

24/00

This instrument prepared by:  
Tamela Eady Wiseman, Esquire  
DeBoest, Knudsen, Stockman, Wiseman, Decker & Dryden, P.A.  
600 Fifth Avenue South  
Naples, Florida 34102  
(941) 263-5040

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President of Bay Villas Association Inc., a Florida corporation not for profit, does hereby certify that, after due notice, all the resolutions set forth below were approved and adopted by the membership without a meeting pursuant to Section 617.0701(4), Florida Statutes, and Section 10.05 of the amended and restated Declaration of Covenants, Conditions and Restrictions for Bay Villas, for the purpose of amending the Declaration of Covenants, Conditions and Restrictions for Bay Villas as originally recorded in Official Records Book 938, Page 632, Public Records of Collier County, Florida, which Declaration encumbers the real property, legally described on Exhibit "A" hereto and made a part hereof, and the Bylaws of the corporation.

RESOLVED: That the amended and restated Declaration of Covenants, Conditions and Restrictions of Bay Villas be and is hereby amended and the amendment is adopted in the form attached hereto as Exhibit "B" and made a part hereof.

RESOLVED: That the amended and restated Bylaws of Bay Villas Association, Inc. be and is hereby amended and the amendment is adopted in the form attached hereto as Exhibit "C" and made a part hereof.

3/14/2000  
Date

BAY VILLAS ASSOCIATION, INC.

[Signature]  
Signature of Witness  
HOWARD Hill BENNETT  
Print Name of Witness  
MONA D. FAITH  
Signature of Witness  
MONA D FAITH  
Print Name of Witness

By: [Signature]  
Marshall Faith, President

(SEAL - FLORIDA CORPORATION NOT FOR PROFIT)

STATE OF FLORIDA  
COUNTY OF COLLIER

hereby certify that on the 14 day of March, 2000, personally appeared before me the Marshall Faith, as President of Bay Villas Association, Inc., a Florida corporation not for profit, who executed the foregoing certificate in the name and on behalf of said corporation.

Notary Public-State of Florida:

Sign Sylvia J. Booker  
Print Sylvia J. Booker  
Personally Known X; or Produced  
Identification \_\_\_\_\_ Type of Identification  
Produced: \_\_\_\_\_  
Affix Seal Below \_\_\_\_\_



Sylvia J. Booker  
MY COMMISSION # CC553181 EXPIRES  
May 17, 2000  
BONDED THRU TROY FAUN INSURANCE, INC.

Recn:  
DEBOEST KNUDSEN ET AL  
600 FIFTH AVE S #301  
NAPLES FL 34102  
RECORDED IN THE OFFICIAL RECORDS OF COLLIER COUNTY, FL  
04/21/2000 at 01:12PM DWIGHT B. BROCK, CLERK  
2624794 OR: 2666 PG: 3212  
RBC #11  
24.00

## EXHIBIT "A"

portion of Parcel "C" of PELICAN BAY UNIT ONE according to the Plat as recorded in Plat Book 12, Pages 47 through 52 of the Public Records Collier County, Florida, described as follows:

Commence at the Southwest corner of the Southeast one-quarter (SE $\frac{1}{4}$ ) of Section 9, Township 49 South, Range 25 East; thence North 89°30'11" East, along the South line of said Section 9, a distance of 139.98 feet; thence North 00°29'49" West, a distance of 70.00 feet to a point on the South line of said Parcel "C" and the North Right of Way line of Seagate Drive as shown on said Plat of PELICAN BAY UNIT ONE, said point being the Point of Beginning of said portion; thence North 89°30'11" East, along said South line of Parcel "C", a distance of 667.03 feet to a line parallel with and 500 feet West of the East line of said Parcel "C"; thence North 00°3'32" West, along said parallel line, a distance of 630.00 feet; thence North 35°09'32" West, a distance of 280.00 feet; thence South 89°30'11" West, a distance of 446.14 feet, thence South 46°42'00" West, a distance of 51.76 feet; thence South 43°18'00" East, a distance of 22.28 feet to the beginning of a curve concave to the West having a radius of 80.00 feet and a central angle of 96°34'52"; thence Southeasterly, Southerly and Southwesterly, along the arc of said curve, a distance of 134.85 feet; thence South 33°16'52" West, a distance of 198.80 feet to a point on the Westerly line of said Parcel "C", said point being at the beginning of a curve concave to the Southwest having a radius of 1250.00 feet, a central angle of 21°12'34" and to said point a radial line bears North 68°16'55" East; thence Southeasterly and Southerly, along the arc of said curve and said Westerly line of Parcel "C", a distance of 462.72 feet to the point of tangency; thence South 00°30'31" East, a distance of 70.22 feet to the beginning of a curve concave to the Northeast having a radius of 50.00 feet and a central angle of 89°59'18"; thence Southerly, Southeasterly and Easterly, along the arc of said curve, a distance of 78.53 feet to the Point of Beginning.

and land being in Collier County, Florida.

subject to easements, restrictions, reservations, covenants, limitations and conditions of record.

**EXHIBIT "B"**  
**AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS FOR**  
**BAY VILLAS**

**Note:** New language is underlined; language being deleted is shown in ~~struck-through~~ type.

1. Section 8.10 of the Declaration of Covenants, Conditions and Restrictions of Bay Villas shall be amended as shown below:

**ARTICLE VIII**  
**MISCELLANEOUS**

\* \* \*

8.10 Nothing shall be done or maintained on any Lot or on the Common Areas which may be or become a nuisance to the neighborhood. In the event the Board of Directors determines that a condition existing on a Lot constitutes a nuisance affecting the Common Areas, the Board may take any and all steps to remedy the violation as further provided in Section 10.01 hereof and in the Bylaws. ~~In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.~~

**EXHIBIT "C"**  
**AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS FOR**  
**BAY VILLAS**

The amended and Restated Bylaws for Bay Villas Association, Inc. (the Bylaws"), shall be amended as shown below:

1. Article V, Section 1 of the Bylaws of Bay Villas Association, Inc. shall be amended as follows:

**ARTICLE V**  
**MEETING OF DIRECTORS**

Section 1. Regular meeting of the Board of Directors shall be held according to a schedule and monthly at such place and hour as may be fixed from time to time by resolution of the Board. ~~No~~ ~~Should~~ ~~said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not~~ on a legal holiday. Notice of regular meetings shall be posted in a conspicuous place on the property at least forty-eight (48) hours before the meeting.

2. Article VII, Section 8 and Article XIII of the Bylaws of Bay Villas Association, Inc. shall be amended as follows:

**ARTICLE VII**  
**OFFICERS AND THEIR DUTIES**

\* \* \*

Section 8. Duties. The duties of the officers are as follows:

**PRESIDENT**

(a) The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all ~~checks and~~ promissory notes.

