

This Instrument prepared by
and to be returned to:

Pamela M. Kane, Esq.
Sachs & Sax
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(561) 994-4499

FIFTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF SOMERSET BAY, A CONDOMINIUM

THIS IS A FIFTH AMENDMENT to the Declaration of Condominium for Somerset Bay, this 2d day of May, 2008, by WESTON REAL ESTATE INVESTMENT CORP., a Florida Corporation, hereinafter called "Developer".

WHEREAS, the Declaration of Condominium of Somerset Bay, a Condominium (the "Declaration"), dated July 13, 2000, was recorded at Official Records Book 1408, Page 0244, of the Public Records of Indian River County, Florida; and

WHEREAS, a First Amendment to the Declaration, dated June 11, 2001, was recorded at Official Records Book 1408, Page 328 of the Public Records of Indian River County, Florida; and, a Second Amendment to the Declaration, dated January 24, 2003, was recorded at Official Records Book 1649, Page 1513 of the Public Records of Indian River County, Florida; and a Third Amendment to the Declaration, dated June 15, 2006, was recorded at Official Records Book 2049, Page 13 of the Public Records of Indian River County, Florida; and a Fourth Amendment to the Declaration, dated December 18, 2006, was recorded at Official Records Book 2115, Page 212 of the Public Records of Indian River County, Florida; and

WHEREAS the Developer again wishes to amend the Declaration to provide for the maintenance of certain portions of property owned by Bermuda Club Homeowners Association, Inc., in order to allow the Somerset Bay Condominium Association, Inc., (hereinafter referred to as "Association") to trim certain vegetation in front of the Association condominiums; NOW THEREFORE,

THE UNDERSIGNED, on behalf of Developer, adopts the following as the Fifth Amendment to the Declaration.

1. The Recitals set forth above are true and correct and incorporated herein by reference.
2. Article XXXIII is hereby created as follows:

XXXIII – OPERATION AND MAINTENANCE OF BERMUDA CLUB TRACTS

The Association has requested that it be able to trim a portion of the vegetation located in Areas 2 and 4 of Tract C-1 of the Bermuda Club Plat, as recorded in Plat Book 16, Page 3 of the Public Records of Indian River County, Florida (hereinafter

referred to the Plat), in order to maintain its views of the Indian River. This property is owned by the Bermuda Club Homeowners Association, Inc. (hereinafter referred to as Bermuda Club). The property is also governed by St. John's River Water Management District (hereinafter referred to as District) Permit No. 4-061-76134-2 issued to Bermuda Club (hereinafter referred to as Permit). In return, Association has agreed to undertake certain obligations of maintenance of Bermuda Club property.

- A. Association shall maintain the common areas of the Bermuda Club described as Tracts C-1, C-2, R-2, R-3, S-2 and L-10 of the Plat, pursuant to the terms and conditions of the Operating and Shared Cost Agreement, (hereinafter referred to as the Cost Agreement) attached hereto as Exhibit "A5-1" and made a part hereof by this reference, the District Permit and the Restated and Amended Conservation Easement Agreement (hereinafter referred to as the Conservation Easement Agreement), attached hereto as Exhibit "A5-2" and made a part hereof by this reference. Association shall share the cost of the foregoing expenses on an annual basis in accordance with the formula set forth in the Cost Agreement. Where the terms of the Cost Agreement, the Conservation Easement Agreement and the Permit conflict, the terms of the Permit shall prevail.
- B. Association has entered into an Agreement for the Management and Operation of the Irrigation System Serving Bermuda Club and Somerset Bay (hereinafter Irrigation Agreement), attached hereto as Exhibit "A5-3" and made a part hereof by this reference. Association shall maintain the irrigation systems as set forth in Irrigation Agreement.
- C. The cost to the Association of all of the maintenance as set forth in this Article XXXIII shall be a common expense of the Association.
- D. No person shall alter the drainage flow of the surface water or stormwater managements, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.
- E. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.
- F. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or storm water management system.

3. In the event of any conflict between the terms of this Fifth Amendment and the Declaration and/or the First through Fourth Amendments, the terms of this Fifth Amendment shall prevail.

IN WITNESS WHEREOF, Developer has caused these presents to be signed and sealed on this 2nd day of May, 2008.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

DEVELOPER

Jane Patterson
Signature

WESTON REAL ESTATE INVESTMENT
CORP., a Florida corporation

JANE PATTERSON
Print Name

By: John Genoni
John Genoni, President

Tara Andrews
Signature

(CORPORATE SEAL)

Tara Andrews
Print Name

STATE OF FLORIDA)
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this 2 day of MAY, 2008, by John Genoni, as President of Weston Real Estate Development Investment Corp., a Florida corporation, who is Personally Known [] or Produced Identification [].

Type of Identification Produced: _____

Jane Patterson
NOTARY PUBLIC, State of Florida at Large

(SEAL) **JANE V. PATTERSON**
Notary Public, State of Florida
My comm. exp. Jan. 23, 2011
Comm. No. DD 620951