PROSPECTUS

FOR

HERON AT DESTIN WEST BEACH AND

BAY RESORT, A CONDOMINIUM

DESTIN WEST

BEACH & BAY RESORT

"EXHIBIT E"

PROSPECTUS

FOR

HERON AT DESTIN WEST BEACH AND

BAY RESORT, A CONDOMINIUM

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

HERON AT DESTIN WEST BEACH
AND BAY RESORT, A CONDOMINIUM

PROSPECTUS SUMMARY

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4. THE CONDOMINIUM IS CREATED AND IS BEING SOLD AS FEE SIMPLE INTERESTS.

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6. RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR ANY ASSOCIATION.

7. THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS OF THE CONDOMINIUM HAVE BEEN SOLD.

8. THE LEASING OF UNITS IS RESTRICTED OR CONTROLLED.

9. THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS.

10. THERE IS TO BE A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH DESTIN WEST RESORT MANAGEMENT, INC.

HERON AT DESTIN WEST BEACH
AND BAY RESORT, A CONDOMINIUM

INDEX TO PROSPECTUS

Page

1. DESCRIPTION OF THE PROJECT 1

2. DESCRIPTION OF THE CONDOMINIUM PROPERTY FOR HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM 3

3. ESTIMATED DATE OF COMPLETION 4

4. MAXIMUM NUMBER OF CONDOMINIUM UNITS 4

5. FEE SIMPLE INTERESTS OFFERED FOR SALE 4

6. COMMON ELEMENTS 4

7. INCREASE IN RECREATIONAL FACILITIES OF CONDOMINIUM 5

8. COMMON PROPERTIES: FACILITIES TO BE CONSTRUCTED WITHIN AND FORMING PART OF COMMON PROPERTIES TO BE USED BY OWNERS AND TENANTS OF ALL UNITS IN DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, IN COMMON WITH OWNERS AND TENANTS OF UNITS IN HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM 5

9. ADDITIONAL FACILITIES WHICH MAY BE CONSTRUCTED IN THE FUTURE ON THE COMMON PROPERTIES, AS ENLARGED, AND BE USED BY OWNERS OF UNITS IN HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM, IN COMMON WITH THE OWNERS OF UNITS IN OTHER OR FUTURE STAGES DEVELOPED WITHIN DESTIN WEST BEACH AND BAY RESORT-BAYSIDE 6

10. LEASING OF CONDOMINIUM UNITS PRIOR TO SALE 6

11. SALES SUBJECT TO LEASES 7

12. MANAGEMENT OF THE CONDOMINIUM AND MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY 7

13. CONTROL OF BOARD OF DIRECTORS OF CONDOMINIUM ASSOCIATION 8

14. RESTRICTIONS UPON USE OF UNITS 8

15. DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS 8

16. SUMMARY OF RESTRICTIONS UPON USE OF THE CONDOMINIUM PROPERTY 9

17. LAND OFFERED BY THE DEVELOPER FOR USE BY THE UNIT OWNERS THAT IS NEITHER OWNED BY THEM NOR LEASED BY THEM 10

INDEX TO PROSPECTUS
(continued)

Page

18. UTILITY AND OTHER SERVICES 10

19. OWNERSHIP OF COMMON ELEMENTS AND ALLOCATION OF COMMON EXPENSES 11

20. ESTIMATED OPERATING BUDGET FOR THE CONDOMINIUM AND CONDOMINIUM ASSOCIATION 11

21. TOLBERT FITNESS COMPANY 12

22. MASTER ASSOCIATION BUDGET 13

23. ESTIMATED CLOSING EXPENSES TO BE PAID BY UNIT OWNERS 13

24. IDENTITY OF DEVELOPER AND CHIEF OPERATING OFFICER 14

25. MISCELLANEOUS 14

26. FORM OF AGREEMENT FOR SALE OF UNIT 14

27. ESCROW AGREEMENT 14

28. CAUTION 14

29. MASTER ASSOCIATION SUBJECT TO CHAPTER 718 F.S PURSUANT TO SECTION 718.103(2), FLORIDA STATUTES, SHOULD THE MASTER ASSOCIATION MEMBERSHIP BE COMPOSED EXCLUSIVELY OF CONDOMINIUM UNIT OWNERS OR THEIR ELECTED REPRESENTATIVES WHEN DESTIN WEST BEACH AND BAY RESORT-BAYSIDE IS COMPLETELY DEVELOPED, SUCH ASSOCIATION WOULD BE SUBJECT TO THE JURISDICTION OF CHAPTER 718, FLORIDA STATUTES AND THE RULES PROMULGATED THEREUNDER, NOTWITHSTANDING LANGUAGE TO THE CONTRARY CONTAINED HEREIN 14

HERON AT DESTIN WEST BEACH
AND BAY RESORT, A CONDOMINIUM
INDEX OF EXHIBITS TO PROSPECTUS

EXHIBIT 1	DECLARATION OF CONDOMINIUM
EXHIBIT 2	CONDOMINIUM LEGAL DESCRIPTION
EXHIBIT 3	SURVEY, PLOT PLAN, FLOOR PLANS
EXHIBIT 4	ASSOCIATION ARTICLES OF INCORPORATION
EXHIBIT 5	ASSOCIATION BY-LAWS
EXHIBIT 6	CONDOMINIUM ASSOCIATION ESTIMATED BUDGET
EXHIBIT 7	PURCHASE AND SALE AGREEMENT
EXHIBIT 8	RECEIPT FOR CONDOMINIUM DOCUMENTS
EXHIBIT 9	EXECUTED ESCROW AGREEMENT
EXHIBIT 10	PROOF OF TITLE
EXHIBIT 11	QUESTION & ANSWER SHEET
EXHIBIT 12	DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS FOR DESTIN WEST BEACH AND BAY RESORT - BAYSIDE
EXHIBIT 13	ARTICLES OF INCORPORATION OF DESTIN WEST BEACH AND BAY RESORT – BAYSIDE PROPERTY OWNERS ASSOCIATION, INC.
EXHIBIT 14	BY-LAWS OF DESTIN WEST BEACH AND BAY RESORT - BAYSIDE PROPERTY OWNERS ASSOCIATION, INC.
EXHIBIT 15	MASTER ASSOCIATION ESTIMATED BUDGET
EXHIBIT 16	MANAGEMENT AGREEMENT
EXHIBIT 17	AGREEMENT REGARDING SHARED USE OF COMMON AREAS AND COMMUNITY PROPERTY OF DESTIN WEST BEACH AND BAY RESORT.

PROSPECTUS

FOR

HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM

INTRODUCTION

The information in this Prospectus is provided pursuant to Florida Statutes § 718.504, in order to acquaint you, a prospective purchaser, with certain pertinent information concerning this Condominium and to aid you in your decision to purchase a Unit.

DESTIN WEST BEACH AND BAY RESORT– BAYSIDE (the "Project") is a real estate project being developed along the Choctawhatchee Bay in Fort Walton Beach, Okaloosa County, Florida. The Developer of DESTIN WEST BEACH AND BAY RESORT - BAYSIDE is Tolbert Bayside Development Company, a Florida corporation ("Developer"). HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium is one of the independent condominiums which comprise DESTIN WEST BEACH AND BAY RESORT - BAYSIDE.

1. DESCRIPTION OF THE PROJECT.

1.1 **HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium.** Destin West Beach and Bay Resort - Bayside will be developed as a multiple condominium, mixed use project sharing certain recreational facilities. This offering is limited to that stage of the Project which is planned as HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium. This stage of development includes one building, which contains residential Units and attendant facilities, as later described herein. Reference to the overall planned Project is made only for the purpose of disclosing the Developer's present plans which may or may not be adhered to.

1.2 **General Project.** If ultimately developed as presently planned, Destin West Beach and Bay Resort – Bayside may include up to 220 residential Units in four or more separate condominiums, a commercial office building, and a marina, together with ancillary structures, facilities and amenities incident thereto. Such ancillary structures, facilities and amenities are described as "Common Properties" herein, and will be administered by a non-profit corporation created under Florida law called Destin West Beach and Bay Resort Property Owners Association, Inc. (the "Master Association"). Such facilities and amenities may include but are not limited to, parking areas, roadways, pedestrian walkways, outdoor swimming pools and pool decks, landscaping, green space, and various recreational facilities and amenities, all to be used and enjoyed by the owners of all of the property developed within the Project known as Destin West Beach and Bay Resort-Bayside.

Destin West Beach and Bay Resort-Bayside may ultimately also include a marina located in the waters of Choctawhatchee Bay. Said marina, if developed, may contain as many as one hundred (100) boat slips of varying sizes and attendant facilities. If developed, Developer intends (but is not obligated) on operating said marina as

a rental facility, or otherwise utilize, operate, or dispose of said facility, or otherwise utilize, operate or dispose of said facility. The owner or owners of the marina may or may not be Members of the Master Association as the Developer may later elect.

The Developer may construct one office condominium building containing no more than 15,000 square feet, but is not obligated to do so. Said office building, if constructed, may include a rental office for Destin West Beach and Bay Resort– Bayside, as well as other commercial offices which may or may not be affiliated with the Resort. The owner or owners of the office building may or may not be Members of the Master Association as the Developer may later elect.

1.3 **Condominiums/Units.** It is presently anticipated that other stages of residential development within the Project in addition to HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium will be separate condominiums, submitted under separate Declarations of Condominium, each with a separate condominium association, so that ownership, control and maintenance of each such condominium and its Units will be legally separated from the others. The Project is intended to include four or more separate condominiums. Two of the condominium buildings in the Project, Sandpiper at Destin West Beach and Bay Resort, a Condominium (consisting of forty-eight (48) units), and Pelican at Destin West Beach and Bay Resort, a Condominium (consisting of forty-eight (48) units), are currently under development and scheduled for completion in the summer of 2004. If fully developed, the Developer may construct, but is not obligated to construct, a separate condominium similar in size, style and use to this Condominium to be known as Osprey at Destin West Beach and Bay Resort, a proposed resort condominium anticipated to contain approximately thirty-six (36) condominium units; a proposed office building, as described in Paragraph 1.2 above which may or may not be part of the Project; and a marina to be located within the waters of Choctawhatchee Bay immediately north of the Condominium, which marina - if developed - may contain as many as one hundred (100) slips. The Developer has no obligation to develop any of said additional condominiums and/or marina. No warranties or representations are made that said additional condominiums will be developed, and if developed, that they will be developed in any particular style, fashion or manner. A separate Offering Circular and Prospectus will be prepared for each such Condominium. An owner of a Unit within each stage which is submitted to condominium ownership will have the right to use and will own an undivided share of the common elements in that area which is submitted to condominium ownership by the applicable Declaration of Condominium.

1.4 **Common Properties.** The term "Common Properties" is defined in the Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside appearing as Exhibit 12 (The "Declaration of Restrictions"). These areas are lands and amenities which will be declared available for the use and enjoyment of, and subject to assessment for upkeep and maintenance by, the owners of all of the Units within the Project from time to time encumbered by the Declaration of Restrictions; provided, however, a proposed walkway along the waters of Choctawhatchee Bay may be utilized by the general public. The Declaration of Restrictions will be administered by the Master Association. The Condominium will be served by an access roadway, parking, and

certain amenities, which will be Common Properties. The Common Properties and all Condominium property will be subject to the Declaration of Restrictions.

An affiliate of the Developer is the developer of Destin West Beach and Bay Resort-Gulfside, a Condominium ("Gulfside"). Gulfside is located south of this proposed condominium along the waters of the Gulf of Mexico, and comprises a portion of the Project. The Community Property of Gulfside includes, among other amenities, certain Community Property available for use by all persons owning units within the Project, such as the beachfront parcel, a large swimming pool, spa and children's wading pool. Owners of units within the Condominium, together with their guests and invitees, shall be entitled to use all of said Community Property, in accordance with the terms of that certain Agreement found at Tab 17 of this Prospectus. Conversely, all Gulfside unit owners, as well as guests and invitees of the Gulfside unit owners, shall be entitled to utilize recreational amenities of the Master Association, all as more fully described in said Agreement.

If and when additional stages of the Project are developed, additional land (which will include the land on which the additional stages are built) will be subjected to the Declaration of Restrictions by the Developer unilaterally filing and recording in the Public Records of Okaloosa County, Florida, an amendment to the Declaration of Restrictions which (i) describes additional condominium land to be subjected to The Declaration of Restrictions and (ii) describes any additional land being added to the Common Properties; whereupon owners of Units in such additional stage(s) of the Project will also have the right to use and enjoy the Common Properties.

The Common Properties will be maintained and administered, and assessments for their upkeep and maintenance will be collected by, the Master Association. The Developer has the right to control the Master Association until ninety (90) days after ninety percent (90%) of all Units (residential, commercial and marina) developed within Destin West Beach and Bay Resort - Bayside have been sold and conveyed. The Condominium Association will be a member of the Master Association and owners of Units developed within the lands subject to the Declaration of Restrictions will be required to contribute toward its assessments.

THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE, UPKEEP OR REPAIR OF THE RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

(See Exhibit 12, Article 5, Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside)

The Common Properties will initially remain titled in and under the ownership of the Developer. Upon the happening of certain events, more particularly described in the Declaration of Restrictions (See The Declaration of Restrictive Covenants and Easement for Destin West Beach and Bay Resort-Bayside, Exhibit 12, Article 2, Paragraph 2.8), Developer has agreed to convey title to the Common Properties to the

Master Association, subject to the rights of the Unit Owners and the holders of easements then of record. Although the Developer may retain title to the Common Properties until these events occur, the owners of Units in the Project which are subject to the Declaration of Restrictions will have the same right to use and enjoy, and the same obligation to contribute toward the maintenance of, the Common Properties as if title thereto had been conveyed to the Master Association. The Common Properties and amenities and facilities to be located therein are described more fully in Section 8 of this Prospectus.

2. DESCRIPTION OF THE CONDOMINIUM PROPERTY FOR HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM. The Condominium shall consist of fifty-four (54) residential Units in one (1) building. The building will consist of six (6) living levels above one (1) level of parking.

The Units will be designated as shown in Exhibit 3 attached.

Those portions of the parking area that are not a part of the lands dedicated to the Condominium, shall not be part of the Condominium. Those parking areas are Common Property, as described below, unless otherwise depicted in the site plan. The parking area shall be shared with other proposed condominiums within the Project.

Each of the residential Unit types is described in greater detail as follows:

Unit L1: Enclosed Area: 2,416 sq. ft. *(exclusive of garage)*	3 Bedroom/3 Bath
Unit L2: Enclosed Area: 1,776 sq. ft. *(exclusive of garage)*	2 Bedroom/2 Bath
Unit L3 Enclosed Area: 2,389 sq. ft. *(exclusive of garage)*	3 Bedroom/4 Bath
Unit L4, L6 & L8 Enclosed Area: 1,568 sq. ft. *(exclusive of garage)*	2 Bedroom/2 Bath
Unit L5 & L7 Enclosed Area: 1,568 sq. ft. *(exclusive of garage)*	2 Bedroom/2 Bath
Unit L9 Enclosed Area: 1,587 sq. ft. *(exclusive of garage)*	2 Bedroom/2 Bath
Units 301, 401, 501 & 601 Enclosed Area: 2,416 sq. ft.	3 Bedroom/3 Bath
Units 302, 402, 502 & 602 Enclosed Area: 1,776 sq. ft.	2 Bedroom/2 Bath
Units 303, 403, 503 & 603 Enclosed Area: 2,389 sq. ft.	3 Bedroom/4 Bath

Units 304, 306, 308, 404, 406, 408, 504, 506, 508, 604, 606 & 608 Enclosed Area: 1,568 sq. ft.	2 Bedroom/2 Bath
Units 305, 307, 405, 407, 505, 507, 605 & 607 Enclosed Area: 1,568 sq. ft	2 Bedroom/2 Bath
Units 309,409, 509 & 609 Enclosed Area: 1,573 sq. ft	2 Bedroom/2 Bath
Unit: PH1 Enclosed Area: 2,416 sq. ft	3 Bedroom/2 Bath
Unit: PH2 Enclosed Area: 1,776 sq. ft	2 Bedroom/2 Bath
Unit: PH3 Enclosed Area: 2,389 sq. ft	3 Bedroom/4 Bath
Unit: PH4 Enclosed Area: 1,573 sq. ft	2 Bedroom/2 Bath
Unit: PH5 & PH7 Enclosed Area: 1,568 sq. ft	2 Bedroom/2 Bath
Unit: PH6 & PH 8 Enclosed Area: 1,587 sq. ft	2 Bedroom/2 Bath
Unit: PH 9 Enclosed Area: 1,587 sq. ft	2 Bedroom/2 Bath

NOTE: The square footage areas given above are approximate; the "Enclosed Area" refers to air-conditioned area, exclusive of any enclosed garage space.

Some purchasers of Units may elect to modify interior room arrangements resulting in descriptions varying from the above.

The Developer reserves the right to combine two or more residential Units into one Unit which could also modify the interior room arrangements. However, if two or more Units are combined, such Units will still be treated as separate Units for purposes of allocating assessments and votes of Unit owners.

3. **ESTIMATED DATE OF COMPLETION.** The estimated date of completion of HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium is October 1, 2006.

4. **MAXIMUM NUMBER OF CONDOMINIUM UNITS.** The maximum number of residential Units which will utilize the common elements of the Condominium will be fifty-four (54) residential Units.

5. **FEE SIMPLE INTERESTS OFFERED FOR SALE.**

THE CONDOMINIUM IS CREATED ON AND BEING SOLD AS A FEE SIMPLE INTEREST.

6. **COMMON ELEMENTS**. There shall be the following amenities to be located upon and be a part of the common elements of HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium:

Two (2) elevators (with a maximum capacity of 10 persons), serving all living levels, with elevator lobbies located on each level of the building;

One (1) heated swimming pool with a maximum capacity of 20 persons. The pool will be 20' x 40' in size and will have a deck area of not less than 1600 square feet.

The Developer has committed to purchase a minimum of ONE THOUSAND ($1,000.00) DOLLARS worth of personal property for the foregoing facilities.

No other facilities are planned. The estimated date when the amenities described in this Section 6 will be available for use by the Unit owners is October 1, 2006.

7. **INCREASE IN RECREATIONAL FACILITIES OF CONDOMINIUM**. There are no plans to increase or add to the recreational facilities of HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium. The Developer reserves the right to do so, however.

RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR ANY ASSOCIATION.

8. **COMMON PROPERTIES: FACILITIES TO BE CONSTRUCTED WITHIN AND FORMING PART OF COMMON PROPERTIES TO BE USED BY OWNERS AND TENANTS OF ALL UNITS IN DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, IN COMMON WITH OWNERS AND TENANTS OF UNITS IN HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM**. HERON AT DESTIN WEST BEACH AND BAY RESORT Condominium Association, Inc. will be a member of Destin West Beach and Bay Resort- Bayside Property Owners Association, Inc. Each owner of a Unit within HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium shall be entitled to use, in common with all members of the Destin West Beach and Bay Resort-Bayside Property Owners Association, and in accordance with the Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside, all Common Properties. Initially, the Common Properties shall include the following:

8.1 A swimming pool containing approximately 1,100 square feet of pool area, having a depth ranging from a minimum of three (3) feet to a maximum of six (6) feet and a capacity of 18 persons, with a deck of approximately 10,000 square feet, having a capacity for approximately 98 persons.

8.2 A spa located on the pool deck, approximately 156 square feet on size and having a capacity of 8 persons.

8.3 A "lazy river" containing approximately 750 feet in length, having a minimum depth of zero (-0-) feet, and a maximum depth of three (3) feet, with a capacity of 120 persons.

8.4 Entry roads providing vehicular access to the Condominium property, and recreation facilities;

8.5 Common areas consisting of walkways, open space and parking spaces.

The Developer has committed to purchase at least ONE THOUSAND ($1,000.00) DOLLARS worth of personal property for these facilities.

All of the foregoing facilities are to be located as shown in Exhibit 3 attached, and are estimated to be completed on or before October 1, 2004. These facilities are located on the Common Properties which, as explained in Section I.4 above, will not be part of the Condominium, but will be made available for use and enjoyment of owners of all Units subjected to the Declaration of Restrictive Covenants and Easement for Destin West Beach and Bay Resort (See Exhibit 12). The above described recreational and other facilities are owned by and title shall remain vested in Developer, to be conveyed to the Master Association, upon the happening of certain events, as more particularly described in the Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort (Article 2, Section 2.8, Exhibit 12). The owners, tenants and their respective guests, of the Units constructed within the Project will ultimately be able to use the above facilities.

THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE, UPKEEP OR REPAIR OF THE RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

(See Exhibit 12, Article 6, Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside)

9. **ADDITIONAL FACILITIES WHICH MAY BE CONSTRUCTED IN THE FUTURE ON THE COMMON PROPERTIES, AS ENLARGED, AND BE USED BY OWNERS OF UNITS IN HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM, IN COMMON WITH THE OWNERS OF UNITS IN OTHER OR FUTURE STAGES DEVELOPED WITHIN DESTIN WEST BEACH AND BAY RESORT-BAYSIDE.**

1. Walkways and pathways.
2. Additional roadways.
3. Additional vehicular parking areas to serve future Units.
4. Additional recreational facilities and amenities.
5. Pedestrian walkway over U.S. Highway 98.

The Developer has no present intention to develop any additional facilities other than those described above. Developer has no obligation to build any of said

additional facilities. It is solely in the Developer's discretion as to what additional amenities, if any, will be constructed in addition to those set forth in Section 8 above.

The Developer cannot predict how much, if any, money it will spend for furnishings and equipment for the common facilities described above.

RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF THE UNIT OWNERS OR ANY ASSOCIATION.

(See Article 13, Paragraph 13.10, of the Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside, Exhibit 12).

10. **LEASING OF CONDOMINIUM UNITS PRIOR TO SALE.** Each residential condominium Unit will be sold in fee simple, and the Developer does not intend to sell Units subject to a lease. However, until all Units have been sold and closed, the Developer reserves the right to lease or rent unsold Units to any person approved by the Developer.

11. **SALES SUBJECT TO LEASES.** Subject to the preceding Paragraph, there are no plans to lease any residential Units instead of selling them or to lease Units and sell them subject to leases.

12. **MANAGEMENT OF THE CONDOMINIUM AND MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY.** A Florida corporation, not-for-profit, to be known as HERON at Destin West Beach and Bay Resort Condominium Association, Inc. (the "Condominium Association") will be formed to maintain and operate the Condominium property of HERON at Destin West Beach and Bay Resort, a Condominium and to administer such condominium. The Condominium Association will be managed by a Board of Directors to be elected by the Unit owners. Through the Board of Directors, the Condominium Association will maintain and operate the Condominium property and administer and manage the Condominium.

THERE IS TO BE A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH DESTIN WEST RESORT MANAGEMENT, INC.

A copy of the management contract is found at Tab 16 of this Prospectus. The Developer has made arrangements for a contract with Destin West Resort Management, Inc., which is affiliated with the Developer, for management of the Condominium and maintenance or operation of the Condominium property, the term of which continues after control by the Condominium Association has been turned over to the Unit purchasers, subject to the termination rights applicable under Florida Statutes.

Material terms of the Management Agreement are as follows:

12.1 The term of the contract is for three (3) years commencing with the date of the closing of the first unit.

12.2 The nature of services provided are as set forth in the Management Agreement, but would include and not limited to, hiring of all persons necessary to maintain and operate Association property; preparation of the Association budget; billing and collection of assessments; payment of all bills and costs; preparing notices for, and attending all board of unit owner meetings; causing the preparation of all tax returns; and generally doing all things necessary or desirable to maintain, operate and manage the Association and its property.

12.3 The manager's compensation is $15,000 per year, or $1,250 per month. There are no provisions for any compensation increases in the Management Agreement.

12.4 The manager may, but is not obligated to, sub-contract some of the housekeeping services it provides to an affiliate of Developer. Such a sub-contract, if agreed to by the parties thereto, will not alter the amount of compensation paid by the Association to the manager.

All of the foregoing is set forth in greater detail in the copy of the Management Agreement found at Tab 16 of this Prospectus.

13. **CONTROL OF BOARD OF DIRECTORS OF CONDOMINIUM ASSOCIATION.** The Developer will relinquish control of the Condominium Association at such time as the law requires or at an earlier date at the Developer's option.

THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.

(See Article 8 of Exhibit 4, the Articles of Incorporation of HERON at Destin West Beach and Bay Resort Condominium Association; and Paragraph 4.2 of Exhibit 5, the By-laws thereof).

When Unit Owners other than Developer own 15% or more of the Units, the Unit Owners shall be entitled to elect no less than one-third of the members of the Board of Directors of the Condominium Association. 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 of the following to occur: (a) three years after 50% of the Units have been conveyed to Purchasers; (b) three months after 90% of the Units have been conveyed to Purchasers; (c) when all of the Units have been completed, some of which have been conveyed to Purchasers, and none of the others are being offered for sale by 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 Developer in the ordinary course of business; or (e) seven years after recordation of the Declaration of Condominium.

14. **RESTRICTIONS UPON USE OF UNITS.** There are restrictions, limitations and controls on the use of Units which are summarized in Section 16 below, and described in detail in Article 16 of the Declaration of Condominium attached hereto as Exhibit 1.

15. **DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS.** The Condominium property for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium and the Common Properties associated therewith will be subject to the Declaration of Restrictions. The purpose of the Declaration of Restrictions is to integrate the various component elements of the Project as it is developed and to create a legal mechanism, through mutual enforceable restrictive covenants, for ensuring that owners of all Units developed within the Project and forming a part of the different condominiums within the Project have certain mutual rights and obligations within the entire Project, and not to conflict with the powers and duties of the association, nor the rights of the Unit Owners under the Condominium Act. Among other things the Declaration of Restrictions provides that:

15.1 Each Unit owner will have the right to use and enjoy, and the obligation to contribute to maintain the Common Properties. For further details see the Declaration of Restrictive Covenants and Easements, Articles 5 and 7, attached hereto as Exhibit 12.

15.2 Each Condominium and the Developer will become a member of the Master Association. For further details see the Declaration of Restrictive Covenants and Easements, Article 3, attached hereto as Exhibit 12.

15.3 Each Unit will be encumbered by a lien to secure payment of assessments due to the Master Association. For further detail see the Declaration of Restrictive Covenants and Easements, Article 5, attached hereto as Exhibit 12.

15.4 All portions of the Project must comply with certain restrictions therein set forth which are enforceable by owners of all Units within the Project. For further detail see the Declaration of Restrictive Covenants and Easements, Article 8, attached hereto as Exhibit 12.

15.5 The Developer has caused certain cross-easements and cross-use documents to be executed, allowing owners of Units within the Project, and their guests, to utilize the beach and other facilities of Destin West Beach and Bay Resort – Gulfside ("Gulfside") and, conversely, allowing owners of Units within Gulfside and their guests to utilize the Common Properties. Copies of these documents are found as Exhibit 17 to this Prospectus.

For more detailed information refer to the entire text of Declaration of Restrictive Covenants and Easements, Exhibit 12. The foregoing is only a brief summary.

16. **SUMMARY OF RESTRICTIONS UPON USE OF THE CONDOMINIUM PROPERTY.** Restrictions regarding the use and occupancy of the Condominium property include, but are not limited to, the following:

16.1 **Residential Use.** The residential Units will be available for residential use only.

16.2 **Alteration and Improvement of Units.** The prior express written consent of the Board of Directors of the Condominium Association and of the Master Association is required in order to enclose a private terrace, entry terrace, or balcony or sun deck, to paint or otherwise decorate or change the appearance of portions of the exterior of any building on the Condominium property, and the written approval of the owners of other Units in the condominium and the Board of Directors of the Condominium Association is required for some types of alterations and improvements within Units.

16.3 **Signs.** No "For Sale", "For Rent" or other signs are permitted, including such signs on doors, windows, or exteriors of Units, except such signs as Developer is permitted to maintain; no "lock boxes" shall be permitted on doors to Units; and no exterior antennas or aerials shall be erected upon the premises of the Condominium, unless the same are placed thereon by the Board of Directors for the common use of all Units.

16.4 **Rules and Regulations.** Reasonable rules and regulations concerning use of the Condominium property may be made and may be amended from time to time by the Board of Directors of the Condominium Association with the approval of the Unit owners in the manner set forth in the Declaration.

16.5 **Developer.** Until the Developer has sold all of the Units in the Project, and/or so long as it leases a Unit, the Developer may use its unsold Units, the common elements and Common Properties to facilitate such sales, including, but not limited to, the maintenance of a sales office and model apartments and the display of signs.

16.6 **Minors.** Minors under the age of twelve (12) years should be closely supervised and care taken to ensure that they do not become a nuisance to other residents.

16.7 **Pets.** Unit owners shall be permitted to keep small pets, including birds, such as canaries or parakeets; fish, such as gold fish and tropical varieties; cats; and dogs. No guest, lessee or invitee shall bring any animal whatsoever upon the Condominium Property. No pets shall be raised for commercial purposes. No cat or dog shall be permitted outside the owner's Unit except when leashed and accompanied by the owner. Each owner shall be responsible for the actions of each pet and for cleaning up after it. In the event that any pet kept on the premises should constitute a nuisance in the opinion of a majority of the Board of Directors, then the owner, when so notified in writing, shall be required to immediately remove said pet from the Condominium Property.

16.8 **Terrace Floor Coverings.** Floor coverings in the outdoor terrace or balcony appurtenant to Units are required to meet certain specifications and procedures as contained in Section 13.4 of the Declaration, for purposes of maintaining and preserving structural integrity of the terraces which are a part of the Condominium building.

16.9 **Declaration of Condominium and Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort.** The Declaration of

Condominium for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium, appearing as Exhibit 1 to this Prospectus and the Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside, appearing as Exhibit 12 to this Prospectus, contain many other restrictions concerning the use and occupancy of the Condominium. All prospective buyers are urged to review these documents carefully. None of these restrictions should be considered to be onerous; however, it is important that every owner understand and abide by them. Because of the physical proximity of Units in HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium, to other existing and planned future stages of development of the Project, as in most projects of this nature, it is desirable and advisable, and in the best interest of all Unit owners as a means of ensuring harmony, a pleasant living environment and preserving property values, that ownership of Units be subjected to certain restrictions on use, occupancy and ownership.

The foregoing is only a summary of these restrictions. No summary can fully convey their meaning and purchasers are urged to read these restrictions, as well as all documents in this Prospectus, carefully. Condominium ownership is, by its nature, highly restrictive of the rights normally thought to be associated with ownership of fee title to real property. If condominium ownership or these documents and the effect they have on rights of owners is not understood, competent legal advice should be obtained.

16.10 **The Leasing of Units and the Sale or Transfer of Units is Restricted or Controlled.** Units may only be leased in their entirety.

THE LEASING OF UNITS IS RESTRICTED OR CONTROLLED.

(See Paragraph 16.14 of Exhibit 1, the Declaration of Condominiums.)

17. **LAND OFFERED BY THE DEVELOPER FOR USE BY THE UNIT OWNERS THAT IS NEITHER OWNED BY THEM NOR LEASED BY THEM.** The only land which will be offered by the Developer for use by Unit owners that will not be submitted to condominium will be the Common Properties. As stated previously, the Common Properties will be owned by Developer initially, but later conveyed, under certain conditions described above, to the Master Association.

18. **UTILITY AND OTHER SERVICES.** Utility and other services are provided as follows:

18.1 Water and Sewer: Okaloosa County, and billed as a common expense.

18.2 Electricity: Gulf Power Corporation. Electricity in the Common Elements will be billed as a common expense; all other electricity will be billed to the individual Unit Owner.

18.3 Telephone: Centel Sprint, or some comparable provider selected by Developer, billed to the individual Unit Owner.

18.4 Cable Television: Emerald Coast Cable, Cox Cable, or some comparable provider selected by Developer. Cable television will be billed to the individual Unit Owner, unless the Association elects to enter into a bulk agreement with the cable provider, in which case that portion of the programming included in the contract will be billed as a common expense.

18.5 Storm Drainage: On-site by retention and public storm drains, and billed as a common expense.

18.6 Garbage and Trash Removal: BFI, or some comparable provider selected by Developer, and billed as a common expense.

19. **OWNERSHIP OF COMMON ELEMENTS AND ALLOCATION OF COMMON EXPENSES.** The Developer, in allocating shares of the common elements, has assigned an undivided share to each Unit based upon the square footage of each respective Unit in uniform relationship to the aggregate square footage of all Units in the Condominium, as shown in Exhibit "C" to the Declaration of Condominium, attached to this Prospectus as Exhibit 1. Since the common expenses are required by law to be in the same proportion as the ownership of common elements, each Unit shall be assessed a corresponding share of the total common expense.

20. **ESTIMATED OPERATING BUDGET FOR THE CONDOMINIUM AND CONDOMINIUM ASSOCIATION.** An estimated operating budget for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium, and the Condominium Association is attached to this Prospectus as Exhibit 6. Assessments will be billed and payable quarterly. The Developer has guaranteed to Owners other than itself that from the time the condominium Declaration is recorded until the earlier of any of the following events occurs: (i) six (6) months from the date of recording the Declaration have passed, which period of six (6) months may be extended by the Developer for an additional six (6) month period, up to a total one (1) year period, (ii) the Developer turns over control to the Association, or (iii) all Units are sold, that the quarterly charge for assessments for the respective Unit types shall not exceed the amounts set forth as follows during the periods described below:

Developer Guaranty of Common Expenses with Reserve

Units Ending with Number	Quarterly Guaranty for First Year After Declaration Recorded
1	
2	
3	
4	
5	

6	
7	
8	
9	

NOTE: Developer intends on voting Developer's units to waive the collection of reserves during the first two (2) fiscal years the Association exists.

In return for such guaranty, the Developer will not be required to pay assessments due in respect to such Units but will be required to contribute funds necessary to cover any deficit between receipts and actual costs of the Association for common expenses. Assessments will be based on the share of ownership of the common elements appurtenant to each Unit.

21. TOLBERT FITNESS COMPANY. Each owner of a residential unit within the Condominium, and each owner of any other residential Unit within Destin West Beach and Bay Resort - Bayside shall be entitled and required to be a member of TOLBERT FITNESS COMPANY ("Health Club"), and to have access to certain facilities and amenities located at and within the Health Club. Membership in the Health Club shall be a non-equity membership, and shall be mandatory for all Unit owners. Each member of the Health Club shall pay a monthly membership fee which is anticipated to not be in excess of Twenty ($20.00) