspension upon any Member because of the failure of the Member to pay assessments or other charges when due. However, in no event shall a suspension of common area use rights impair the right of an Owner or tenant of a Lot to have vehicular and/or pedestrian ingress to and egress from the Lot, including, but not limited to the right to park.

The foregoing was adopted as the Bylaws of SORRENTO MASTER ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, at its meeting of the Board of Directors on the 17th day of September 2013.

Approved: President

4852-7123-5861.1 37485/0073 JML jml

Bebena Salver Attest: Secretary

## EXHIBIT "D"

Environmental Resource or Surface Water Management Permit

[To be attached]



Form #0941 08/95

PERMITTEE: D R HORTON, INC. 13880 TREELINE AVENUE SUITE 3 FORT MYERS, FL 33913

**PROJECT DESCRIPTION:** This application is a request for an Environmental Resource Permit Modification to authorize construction and operation of a surface water management system to serve 16.9 acres of residential development known as Sorrento (F.K.A. Lee Parkland Golf and Country Club) with discharge into an existing roadside ditch along Bonita Beach Road.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT ENVIRONMENTAL RESOURCE STANDARD PERMIT NO. 36-04235-P-02 DATE ISSUED:October 23, 2012

PROJECT LOCATION:	LEE COUNTY,	SEC 04 TWP 48	3S RGE 26E
PERMIT DURATION:	See Special Condition No:1. Code.	Pursuant to Rule 40E-4.321,	Florida Administrative

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 120709-14, dated July 9, 2012. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource Permit is in effect for this project subject to:

- 1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
- 2. the attached 19 General Conditions (See Pages : 2 4 of 6),
- 3. the attached 16 Special Conditions (See Pages : 5 6 of 6) and
- 4. the attached 2 Exhibit(s)

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

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 24th day of October, 2012, in accordance with Section 120.60(3), Florida Statutes.

BY Helissall Rober ⊃for

Ricardo A. Valera, P.E. Administrator Lower West Coast Service Center

Page 1 of 6

### NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

## **RIGHT TO REQUEST ADMINISTRATIVE HEARING**

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action, or publication of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

### Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. Filings by e-mail will not be accepted. Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. Delivery of a
  petition to the SFWMD's security desk does <u>not</u> constitute filing. To ensure proper filing, it
  will be necessary to request the SFWMD's security officer to contact the Clerk's office. An
  employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant
  to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by
  facsimile represents that the original physically signed document will be retained by that party for
  the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that
  cause. Any party who elects to file any document by facsimile shall be responsible for any delay,
  disruption, or interruption of the electronic signals and accepts the full risk that the document may
  not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall
  be the date the SFWMD Clerk receives the complete document.

## Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

- 1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
- 2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
- 3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
- 4. A statement of when and how the petitioner received notice of the SFWMD's decision.
- 5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
- 6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
- 7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
- 8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
- 9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

#### Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

### **RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

#### **GENERAL CONDITIONS**

- All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373. F.S.
- 2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
- 3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
- 4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
- 5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
- 6. Within 30 days after completion of construction of the permitted activity, the permitee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Completion Certification For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
- 7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to

#### **GENERAL CONDITIONS**

be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

- 8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
- 9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
- 10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
- 11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
- 12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
- 13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
- 14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities

Application No.: 120709-14 Page 4 of 6

#### **GENERAL CONDITIONS**

which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.

- 15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
- 16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
- 17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
- 18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
- 19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

#### SPECIAL CONDITIONS

- 1. The construction phase of this permit shall expire on October 23, 2017.
- 2. Operation of the surface water management system shall be the responsibility of PROPERTY OWNERS ASSOCIATION. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association. See Exhibit 2.3 for a draft copy of the property owners association documents.
- 3. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
- 4. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
- 5. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
- 6. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
- 7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
- 8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
- 9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
- 10. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
- 11. The permittee acknowledges that, pursuant to Rule 40E-4.101(2), F.A.C., a notice of Environmental Resource or Surface Water Management Permit may be recorded in the county public records. Pursuant to the specific language of the rule, this notice shall not be considered an encumbrance upon the property.
- 12. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are

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#### SPECIAL CONDITIONS

encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.

- The permittee shall utilize the criteria contained in the Stormwater Pollution Prevention Plan (Exhibit No. 2.1) and on the applicable approved construction drawings for the duration of the project's construction activities.
- 14. The Urban Stormwater Management Plan shall be implemented in accordance with Exhibit No. 2.2.
- 15. The following exhibits for the permit are incorporated by reference herein and are located in the permit file. In addition, these exhibits can be viewed on the District's ePermitting website under this application number.

Exhibit No. 2.1: Stormwater Pollution Prevention Plan Exhibit No. 2.2: Urban Stormwater Management Program Exhibit No. 2.3: Property Owners Association documents

16. The exhibits and special conditions in this permit apply only to this application. They do not supersede or delete any requirements for other applications covered in Permit No. 36-04235-P unless otherwise specified herein.

## **UPON RECORDING RETURN TO:**

Jennifer M. Lawton, Esq. Broad and Cassel 7777 Glades Road, Suite 300 Boca Raton, FL 33434

INSTR # 2014000141934, Pages 3 Doc Type DOC, Recorded 07/08/2014 at 01:09 PM, Linda Doggett, Lee County Clerk of Circuit Court Rec. Fee \$27.00 Deputy Clerk LTALONE #1

## ABOVE THIS LINE FOR RECORDER'S USE

## FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SORRENTO

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SORRENTO (the "First Amendment") is made this <u>7</u><sup>th</sup> day of July, 2014, by D.R. Horton, Inc., a Delaware corporation ("Declarant").

## WITNESSETH

WHEREAS, Declarant executed that certain DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SORRENTO, which was recorded on October 16, 2013, as Instrument #2013000236264 in the Public Records of Lee County, Florida (as may be amended from time to time, the "Declaration"); and

WHEREAS, pursuant to Article XVI, Section 5, so long as there is a Class B Membership, Declarant reserves the right to amend this Declaration without the consent of the Lot Owners and such amendments shall not require the consent of the Institutional First Mortgage Lenders; and

WHEREAS, as of the date of this Amendment, the Declarant is the Class Member; and

WHEREAS, Developer desires to amend the Declaration as more particularly set forth herein;

NOW, THEREFORE, the Declaration is hereby amended as set forth below. Except as provided herein, capitalized terms shall have the meaning ascribed to them in the Declaration.

- 1. The recitals set forth above are true and correct and are incorporated herein by reference.
- 2. Article XIII, Section 1 is hereby amended as follows, with deletions shown by strikethrough and additions shown by underlined text:

"Leases. All leases shall be in writing, be approved by the Association and shall provide that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of

the Declaration, the Articles of Incorporation, By-Laws of the Association and applicable rules and regulations, if any. Leasing of Lots and Dwellings shall be subject to the prior written approval of the Association. The Association may require an interview of the prospective tenant. The Owner or lessee requesting the approval shall pay to the Association a fee of One Hundred and No/100 (\$100.00) Dollars to cover the costs of reviewing the lease, examining records and interviewing No lease shall be approved for a term of less than six (6) months thirty the tenant. No Dwelling may be leased more than two (2) four (4) times in any (30) days. calendar year unless otherwise approved by Association in the case of hardship. The prior written approval of the Association for a lease shall not apply to Lots and/or Dwellings acquired by an Institutional Mortgagee who has acquired title to the Lot and/or Dwelling through foreclosure or deed in lieu of foreclosure. The Owner will be jointly and severally liable with the tenant to the Association for any sum which is required by the Association to affect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The Board of Directors may by a majority vote establish a requirement that a sum of money not to exceed One Thousand and No/100 (\$1,000.00) Dollars or one month's rent, whichever is greater, be deposited in escrow with the Association as a security deposit for the purpose of covering the cost of any damage to the Common Area or other portions of the Property resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The number of occupants must comply with applicable codes regarding the size of the Dwelling. The tenant, as part of the lease, shall agree to abide by and adhere to the terms and conditions of this Declaration together with all Rules and Regulations and all policies adopted by Association. Bv acceptance of a deed to a Home, the Owner hereby agrees to remove, at the Owner's sole expense, by legal means including eviction, his or her tenant should the tenant refuse or fail to abide by and adhere to this Declaration, the Rules and Regulations and any other policies adopted by Association. Notwithstanding the foregoing, should an Owner fail to perform his or her obligations under this Section, the Association shall have the right, but not the obligation, to evict such tenant and the costs of the same shall be charged to the Owner as an Individual Assessment. During such time as a Dwelling is leased, the Owner of such Dwelling shall not enjoy the use privileges of the Common Areas appurtenant to such Dwelling. If a Lot or Dwelling is occupied by a tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association all rental payments becoming due and continue to make such payments until all the monetary obligations of the Owner related to the Lot have been paid in full and the Association releases the tenant or until the tenant discontinues tenancy, in accordance with the terms of Florida law."

3. Except as specifically amended herein, the Master Declaration shall in all other respects remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Declarant hereby executes this First Amendment by and through its representatives as of the date and year first above written.

DECI ADANTA

Witnessed By:

Print Name: KEDECCH



) ss

STATE OF FLORIDA

COUNTY OF LEE

DECLADANT
D.R. HORTON, INC., a Delaware corporation
By:
Name: Jonathon Pentecost
Title: Vice President

The foregoing instrument was acknowledged before me this  $\underline{114}$  day of July, 2014, by <u>Jonathon Pentecost</u>, as <u>Viced President</u> of D.R. Horton, Inc., a Florida corporation on behalf of the company. He is personally known to me and did not take an oath.

[NOTARIAL SEAL]

Serial Number, if any:\_\_\_\_\_ My Commission Expires:\_\_\_\_\_

NOTARY	PUBLIC	KAY PLEIN
		MY COMMISSION #FF075492
T OF	209P	EXPIRES March 9, 2018
(407) 39	8-0153	FloridaNotaryService.com

## **UPON RECORDING RETURN TO:**

Jennifer M. Lawton, Esq. Broad and Cassel 7777 Glades Road, Suite 300 Boca Raton, FL 33434

INSTR # 2014000058917, Pages 9 Doc Type RES, Recorded 03/24/2014 at 01:02 PM, Linda Doggett, Lee County Clerk of Circuit Court Rec. Fee \$78.00 Deputy Clerk MNOLAN #1

## ABOVE THIS LINE FOR RECORDER'S USE \_\_\_\_

## FOURTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF SORRENTO, A CONDOMINIUM

THIS FOURTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF SORRENTO, A CONDOMINIUM (the "Fourth Amendment") is made this <u>JC</u><sup>th</sup> day of March, 2014, by D.R. Horton, Inc., a Delaware corporation ("Developer").

#### WITNESSETH

WHEREAS, Developer recorded that certain Declaration of Condominium of Sorrento, a Condominium on October 24, 2013, as Instrument #2013000242074, as amended by that certain First Amendment to the Declaration of Condominium of Sorrento, a Condominium on February 2, 2014 as Instrument #2014000023545, as amended by that certain Second Amendment to the Declaration of Condominium of Sorrento, a Condominium on February 4, 2014 as Instrument #2014000023550, and as further amended by that certain Third Amendment to the Declaration of Condominium on February 4, 2014 as Instrument #2014000023550, and as further amended by that certain Third Amendment to the Declaration of Condominium on February 4, 2014 as Instrument #2014000023578, all in the Public Records of Lee County, Florida (as may be amended from time to time, the "Declaration"); and

WHEREAS, pursuant to Section 6.2 of the Declaration, Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or effect any other amendment, except as provided in Section 6.2 (i) and (ii); and

WHEREAS, the Developer currently has the right to elect a majority of the Board and no amendments herein are in violation of the restrictions set forth in Section 6.2 (i) and (ii); and

WHEREAS, the Developer desires to amendment the Unit Floor Plan and the Plot Plan for Phases 16 and 6, as set forth in Exhibits "1.16" and "1.6", to correct a scrivener's error in the Unit designations contained therein and to amend Sections 7.1 and 13.7 of the Declaration as set forth herein;

NOW, THEREFORE, the Declaration is hereby amended as set forth below with additions being shown by underlined text and deletions being shown by strikethrough. Except as provided herein, capitalized terms shall have the meaning ascribed to them in the Declaration. 1. Section 7.1 of the Declaration is hereby amended as follows:

"Units and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural (except as provided below), ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, water heaters, fixtures and outlets, appliances, built-in cabinets, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit (including drywall) lying within the boundaries of the Unit or the Limited Common Elements (or dividing a Unit from its Limited Common Elements) or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the In the event of casualty or other acts of God, the Association shall have the contrary herein. responsibility to replace and repair any such items that may be required to be caused replaced or repaired by the Association's insurance policy or under applicable law. In accordance with Article 3.5, the Association shall be responsible for the maintenance of structural elements of any Limited Common Elements, with the costs of the same being part of the Common Expenses."

2. Section 13.7 of the Declaration is hereby amended as follows:

"Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. Either the Association or its authorized agent (which may include its Association manager) may charge a reasonable fee for the preparation of the certificate, not to exceed \$100.00 per request, in accordance with the terms herein. A Unit Owner may request a single certificate for more than one Unit owned by such Unit Owner for a single transaction and such request shall be deemed one certificate for fee purposes. The amount of any such fee must be included on the certificate. The authority to charge a fee for the certificate shall be established by a written resolution adopted by the Board or provided by a written management, bookkeeping, or maintenance contract."

3. Page 2 of 3, "Unit Floor Plans", and page 3 of 3, "Plot Plan", of Exhibit "1.16" and Exhibit "1.6" attached to the Declaration are hereby deleted and replaced in their entirety with the corresponding Pages 2 of 3, "Unit Floor Plans", and 3 of 3, "Plot Plan", of Exhibit "1.16" and Exhibit "1.6" attached hereto in Exhibit "A":

4. The Declaration, as amended by this Fourth Amendment, shall remain in full force and effect. This Fourth Amendment shall take effect upon execution and shall be recorded in the Public Records of the County

[SIGNATURES TO APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Developer hereby executes this Fourth Amendment by and through its representatives as of the date and year-first above written.

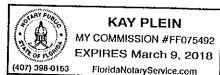
Witnessed By:	DEVELOPER:
Believe Sorver Print Name: REDECCH SHEVER	D.R. HORTON, INC., a Delaware corporation By:
Print Name: Koy Plein	Title: Vice President
STATE OF FLORIDA )	
COUNTY OF LEE )	

The foregoing instrument was acknowledged before me this  $30^{\text{th}}$  day of March, 2014, by <u>Jointhon PENTECOST</u>, as <u>Vice President</u> of D.R. Horton, Inc., a Florida corporation on behalf of the company. He is personally known to me and did not take an oath.

By:</

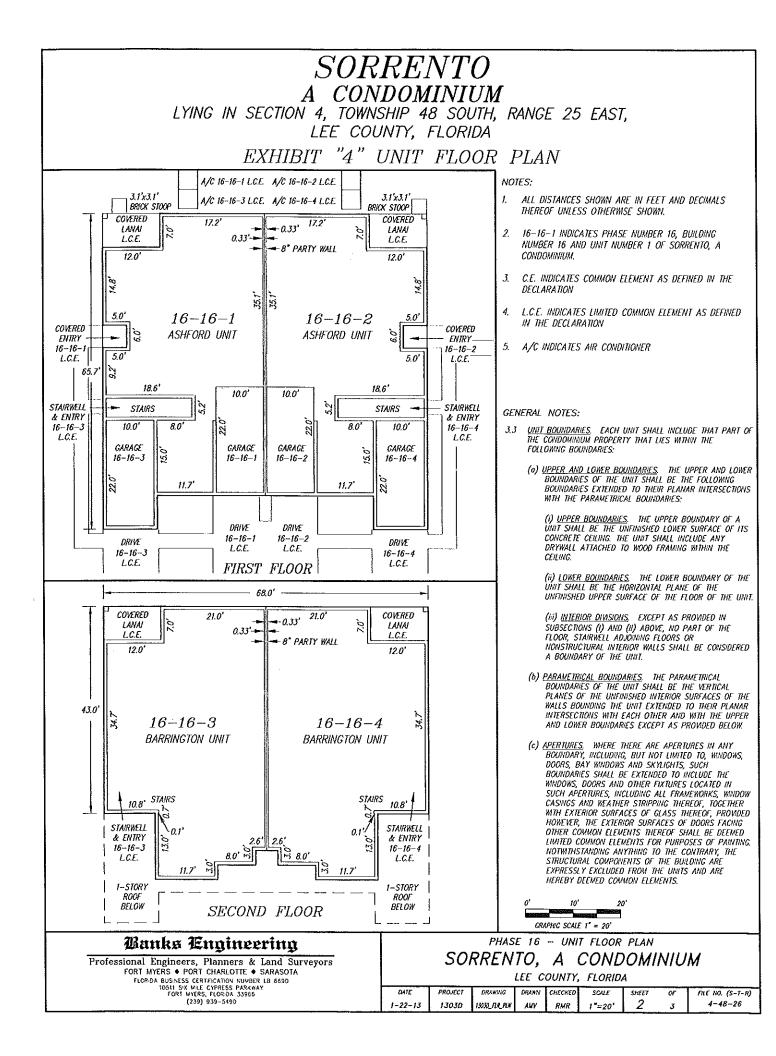
[NOTARIAL SEAL]

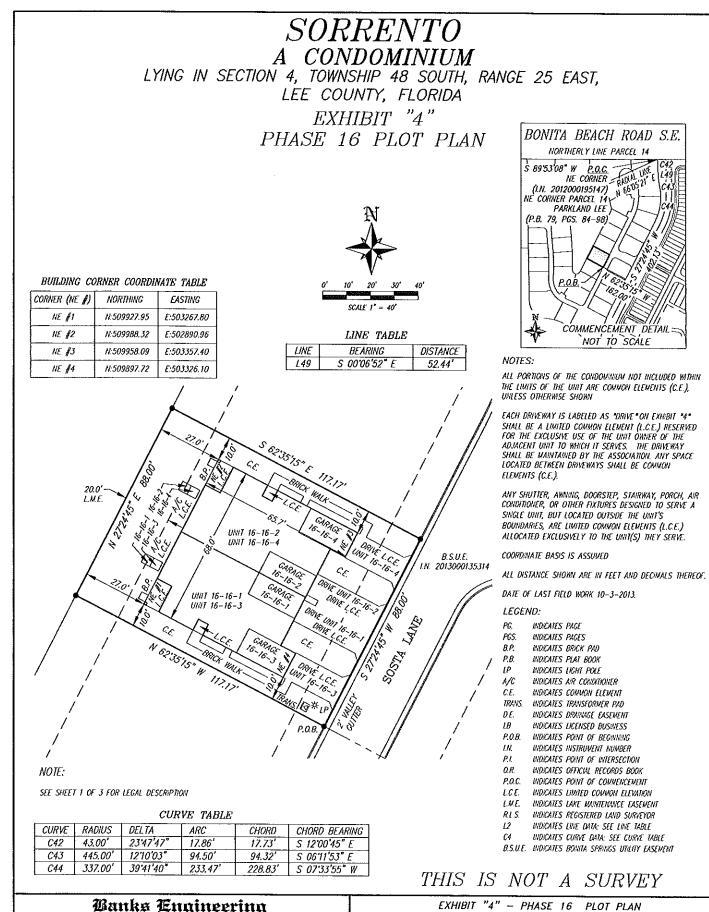
Serial Number, if any:\_\_\_\_\_ My Commission Expires:\_\_\_\_\_



## EXHIBIT "A" Unit Floor Plan and Plot Plan for Phases 16 and 6

Pages 2 of 3, "Unit Floor Plan", and 3 of 3, "Plot Plan", Phase 16 Exhibit "1.16"





## Banks Engineering

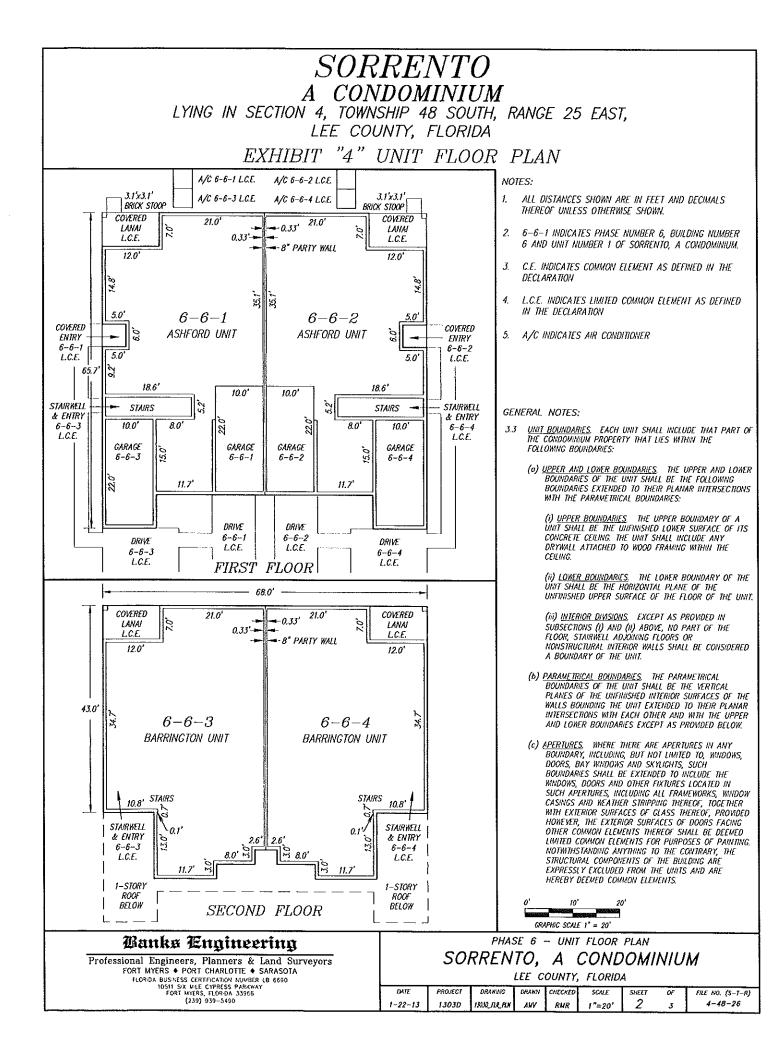
Professional Engineers, Planners & Land Surveyors FORT MYERS ♦ PORT CHARLOTTE ♦ SARASOTA FLORIDA BUSNESS CENTRICATION NUMBER LB 6690 10511 SIX MILE CYPERSS PARKWAY FORT MYERS, FLORIDA 33965 (239) 939-5490

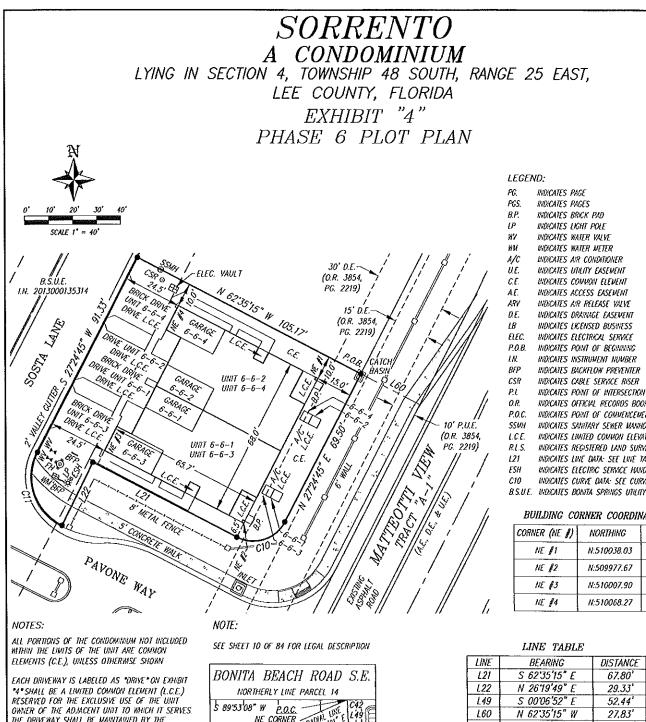
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## EXHIBIT "A" Unit Floor Plan and Plot Plan for Phases 16 and 6

## Pages 2 of 3, "Unit Floor Plan", and 3 of 3, "Plot Plan", Phase 6 Exhibit "1.6"

4842-7640-3993, v. 1





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	NE #2	N:509977.67	E:503529.40

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DISTANCE

67.80

E:503471.11

E:503502.41

THE DRIVEWAY SHALL BE MAINTAINED BY THE ASSOCIATION, ANY SPACE LOCATED BETWEEN DRIVEWAYS SHALL BE COMMON ELEMENTS (C.E.).

ANY SHUTTER, AWAING, DOORSTEP, STAIRWAY, PORCH, AIR CONDITIONER, OR OTHER FIXTURES DESIGNED TO SERVE A SINGLE UNIT, BUT LOCATED OUTSIDE THE UNIT'S BOUNDARIES, ARE LIMITED COMMON ELEMENTS (L.C.E.) ALLOCATED EXCLUSIVELY TO THE UNIT(S) THEY SERVE.

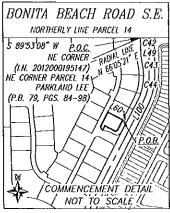
COORDINATE BASIS IS ASSUMED

ALL DISTANCE SHOWN ARE IN FEET AND DECIMALS THEREOF.

DATE OF LAST FIELD WORK: 01-15-2014

## Banks Engineering

Professional Engineers, Planners & Land Surveyors FORT MYERS + PORT CHARLOTTE + SARASOTA FLORDA BUSINESS CERTFICATION NUMBER LB 6690 10511 Six Wile CYPRESS PARKWAY FORT NYERS, FLORDA 33955 (239) 939-5490



L22	N 26'19'49" E	29.33'
L49	S 00'06'52" E	52.44'
L60	N 62'35'15" W	27.83'
L100	S 27'24'45" W	149.56'

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CTT	22.50'	91'04'57"	35.77'	32.12'	S 18'07'43" E	
C42	43.00'	23 47 47	17.86'	17.73'	S 12'00'45" E	
C43	445.00°	12'10'03"	94.50'	94.32	S 06'11'53" E	
C44	337.00'	39'41'40"	233.47'	228.83'	S 07'33'55" W	

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### **UPON RECORDING RETURN TO:**

Jennifer M. Lawton, Esq. Broad and Cassel 7777 Glades Road, Suite 300 Boca Raton, FL 33434 INSTR # 2014000141935, Pages 3 Doc Type DOC, Recorded 07/08/2014 at 01:09 PM, Linda Doggett, Lee County Clerk of Circuit Court Rec. Fee \$27.00 Deputy Clerk LTALONE #2

#### ABOVE THIS LINE FOR RECORDER'S USE

## NINTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF SORRENTO, A CONDOMINIUM

THIS NINTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF SORRENTO, A CONDOMINIUM (the "Ninth Amendment") is made this <u>7</u><sup>th</sup> day of July, 2014, by D.R. Horton, Inc., a Delaware corporation ("Developer").

#### WITNESSETH

WHEREAS, Developer recorded that certain Declaration of Condominium of Sorrento, a Condominium on October 24, 2013, as Instrument #2013000242074, as amended by that certain First Amendment to the Declaration of Condominium of Sorrento, a Condominium on February 4, 2014 as Instrument #2014000023545, as amended by that certain Second Amendment to the Declaration of Condominium of Sorrento, a Condominium on February 4, 2014 as Instrument #2014000023550, as amended by that certain Third Amendment to the Declaration of Condominium of Sorrento, a Condominium on February 4, 2014 as Instrument #2014000023578, as amended by that certain Fourth Amendment to the Declaration of Condominium of Sorrento, a Condominium on March 24, 2014 as Instrument #2014000058917, as amended by that certain Fifth Amendment to the Declaration of Condominium of Sorrento, a Condominium on March 24, 2014 as Instrument #2014000058925, as amended by that certain Sixth Amendment to the Declaration of Condominium of Sorrento, a Condominium on April 3, 2014 as Instrument #2014000067728, as amended by that certain Seventh Amendment to the Declaration of Condominium of Sorrento, a Condominium on April 3, 2014 as Instrument #2014000067736, and as further amended by that certain Eighth Amendment to the Declaration of Condominium of Sorrento, a Condominium on  $\frac{1}{7}$ , 2014 as Instrument #20140000<u>141026</u> all in the Public Records of Lee County, Florida (as may be amended from time to time, the "Declaration"); and

WHEREAS, pursuant to Section 6.2 of the Declaration, Developer reserved the right to unilaterally amend the Declaration during the time it has the right to elect a majority of the Board of Directors of the Association, to affect any amendment, except as provided in Section 6.2 (i) and (ii); and

WHEREAS, the Developer currently has the right to elect a majority of the Board and no amendments herein are in violation of the restrictions set forth in Section 6.2 (i) and (ii); and

WHEREAS, Developer desires to amend the Declaration as set forth herein;

NOW, THEREFORE, the Declaration is hereby amended as set forth below. Except as provided herein, capitalized terms shall have the meaning ascribed to them in the Declaration.

- 1. The recitals set forth above are true and correct and are incorporated herein by reference.
- 2. Section 18.2 is hereby amended as follows, with deletions shown by strikethrough and additions shown by <u>underlined</u> text:

"18.2 Leases. No portion of a Residential Unit (other than an entire Unit) may be leased. All leases of Residential Units shall be in writing and shall be deemed to provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the Association, Rules and Regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by the Association. Further, leases shall provide that the Association shall have the right to collect all rental or lease payments due to the Owner and apply same against unpaid Assessments, if, and to the extent that, the Unit Owner is in default in the payment of Assessments. Every lease of a Unit shall specifically provide (or, if it does not, shall be automatically deemed to provide) that a material condition of the lease shall be the tenant's full compliance with the covenants, terms, conditions and restrictions of this Declaration (and all exhibits hereto) and with any and all Rules and Regulations adopted by the Association from time to time and that any failure by the lessee to comply with the terms under the lease shall empower the Association with the right and authority on behalf of the Owner to commence legal proceedings to cause the lessee to be evicted. All Unit Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to repair any damage to the Common Elements resulting from acts or omissions of tenants (as determined in the sole discretion of the Association) and to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the tenant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all Rules and Regulations of the Association. Leases for all Units shall comply with and be subject to the provisions of the Declaration of Condominium, Articles of Incorporation, Rules and Regulations, By-Laws, and the Act, and the provisions of same shall be deemed expressly incorporated into any lease of a Unit. This subsection shall also apply to subleases and assignments and renewals of leases. All leases of Units are hereby made subordinate to any lien filed by the Association, whether prior or subsequent to such lease. No lease of a Residential Unit shall be for a period of less than seven (7) months thirty (30) days and no Residential Unit may be leased in excess of two (2) four (4) times a calendar year except for renewals. Notwithstanding the aforesaid, the Association reserves the right to grant an exception to the requirement that no Residential Unit may be leased in excess of two (2) four (4) times per calendar year. The Association shall have the right to review and approve all leases and lessees prior to execution of any lease and charge a reasonable administrative fee for the same and require that each lease contain certain uniform provisions, including provisions reflecting the foregoing terms and conditions.

3. Except as specifically amended herein, the Declaration shall in all other respects remain in full force and effect.

## [SIGNATURE AND ACKNOWLEDGMENT ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Developer hereby executes this Ninth Amendment by and through its representatives as of the date and year first above written.

Witnessed By:

STATE OF FLORIDA )

COUNTY OF

int Name: Print Name

see\_

) ss

DEVELOPER:	
<b>D.R. HORTON, INC.</b> , a E	elaware corporation
( )	
	$\sim$
By:	
Name: JONA-thon	PERFECOST
Title: VIGE PRES	dent

Name: 🖛

[NOTARIAL SEAL]

Serial Number, if any:\_\_\_\_\_ My Commission Expires:\_\_\_\_\_

KAY PLEIN MY COMMISSION #FF075492 EXPIRES March 9, 2018 (407) 398-0153 FloridaNotaryService.com