**VICE-PRESIDENT**

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act; and shall exercise and discharge such other duties as may be required of him by the Board.

**SECRETARY**

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers

requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses and shall perform such other duties as required by the Board.

#### TREASURER

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign ~~all checks and~~ promissory notes of the Association; keep proper books of account, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meetings; and deliver a copy of each to the members.

\* \* \*

#### ARTICLE XIII FISCAL YEAR

Section 1. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year.

Section 2. Withdrawal of monies from the accounts of the Association shall be only by such persons as are authorized by the Board, provided two (2) signatures shall be required on all checks.

This instrument prepared by:  
Tamela Eady Wiseman, Esquire  
DeBoest, Knudsen, Stockman, Wiseman, Decker & Dryden, P.A.  
600 Fifth Avenue South  
Naples, Florida 34102  
(941) 263-5040

Retn:  
DEBOEST KNUDSEN ET AL  
600 FIFTH AVE S #301  
NAPLES FL 34102

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President of Bay Villas Association, Inc., a Florida corporation not for profit, does hereby certify that, after due notice, all the resolutions set forth below were approved and adopted by the membership without a meeting pursuant to Section 617.0701(4), Florida Statutes, and Section 10.05 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bay Villas, for the purpose of amending the Declaration of Covenants, Conditions and Restrictions for Bay Villas as originally recorded in Official Records Book 938, Page 632, Public Records of Collier County, Florida, which Declaration encumbers the real property, legally described on Exhibit "A" hereto and made a part hereof, and the Bylaws of the corporation.

RESOLVED: That the amended and restated Declaration of Covenants, Conditions and Restrictions of Bay Villas be and is hereby amended and the amendment is adopted in the form attached hereto as Exhibit "A" and made a part hereof.

RESOLVED: That the amended and restated Bylaws of Bay Villas be and is hereby amended and the amendment is adopted in the form attached hereto as Exhibit "B" and made a part hereof.

September 1, 1999

Date

BAY VILLAS ASSOCIATION, INC.

Howard Bennett  
Signature of Witness

Howard Bennett

Print Name of Witness

By: Jay Lidsky  
Jay Lidsky, President

Sue Bennett  
Signature of Witness

Sue Bennett

Print Name of Witness

(SEAL - FLORIDA CORPORATION NOT FOR PROFIT)

STATE OF FLORIDA  
COUNTY OF COLLIER

I hereby certify that on the 1st day of September, 1999, personally appeared before me Jay Lidsky, as President of Bay Villas Association, Inc., a Florida corporation not for profit, who executed the foregoing certificate in the name and on behalf of said corporation.

Notary Public-State of Florida:

Sign Sylvia J. Booker  
Print Sylvia J. Booker

Personally Known XX; or Produced  
Identification \_\_\_\_\_ Type of Identification

Produced: \_\_\_\_\_

Affix Seal Below:



Sylvia J. Booker  
MY COMMISSION # CC553181 EXPIRES  
May 17, 2000

**EXHIBIT "B"**  
**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND**  
**RESTRICTIONS OF BAY VILLAS**

The Declaration of Covenants, Conditions and Restrictions of Bay Villas, shall be amended as shown below:

**Note:** New language is underlined; language being deleted is shown in ~~struck-through~~ type.

ARTICLE V  
 EXTERIOR MAINTENANCE ASSESSMENT; DUTY TO  
RECONSTRUCT; INSURANCE

\*\*\*

5.04 In the event that the owner of any lot within the Properties fails to commence or complete construction to repair or replace any damage or destroyed improvements within the time periods provided for in Section 5.01, above, then in that event, the Association shall give written notice to the owner of his default. If the owner has not notified the Association of satisfactory arrangements to meet his obligations within thirty (30) days after mailing such notice, the Association shall be deemed to have been granted the right by the owner, as such owner's attorney-in-fact, to remove all debris and damaged improvements, and/or be deemed to have been granted the right by the owner to commence and or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements.

In the event that the Association exercises the rights afforded to it in the preceding paragraph, which shall be in the sole discretion of the Board of Directors, the owner of the subject lot shall be deemed to have assigned to the Association any right the owner may have to insurance proceeds that may be available to the owner arising from the damage or destruction of the improvements. The Association shall have the right to recover from the owner any costs not paid by insurance as an "exterior maintenance assessment" described in Section 5.02 above.

5.05 Each owner shall at all times maintain hazard and flood insurance on his lot and all insurable improvements constructed thereon. The Association has the right to require each owner to produce proof of insurance. For this purpose, the owners of the lots located within the properties agree to provide for the Association to be named as a co insurance under any hazard and flood insurance policies relating to their lots and the improvements constructed thereon. Further, the Association may require that all such policies ~~policies~~ be in an amount sufficient to finance the repair or replacement of the improvements provided for above, taking into account local construction costs and property values as they may from time to time exist. In the event that an owner refuses to increase such insurance coverage deemed reasonably necessary by the Association, or if the owner allows the required insurance coverage to lapse, or for some other reason, causes the same to become null and void, the Association may purchase whatever coverage it deems reasonably necessary for the Association's benefit. The costs so incurred by the Association shall become due and payable in all respects, together with interest, reasonable attorneys' fees and costs of collection, as provided for in connection with the other assessments of the Association, and shall be subordinate to mortgage liens as provided in Section 4.08, above.

**EXHIBIT "C"**  
**AMENDMENT TO THE BYLAWS**  
**BAY VILLAS ASSOCIATION, INC.**

The Bylaws of Bay Villas Association, Inc., shall be amended as shown below:

**Note:** New language is underlined; language being deleted is shown in ~~struck through~~ type.

ARTICLE II  
MEETING OF MEMBERS

Section 1. Annual meetings. Each regular annual meeting of the members shall be held in Collier County, Florida during the month ~~on the third Thursday~~ of February of each year, at a day, place and time designated by the Board of Directors ~~the hour of five o'clock P.M.~~ If the day for the annual meeting of the members shall not be held on is a legal holiday, ~~the meeting will be held at the same hour on the first Thursday following which is not a legal holiday.~~

EXHIBIT "A"

portion of Parcel "C" of PELICAN BAY UNIT ONE according to the Plat as recorded in Plat Book 12, Pages 47 through 52 of the Public Records Collier County, Florida, described as follows:

Commence at the Southwest corner of the Southeast one-quarter (SE $\frac{1}{4}$ ) of Section 9, Township 49 South, Range 25 East; thence North 89°30'11" East, along the South line of said Section 9, a distance of 139.98 feet; thence North 00°29'49" West, a distance of 70.00 feet to a point on the South line of said Parcel "C" and the North Right of Way line of Seagate Drive as shown on said Plat of PELICAN BAY UNIT ONE, said point being the Point of Beginning of said portion; thence North 89°30'11" East, along said South line of Parcel "C", a distance of 667.03 feet to a line parallel with and 500 feet West of the East line of said Parcel "C"; thence North 00°3'32" West, along said parallel line, a distance of 630.00 feet; thence North 35°09'32" West, a distance of 280.00 feet; thence South 89°30'11" West, a distance of 446.14 feet; thence South 46°42'00" West, a distance of 51.76 feet; thence South 43°18'00" East, a distance of 22.28 feet to the beginning of a curve concave to the West having a radius of 80.00 feet and a central angle of 96°34'52"; thence Southeasterly, Southerly and Southwesterly, along the arc of said curve, a distance of 134.85 feet; thence South 33°16'52" West, a distance of 198.80 feet to a point on the Westerly line of said Parcel "C", said point being at the beginning of a curve concave to the Southwest having a radius of 1250.00 feet, a central angle of 21°12'34" and to said point a radial line bears North 68°16'55" East; thence Southeasterly and Southerly, along the arc of said curve and said Westerly line of Parcel "C", a distance of 462.72 feet to the point of tangency; thence South 00°30'31" East, a distance of 70.22 feet to the beginning of a curve concave to the Northeast having a radius of 50.00 feet and a central angle of 89°59'18"; thence Southerly, Southeasterly and Easterly, along the arc of said curve, a distance of 78.53 feet to the Point of Beginning.

and land being in Collier County, Florida.

subject to easements, restrictions, reservations, covenants, limitations and conditions of record.

CERTIFICATE OF AMENDMENT

2138080 UK: 2272 PG: 1113  
RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
01/16/97 at 08:36AM DWIGHT E. BROCK, CLERK  
RRC FEE 141.00

THE UNDERSIGNED, being the duly and acting President of Bay Villas Association, Inc., a Florida corporation not for profit, hereby certifies that at a meeting of the members held on November 21, 1996, where a quorum was present after due notice, the resolutions set forth below were approved by the affirmative vote of at least seventy-five percent (75%) of the voting interests, of the Association, for the purposes of amending the Declaration of Covenants, Conditions and Restrictions for Bay Villas, as originally recorded at O.R. Book 938, Pages 632 et seq., Public Records of Collier County, Florida, and the Articles of Incorporation and Bylaws of Bay Villas Association, Inc.

Retn:  
SWALM & MURRELL  
2375 TAMMIAMI TR N #308  
NAPLES FL 34103

(for use by Clerk of Court)

RESOLVED: That the Declaration of Covenants, Conditions and Restrictions for Bay Villas and the Articles of Incorporation and Bylaws of Bay Villas Association Inc., be and are hereby amended and restated in their entirety; and the restatement is adopted in the form attached hereto, and made a part hereof.

Date: 12/10/96

BAY VILLAS ASSOCIATION, INC.

(1) Eugene O'Neill  
Witness

By: Albert Lukas  
Albert Lukas, President  
597 Bay Villas Lane  
Naples, FL 34108

Print Name: EUGENE O'NEILL

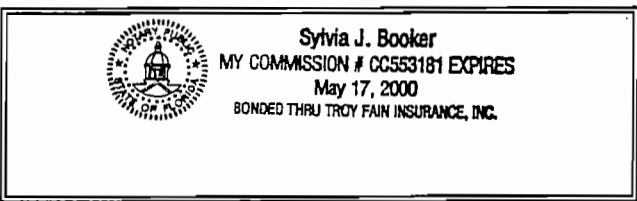
(2) [Signature]  
Witness

(CORPORATE SEAL)

Print Name: STEPHEN COLEMAN

STATE OF FLORIDA  
COUNTY OF Collier

The foregoing instrument was acknowledged before me this 10 day of December, 1996, by Mr. Albert Lukas, President of the aforementioned Corporation, on behalf of the Corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.



Sylvia J. Booker  
Signature of Notary Public

This instrument prepared by Robert C. Samouce, Esq., Swalm & Murrell, P.A., 2375 Tamiami Trail North, Suite 308, Naples, FL 33940

(Print, Type or Stamp Commissioned Name of Notary Public) (Affix Notarial Seal)

**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION.  
FOR PRESENT TEXT SEE EXISTING DECLARATION OF COVENANTS.**

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**BAY VILLAS**

KNOW ALL MEN BY THESE PRESENTS that on September 17, 1981, the original Declaration of Covenants, Conditions and Restrictions for Bay Villas, was recorded in Official Record Book 938, at Page 632 *et seq.*, of the Public Records of Collier County, Florida. That Declaration, as it has previously been amended, is hereby further amended and is restated in its entirety, as amended.

The land subject to this Declaration (hereinafter "Bay Villas" or the "Property") is legally described in Exhibit "A" to this Amended and Restated Declaration and are the same lands described in Exhibit "A" to the original Declaration. No additional land is being added by this instrument. The covenants, conditions and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners. The acquisition of title to a unit or any other ownership interest in the Property, or the lease, occupancy, or use of any portion of a unit or the Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.

**ARTICLE I**  
**DEFINITIONS**

1.01 "Association" shall mean and refer to BAY VILLAS ASSOCIATION, INC., its successors and assigns.

1.02 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any parcel of land which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.03 "Properties" or "Community" shall mean and refer to that certain real property hereinbefore described as Exhibit "A".

1.04 "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, their agents, assigns, employees and invitees. The

**BAY VILLAS - DECLARATION**

Page 1

UR: 4414 FU 1110  
0111 '01 7/77 '80

Common Area, which includes private roads owned by the Association, is described in Exhibit "B" attached to the original Declaration as amended, which exhibit is hereby incorporated by reference.

1.05 "Lot" shall mean and refer to the lots as designated and shown on the annexed map of the properties with the exception of the Common Areas, as designated on the lot layout plan which was recorded as Exhibit "C" to the original Declaration, which exhibit is hereby incorporated by reference.

1.06 "Vehicular Patio Areas" shall mean and refer to those areas designated as such on Exhibit "C". Every owner shall have a non-exclusive easement of ingress and egress over the Vehicular Patio Areas which shall be appurtenant to and shall pass with title to every lot.

1.07 "Member" shall mean every person or entity holding membership in the Association.

1.08 "Article of Association" or "Articles of Incorporation" shall mean and refer to the Amended and Restated Articles of Incorporation of Bay Villas Association, Inc. as attached hereto as Exhibit "D", as they may be amended from time to time.

1.09 "Bylaws" shall mean and refer to the Amended and Restated Bylaws of Bay Villas Association, Inc. as attached hereto as Exhibit "E", as they may be amended from time to time.

## ARTICLE II PROPERTY RIGHTS

2.01 Every owner shall have a right and easement of enjoyment in and to the Common Area together with a nonexclusive easement of ingress and egress over the private roads described in Section 1.04 above, which shall be appurtenant to and shall pass with title to every lot subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the upkeep, maintenance and repair of any facility situated upon the Common Area;

(b) The right of the Association to suspend the common area use rights of any member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association;

(c) The right of the Association to dedicate or transfer or grant an easement or property rights to all or any part of the Common Area to any public agency, authority, or

VILLAS 6616 101 1111

utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by fifty-one percent (51%) of the members agreeing to such dedication or transfer has been recorded;

(d) The right of the Board of Directors of the Association to promulgate and enforce reasonable rules and regulations relating to the use and enjoyment of the Common Areas.

(e) Ownership of each lot shall entitle the then owner of owners thereof to an easement over any portion of their driveway located beyond their lot line.

2.02 Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, invitees or contract purchasers who reside on the property.

2.03 There shall be no judicial partition of the Common Areas, nor shall any Owner or any other person acquiring any interest in the subdivision, or any part thereof seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of any Lot owned in Co-tenancy.

2.04 Within the easements for installation and maintenance of utilities and drainage facilities no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements.

ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS  
IN THE ASSOCIATION

3.01 Every person or entity who is a record fee simple Owner of a Lot, at all times so long as it owns all or any part of the property subject to this Declaration, shall be a member of the Association provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to, and may not be separated from ownership of any Lot which is subject to assessment.

3.02 The Association members shall have voting rights, as are set forth in the Articles of Incorporation.

ARTICLE IV  
COVENANTS FOR MAINTENANCE ASSESSMENTS

4.01 Each Owner of any Lot (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, shall hereafter be deemed to covenant and agree to pay to the Association any annual assessments or charges, and any special assessments for capital improvements or major repair; such assessments to be fixed, assessment remains due and unpaid. In no event, however, shall the rate of interest be in excess of that allowed by Florida law. Costs of collection thereof (including reasonable attorneys' fees), shall be a charge on the land and shall be a continuing lien upon the Lot(s) against which each such assessment is made, and shall also be the personal obligation of the Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or by abandonment, or otherwise. In determining the annual assessments, the Board of Directors shall adopt a budget of Association estimated revenues and expenses for each fiscal year. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications. The estimated surplus or deficit as of the end of the current year shall be shown and all fees or changes for recreational amenities shall be sent out separately.

4.02 The annual and special assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Properties including but not limited to the following:

- (a) Improvements, maintenance and repair of the Common Areas; Vehicular Patio Areas and lot areas described in Paragraphs 1.04, 1.05 and 1.06 above;
- (b) Nonpotable water, electrical lighting, and other necessary utility services for the Common Areas;
- (c) Maintenance and repair of all storm drains, lakes and drainage courses, private roads, Vehicular Patio Areas, sprinkler systems in the properties and utility easements.
- (d) Painting of the exterior walls, common walls, fences and entry gates that are part of or attendant to improvements constructed on the lots.
- (e) Maintenance and repair of private roads and Vehicular Patio Areas as shown in the Exhibit "B" and "C" and maintenance and repair of drainage and utility easements.
- (f) Fire insurance covering the full insurable replacement value of the Common Areas with extended coverage;
- (g) Liability insurance insuring the Association against any and all liability

**BAY VILLAS - DECLARATION**

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to the public, to any Owner, or to the invitees, or tenants of any Owner arising out of their occupation and/or use of the Common Area, and Vehicular Patio Areas. The policy limits shall be set by the Association, and shall be reviewed at least annually and increased or decreased in the discretion of the Association;

(h) Annual assessment in favor of Pelican Bay Foundation.

(i) Workmen's compensation insurance to the extent necessary to comply with the Florida Statutes, and any other insurance deemed necessary by the Board of Directors of the Association;

(j) Acquisition of equipment for the Common Area as may be determined by the Association, including without limitation, all equipment and personnel necessary or proper for the use of the Common Areas;

(k) Any other materials, supplies, equipment, labor, management, supervision, services, personnel, repairs, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration or by law, or which shall be necessary or proper in the opinion of the Board of Directors of the Association for the operation of the Common Areas, for the benefit of the Owners, or for the enforcement of these restrictions.

4.03 All regular and special assessments shall be at a uniform rate for each lot in the Properties.

4.04 In addition to the annual assessments, the Association may levy in any assessment year a special assessment applicable to that year only, for reconstruction, unexpected repair or replacement of a capital improvement as approved by the Board of Directors of the Association, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of Fifty-one (51%) percent of the members who are voting in person or proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, and shall set forth the purpose of the meeting.

4.05 The assessments for which provision is herein made shall commence on the first day of the month, or as fixed by the Board of Directors of the Association to be the date of commencement. The due date of any assessment and any such assessment shall be payable in advance in monthly, quarterly, semi-annual, or annual installments, as determined by the Board.

4.06 The Board of Directors of the Association shall fix the date of commencement, and the amount of the assessments against each Lot for each assessment, at least thirty (30) days in advance of such date or period and shall, at that time prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and

## BAY VILLAS - DECLARATION

Page 5

shall be open to inspection by any Member. Written notice of the assessment shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement thereof. The Association shall, on demand, and for a reasonable charge, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

4.07 If any assessment is not paid on the date when due, such assessment shall then become delinquent and shall, together with interest thereon, and the cost of collection thereof, become a continuing lien on the Lot(s) against which such assessment is made that shall bind such Lot(s) in the hands of the Owner(s), his heirs, devisees, personal representatives and assigns, and shall also be a continuing personal obligation of the Owner(s) against whom the assessment is levied.

If the assessment is not paid within thirty (30) days after the delinquency date, which shall be set by the Board, the assessment shall bear interest from the date of delinquency at the rate set forth in Paragraph 4.01 above, and the Association may, at any time thereafter, bring an action to foreclose the lien against the Lot(s) in like manner as a foreclosure of a mortgage on real property and/or a suit on the personal obligation against the Owner(s), and there shall be added to the amount of such assessment the cost of any such action (including a reasonable attorney's fee), and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with costs of the action.

4.08 The lien of the assessment for which provision is herein made as well as in any other Article of this Declaration shall be subordinate to the lien of any first mortgage to a bank, life insurance company, federal or state savings and loan association, real estate investment trust, mortgage banker or institutional mortgagee of any kind. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure shall relieve any Lot(s) neither from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment. The written opinion of either the Developer or Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

## ARTICLE V EXTERIOR MAINTENANCE ASSESSMENT

5.01 In addition to maintenance upon the Common Areas and Vehicular Patio Areas, the association may provide upon any Lot requiring same, when necessary in the opinion of the Board to preserve the beauty, quality and value of the neighborhood, maintenance, including repair, roof repair and replacement, gutter, down spouts, exterior building surfaces, including walls, doors and fences, provided however, that thirty (30) days written notice must

### BAY VILLAS - DECLARATION

first be given to the Owner of any such Lot of the need of such maintenance, in order to give the owner the opportunity to correct the condition complained of.

5.02 The cost of such maintenance shall be assessed against the lot upon which such maintenance is performed, or, in the option of the Board of Directors of the Association, benefiting from same. The assessment shall be apportioned among the lots involved in the manner determined to be appropriate by the Board. The exterior maintenance assessments shall not be considered a part of the annual or special assessment. Any exterior maintenance assessment shall be a lien on the lots affected and the personal obligation of the owner and shall become due and payable in all respects, together with interest, reasonable attorneys fees, and cost of collection, as provided for the other assessments of the Association and shall be subordinate to mortgage liens as provided in Section 4.08, above.

5.03 In the event that any of the improvements located on any lot in the Properties are destroyed or damaged as a result of any cause, including, but not limited to fire, windstorm, flood or tornado, the owner of such improvements shall cause repair or replacement of such improvements to be commenced within ninety (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within six (6) months thereafter.

All such repairs or replacements must restore the improvements to substantially their original character, design and condition, shall utilize and conform with the original foundation and boundary of the original improvements and shall be structurally compatible with any adjoining improvements which share a party wall as the phrase is defined in Section 6.01, below.

Amended - see Attached

5.04 In the event that the owner of any lot within the Properties fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 5.01, above, then in that event, the Association shall be deemed to have been granted the right by the owner to commence and or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements.

In the event that the Association exercises the rights afforded to it in the preceding paragraph, the owner of the subject lot shall be deemed to have assigned to the Association any right the owner may have to insurance proceeds that may be available to the owner arising from the damage or destruction of the improvements.

Amended  
see Attached

5.05 For this purpose, the owners of the lots located within the properties agree to provide for the Association to be named as a co-insured under any hazard and flood insurance policies relating to their lots and the improvements constructed thereon. Further, the Association may require that all such polices be in an amount sufficient to finance the repair or replacement of the improvements provided for above, taking into account local construction costs and property values as they may, from time to time exist. In the event that an owner refuses to increase such

## BAY VILLAS - DECLARATION

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insurance coverage deemed reasonably necessary by the Association, or if the owner allows the required insurance coverage to lapse, or for some other reason, causes the same to become null and void, the Association may purchase whatever coverage it deems reasonably necessary for the Association's benefit. The costs so incurred by the Association shall become due and payable in all respects, together with interest, reasonable attorneys' fees and cost of collection, as provided for in connection with the other assessments of the Association, and shall be subordinate to mortgage liens as is provided by Section 4.08, above.

5.06 For the purpose of performing the duties authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the owner, to enter upon any lots or the exterior of any improvements thereon at reasonable hours any day except Sunday.

#### ARTICLE VI PARTY WALLS

6.01 Each wall which is built as part of the original construction of the homes upon the Properties and placed on the dividing line between the lot shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article VI, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

6.02 The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

6.03 If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the other under any rule of law regarding liability or negligent or willful acts or omissions. This paragraph shall be deemed to be in addition to, and not in lieu or to the exclusion of the rights afforded the Association under Article V, above.

6.04 Notwithstanding any other provision of this Article an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

6.05 The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

6.06 In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII  
ARCHITECTURAL CONTROL TO PRESERVE THE BEAUTY  
QUALITY AND VALUE OF THE NEIGHBORHOOD

7.01 No improvement, addition or deletion of structure of any kind, including without limitation, any building, fence wall, screen enclosure, drain, disposal system, or other improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change alteration repair or replacement therein or thereof be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by the Association. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography.

7.02 The architectural review and control functions of the Association shall be administered and performed by the Architectural Review Board (the ARB), which shall consist of at least three (3) members, who need not be members of the Association. Members of the ARB shall be appointed by and shall serve at the pleasure of the Board of Directors of the Association. The Board of Directors shall in good faith attempt to appoint at least one (1) architect or building contractor thereto. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. \*

Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof, shall be filled by the Board of Directors.

7.03 The ARB shall have the following powers and duties:

(a) To recommend, from time to time, to the Board of Directors of the Association the creation of or modification and/or amendments to the Architectural Planning Criteria. Any Architectural Planning Criteria or modifications or amendments thereto shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association at a meeting duly called and noticed and at which a quorum is present. Notice of the adoption, modification or amendment to the Architectural Planning Criteria, including a verbatim copy of such adoption, change or modification, shall be delivered to each member of the Association of notice and a copy of any adoption of or modification or amendment to the Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

(b) To require submission to the ARB of two (2) complete sets of all plans and specifications for any improvement or structure of any kind, including without limitation, any

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building, fence, well, swimming pool, tennis court, enclosure, sewer, drain, disposal system, decorative building, landscape device, object or other improvement, the construction or placement of which is proposed upon any Lot in the Properties. The ARB may also require submission of samples of building materials proposed for use on any Lot, and may require such additional information as may reasonably be necessary for the Board to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Planning Criteria.

(c) To approve or disapprove any improvement or structure of any kind, including, without limitation, any building, fence, wall, screen enclosure, drain or disposal system, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot in the Properties, and which is visible from the outside of any dwelling unit. All decisions of the ARB shall be submitted in writing to the Board of Directors of the Association, and evidence thereof may be made by a certificate, in recordable form, executed under seal by the President or Vice President of the Association. Any party aggrieved by a decision of the ARB shall have the right to make a written request to the Board of Directors of the Association within thirty (30) days of such decision, for a review thereof. The determination of the Board upon reviewing any such decision shall in all events be dispositive.

(d) To adopt a schedule of reasonable fees for processing requests for ARB approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the ARB.

ARTICLE VIII  
MISCELLANEOUS

8.01 The property subject to these covenants and restrictions may be used for single family residential living units and for no other purpose. No business may be conducted on any part thereof. No building or other improvement shall be erected upon any Lot without prior ARB approval thereof as elsewhere herein provided. No Lot shall be divided, subdivided, partitioned or reduced in size, without the approval of the Board of Directors.

8.02 No tents, trailers, vans, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot or Common Area without the written consent of the Association.

8.03 No aerial or antenna shall be placed or erected upon any Lot, or affixed in any manner to the exterior of any building in the Properties.

8.04 No boats, recreational vehicles or other motor vehicles, except four-wheel passenger automobiles, shall be placed, parked or stored upon any Lot or Common Area, nor

shall any maintenance or repair be performed upon any boat or motor vehicle not owned or controlled by the Association upon any Lot, except within a building where totally isolated from public view.

8.05 The area of each lot outside the privacy walls of the residences located thereon shall be under the exclusive jurisdiction and responsibility of the Association for the purposes of maintenance and replacement of the landscaping.

8.06 No automobile garage shall be permanently enclosed or converted to other use without the written permission of the Board of Directors.

8.07 No portion of any Lot or Common Area shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within the buildings to be constructed on a Lot.

8.08 No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or on the Common Areas. However, dogs, cats and other common household pets may be kept on Lots subject to such rules and regulations as may be adopted by the Association, so long as they are not kept, bred or maintained for commercial purposes. No animals shall be allowed to run loose at any time.

8.09 No rubbish, trash, garbage or other waste materials shall be kept or permitted at the exterior of the privacy walls or driveway area of any unit. Sanitary containers shall not be placed outside the privacy walls or driveway area of any unit except for a reasonable period for refuse pickup to be accomplished.

8.10 Nothing shall be done or maintained on any Lot or on the Common Areas which may be or become a nuisance to the neighborhood. (In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.) *Amended  
see Attached*

8.11 No sign of any kind shall be displayed to public view on any lot or any Common Area, except a sign identifying the properties, street or traffic control signs and a lot numbering system as established by the declarant or the Board of Directors of the Association.

8.12 Nothing shall be altered in, constructed on or removed from any of the Common Areas except upon the written consent of the Board of Directors of the Association.

8.13 In keeping with the intent to develop a stable residential community, no owner shall be permitted to rent or lease out a portion of any residence located in the properties. Further, no owner shall be permitted to rent or lease any residence more than three (3) times in any calendar year, and any rental or lease agreement so entered into shall provide for a term in

**BAY VILLAS - DECLARATION**

UK: 4412 PG: 1100

excess of two (2) months. Violation of this paragraph may be enjoined by an action instituted by the Association in any court having jurisdiction in the cause.

ARTICLE IX  
EASEMENT FOR MAINTENANCE

9.01 The Association, and the Association's agents, employees, invitees and assigns, shall have a non-exclusive easement for ingress and egress relating to that portion of each Lot located in the Properties not enclosed by a wall and that is visible from any street inside or outside the properties necessary to be crossed over in order to gain access to the Common Areas in order for the Association to discharge its duties to maintain the Common Areas and for the purpose of maintaining the Lots by the Association in a manner consistent with the Association's maintenance obligations of the Common Areas, together with an easement for the maintenance of sprinkler systems located within any lot.

9.02 The Owner of any lot with a privacy wall located on his lot line shall have an easement for ingress and egress over that portion of any neighboring lot required for the maintenance and repair of the exterior of said privacy wall. Said owner shall promptly repair, at his own expense, any damage done to the neighboring lot by reason of these maintenance and repairs.

9.03 Any Owner of a lot located in the Properties which lot contains a structure which encroaches upon another lot, the Common Areas or the Vehicular Patio Areas shall have a valid easement for the encroachment and maintenance of same, so long as it stands and exists.

ARTICLE X  
GENERAL PROVISIONS

10.01 The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date the original Declaration was recorded, after which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3rds) of the Lots has been recorded, agreeing to change or terminate said covenants and restrictions in whole or in part. Violation or breach of any condition, covenant or restriction herein contained shall give the Association and/or Owner(s) in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of said conditions, covenants or restrictions and to prevent the violation or breach of any of the conditions, covenants or restrictions and the expense of such litigation shall be borne by the then Owner or Owners of the subject property, provided such proceeding results in a finding that such Owner was in violation

1000 7/17 1110

of said covenants or restrictions. Expenses of litigation shall include reasonable attorneys' fees incurred by the Association in seeking such enforcement.

10.02 Each owner shall, at his sole cost and expense, maintain and repair the exterior of his residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction.

10.03 Any notices required to be sent to any member or Owner under the provision of this Declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as a member of Owner on the records of the Association at the time of such mailing.

10.04 Invalidation of any one or more of these covenants and restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

10.05 This Declaration may be amended by the concurrence of not less than two-thirds (2/3rds) of the voting interests of the entire membership at any annual or special meeting called for the purpose, provided that notice of each proposed amendment has been given to the members in accordance with the law. Alternatively, amendments may be adopted without a meeting if written consents, setting forth the proposed amendment, are signed by not less than two-thirds (2/3rds) of the voting interests of the entire membership.

10.06 Whenever the singular is used it shall include the plural and the singular, and the use of any gender shall include all genders.

10.07 Any reference to "Common Areas" shall be interpreted to include therein the private roadways as described as part of Exhibit "B" attached hereto.

10.08 Notwithstanding any of the foregoing to the contrary, it is understood that these Covenants and Restrictions are subordinate to and will be subordinated without the necessity of any other instrument to an easement or easements given or to be given by the Association, through its Board of Directors covering the basic water, sewer and drainage systems on the Properties, together with an easement or easements given or to be given by the Association, through its Board of Directors, to Florida Power & Light Company, Cable Television, telephone and/or any other public or quasi-public utility for the installation and maintenance of service lines on the Properties.

10.09 This instrument shall be interpreted to be supplemented and in addition to the restrictions, covenants, conditions and obligations created by the DECLARATION AND GENERAL PROTECTIVE COVENANTS recorded in O.R. Book 825, Page 1755, *et seq.*, Public Records of Collier County, Florida and the DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR A PART OF PARCEL "C" PELICAN BAY UNIT ONE,

**BAY VILLAS - DECLARATION**

UK: 6616 FU: 1100

recorded in O.R. Book 898, Page 923, *et seq.*, Public Records of Collier County, Florida, as they may be amended from time to time.

### EXHIBITS TO DECLARATION

The exhibits listed below were recorded on September 17, 1981, together with The Declaration of Covenants, Conditions and Restrictions for Bay Villas, at O.R. Book 938, Page 632 *et seq.*, Public Records of Collier County, Florida.

- The following Exhibit, as previously attached to and recorded with the original Declaration is attached hereto and recorded herewith.

#### Exhibit "A" - LEGAL DESCRIPTION

- In addition, the following Exhibits, as previously amended to date, are hereby incorporated by reference as exhibits to the attached Amended and Restated Declaration of Covenants.

#### Exhibit "B" - COMMON AREA DESCRIPTION

#### Exhibit "C" - ANNEXED MAP

- In addition, the following Exhibits are completely amended and restated, and the Restatements are attached hereto and recorded herewith.

#### Exhibit "D" - ARTICLES OF INCORPORATION

#### Exhibit "E" - BYLAWS

A portion of Parcel "C" of PELICAN BAY UNIT ONE according to the Plat thereof as recorded in Plat Book 12, Pages 47 through 52 of the Public Records of Collier County, Florida, described as follows:

Commence at the Southwest corner of the Southeast one-quarter (SE<sup>1</sup>/<sub>4</sub>) of Section 9, Township 49 South, Range 25 East; thence North 89°30'11" East, along the South line of said Section 9, a distance of 139.98 feet; thence North 00°29'49" West, a distance of 70.00 feet to a point on the South line of said Parcel "C" and the North Right of Way line of Seagate Drive as shown on said Plat of PELICAN BAY UNIT ONE, said point being the Point of Beginning of said portion; thence North 89°30'11" East, along said South line of Parcel "C", a distance of 667.03 feet to a line parallel with and 500 feet West of the East line of said Parcel "C"; thence North 00°39'32" West, along said parallel line, a distance of 630.00 feet; thence North 35°09'32" West, a distance of 280.00 feet; thence South 89°30'11" West, a distance of 446.14 feet; thence South 46°42'00" West, a distance of 51.76 feet; thence South 43°18'00" East, a distance of 22.28 feet to the beginning of a curve concave to the West having a radius of 80.00 feet and a central angle of 96°34'52"; thence Southeasterly, Southerly and Southwesterly, along the arc of said curve, a distance of 134.85 feet; thence South 53°16'52" West, a distance of 198.80 feet to a point on the Westerly line of said Parcel "C", said point being at the beginning of a curve concave to the Southwest having a radius of 1250.00 feet, a central angle of 21°12'34" and to said point a radial line bears North 68°16'55" East; thence Southeasterly and Southerly, along the arc of said curve and said Westerly line of Parcel "C", a distance of 462.72 feet to the point of tangency; thence South 00°30'31" East, a distance of 70.22 feet to the beginning of a curve concave to the Northeast having a radius of 50.00 feet and a central angle of 89°59'18"; thence Southerly, Southeasterly and Easterly, along the arc of said curve, a distance of 78.53 feet to the Point of Beginning.

Said land being in Collier County, Florida.

Subject to easements, restrictions, reservations, covenants, limitations and conditions of record.

*B.M.K.*  
12/30/80

EXHIBIT "A"

Prepared and Verified  
in Presence of  
WILLIAM J. HANLEY, CLERK  
COLLIER COUNTY, FLORIDA  
WILLIAM J. HANLEY, CLERK  
TALLAHASSEE, FLORIDA

U.R. 898 PG. 1190

## LEGAL DESCRIPTION

Exhibit "B"

COMMON AREA

BAY VILLAS

O.R. 938 PG 0655

A portion of Parcel C of Pelican Bay Unit One, according to the plat thereof as recorded in Plat Book 12 at Pages 47 through 52 of the Public Records of Collier County, Florida, more particularly described as follows:

COMMENCE at the southwest corner of the southeast one-quarter of Section 9, Township 49 S, Range 25 E, thence N 89°30'11" E along the south line of said Section 9 for 40.00 feet to an intersection with the centerline of Crayton Road; thence N 0°30'31" W along said centerline for 190.20 feet; thence N 89°29'29" E for 50.00 feet to an intersection with the easterly right-of-way line of Crayton Road; thence northerly along said easterly right-of-way line and along the arc of a circular curve concave to the southwest having for its elements a radius of 1250.00 feet and a central angle of 7°02'55" for 153.77 feet to the point of reverse curvature with a circular curve concave to the southeast and the point of beginning of the herein described parcel of land; thence northerly and northeasterly along the arc of said curve having for its elements a radius of 25.00 feet and a central angle of 93°03'36" for 40.61 feet to the point of tangency; thence N 85°30'11" E for 44.46 feet; thence S 04°29'49" E for 23.00 feet; thence N 85°30'11" E for 58.41 feet; thence N 41°30'11" E for 39.86 feet; thence N 85°30'11" E for 51.10 feet; thence N 41°30'11" E for 23.39 feet; thence N 85°30'11" E for 34.55 feet; thence S 48°29'49" E for 93.57 feet; thence N 89°30'11" E for 10.26 feet; thence N 41°30'11" E for 64.81 feet; thence N 48°29'49" W for 30.00 feet; thence S 41°30'11" W for 27.00 feet; thence N 48°29'49" W for 25.00 feet; thence N 41°30'11" E for 80.00 feet to the point of curvature of a circular curve concave to the south; thence northeasterly, easterly and southeasterly along the arc of said curve having for its elements a radius of 5.00 feet and a central angle of 90°00'00" for 7.85 feet to the point of tangency; thence S 48°29'49" E for 50.00 feet; thence N 41°30'11" E for 26.00 feet; thence S 48°29'49" E for 96.00 feet; thence S 41°30'11" W for 25.86 feet; thence S 65°29'49" E for 104.46 feet; thence S 45°29'49" E for 54.00 feet; thence N 89°30'11" E for 26.54 feet; thence N 44°30'11" E for 19.47 feet; thence N 45°39'32" W for 39.88 feet; thence S 44°20'28" W for 19.00 feet; thence N 45°39'32" W for 144.33 feet; thence N 44°20'28" E for 152.63 feet; thence N 00°39'32" W for 124.40 feet; thence N 16°27'05" W for 26.24 feet; thence N 35°09'32" W for 226.96 feet; thence N 0°29'49" W for 64.58 feet; thence S 89°30'11" W for 67.86 feet; thence S 0°29'49" E for 38.21 feet; thence S 15°30'11" W for 50.02 feet; thence N 74°29'49" W for 22.00 feet; thence S 15°30'11" W for 25.00 feet; thence N 74°29'49" W for 26.00 feet; thence S 15°30'11" W for 6.00 feet; thence N 74°29'49" W for 48.00 feet; thence N 15°30'11" E for 15.24 feet; thence N 74°29'49" W for 109.76 feet; thence S 00°29'49" E for 16.27 feet; thence N 89°30'11" E for 8.00 feet; thence S 00°29'49" E for 70.67 feet; thence S 89°30'11" W for 15.00 feet; thence S 00°29'49" E for 6.47 feet; thence S 44°30'11" W for 13.25 feet; thence S 00°29'49" E for 51.81 feet; thence S 18°16'55" W for 24.00 feet; thence N 71°43'05" W for 21.31 feet; thence S 18°16'55" W for 24.61 feet; thence S 71°16'55" W for 39.88 feet; thence S 28°16'55" W for 50.86 feet; thence N 61°43'05" W for 19.17 feet; thence S 28°16'55" W for 76.00 feet; thence N 61°43'05" W for 16.28 feet; thence S 71°16'55" W for 24.62 feet; thence N 61°43'05" W for 72.12 feet to an intersection with the arc of a circular curve concave to the southwest, being a portion of the aforementioned easterly right-of-way line of Crayton Road, said point bearing N 69°45'28" E from the radius point of said curve; thence southeasterly along the arc of said curve having for its elements a radius of 1250.00 feet and a central angle of 01°46'44" for 38.81 feet; thence N 71°16'55" E for 24.82 feet; thence S 61°43'05" E for 30.00 feet; thence N 71°16'55" E for 24.62 feet; thence S 61°43'05" E for 12.80 feet; thence S 85°30'41" E for 27.83 feet; thence S 18°43'05" E for 28.00 feet; thence S 71°16'55" W for 5.00 feet; thence S 18°43'05" E for 94.67 feet; thence S 71°16'55" W for 82.53 feet to the point of curvature of a circular curve concave to the

## LEGAL DESCRIPTION

COMMON AREA - CONT.

O.R. 938 PG

0656

northeast; thence southwesterly, westerly and northwesterly along the arc of said curve having for its elements a radius of 25.00 feet and a central angle of  $96^{\circ}33'11''$  for 42.13 feet to the point of reverse curvature with a circular curve concave to the southwest, being a portion of the aforementioned easterly right-of-way line of Crayton Road; thence southeasterly along the arc of said curve having for its elements a radius of 1250.00 feet and a central angle of  $04^{\circ}36'30''$  for 100.53 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM the following described two (2) parcels:

## EXCEPTION NUMBER ONE

(Lots 52 through 60)

COMMENCE at the southwest corner of the southeast one-quarter of Section 9, Township 49 South, Range 25 East, thence N  $89^{\circ}30'11''$  E along the south line of said Section 9 for 40.00 feet to an intersection with the centerline of Crayton Road; thence N  $00^{\circ}30'31''$  W along said centerline for 190.20 feet to the point of curvature of a circular curve concave to the southwest; thence northerly and northwesterly along the arc of said curve having for its elements a radius of 1200.00 feet and a central angle of  $09^{\circ}08'48''$  for 191.57 feet; thence N  $80^{\circ}20'41''$  E for 50.00 feet to an intersection with the easterly right-of-way line of Crayton Road; thence N  $85^{\circ}30'11''$  E for 140.09 feet; thence N  $18^{\circ}43'05''$  W for 11.07 feet; thence N  $71^{\circ}16'55''$  E for 20.99 feet to the point of beginning of the herein described parcel of land; thence continue N  $71^{\circ}16'55''$  E for 80.00 feet; thence N  $37^{\circ}00'35''$  E for 108.91 feet; thence N  $18^{\circ}43'05''$  W for 102.00 feet; thence N  $71^{\circ}16'55''$  E for 20.00 feet; thence N  $18^{\circ}43'05''$  W for 48.00 feet; thence S  $71^{\circ}16'55''$  W for 20.00 feet; thence N  $18^{\circ}43'05''$  W for 24.00 feet; thence S  $71^{\circ}16'55''$  W for 65.00 feet; thence N  $63^{\circ}43'05''$  W for 8.49 feet; thence S  $71^{\circ}16'55''$  W for 41.98 feet; thence S  $28^{\circ}16'55''$  W for 36.66 feet; thence S  $71^{\circ}16'55''$  W for 10.20 feet; thence S  $18^{\circ}43'05''$  E for 72.00 feet; thence S  $71^{\circ}16'55''$  W for 25.00 feet; thence S  $18^{\circ}43'05''$  E for 48.33 feet; thence N  $71^{\circ}16'55''$  E for 5.00 feet; thence S  $18^{\circ}43'05''$  E for 96.00 feet to the point of beginning.

## EXCEPTION NUMBER TWO

(Lots 35 through 51)

COMMENCE at the southwest corner of the southeast one-quarter of Section 9, Township 49 South, Range 25 East, thence N  $89^{\circ}30'11''$  E along the south line of said Section 9 for 40.00 feet to an intersection with the centerline of Crayton Road; thence N  $00^{\circ}30'31''$  W for 190.20 feet to the point of curvature of a circular curve concave to the southwest; thence northerly and northwesterly along the arc of said curve having for its elements a radius of 1200.00 feet and a central angle of  $09^{\circ}08'48''$  for 191.57 feet; thence N  $80^{\circ}20'41''$  E for 50.00 feet to an intersection with the easterly right-of-way line of Crayton Road; thence N  $85^{\circ}30'11''$  E for 156.07 feet; thence N  $71^{\circ}16'55''$  E for 85.50 feet to the point of curvature of a circular curve concave to the northwest; thence northeasterly along the arc of said curve having for its elements a radius of 101.21 feet and a central angle of  $22^{\circ}44'57''$  for 49.02 feet to the point of tangency; thence N  $43^{\circ}31'58''$  E for 16.45 feet to the point of curvature of a circular curve concave to the southeast; thence northeasterly along the arc of said curve having for its elements a radius of 88.43 feet and a central angle of  $29^{\circ}44'36''$  for 45.91 feet; thence N  $18^{\circ}43'05''$  W for 30.70 feet; thence S  $77^{\circ}29'49''$  E for 18.63 feet to the point of beginning of the herein described parcel of land; thence continue S  $77^{\circ}29'49''$  E for 75.00 feet to the point of curvature of a circular curve concave to the northwest; thence southeasterly, easterly and northeasterly along the arc of said curve having for its elements a radius of 25.00 feet and a central angle of  $90^{\circ}00'00''$  for 39.27 feet to the point

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of tangency; thence N 12°30'11" E for 23.33 feet; thence N 57°30'11" E for 17.74 feet to the point of curvature of a circular curve concave to the northwest; thence northeasterly, northerly and northwesterly along the arc of said curve having for its elements a radius of 13.65 feet and a central angle of 69°53'00" for 16.65 feet to the point of tangency; thence N 12°22'49" W for 130.35 feet; thence N 69°30'11" E for 17.52 feet; thence S 20°29'49" E for 47.50 feet; thence N 69°30'11" E for 7.86 feet; thence S 20°29'49" E for 86.00 feet; thence S 69°30'11" W for 20.00 feet; thence S 20°29'49" E for 48.00 feet; thence N 69°30'11" E for 85.00 feet; thence N 12°21'32" E for 57.14 feet; thence N 20°29'49" W for 86.00 feet; thence N 28°14'29" W for 73.16 feet; thence N 37°49'07" W for 63.45 feet; thence N 40°31'17" W for 38.02 feet; thence S 69°30'11" W for 74.00 feet; thence S 89°30'11" W for 164.91 feet; thence S 0°29'49" E for 20.00 feet; thence S 89°30'11" W for 13.59 feet; thence S 44°30'11" W for 13.99 feet; thence S 00°29'49" E for 45.10 feet to the point of curvature of a circular curve concave to the northeast; thence southerly, southeasterly and easterly along the arc of said curve having for its elements a radius of 10.00 feet and a central angle of 90°00'00" for 15.71 feet to the point of tangency; thence N 89°30'11" E for 28.00 feet; thence S 45°29'49" E for 14.14 feet; thence N 89°30'11" E for 20.00 feet; thence S 62°53'04" E for 21.63 feet; thence S 05°29'49" E for 48.00 feet; thence N 84°30'11" E for 9.55 feet; thence S 05°29'49" E for 87.45 feet; thence S 77°29'49" E for 25.00 feet; thence S 12°30'11" W for 48.33 feet to the point of beginning.

17 APRIL 1981

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*John J. Sab*

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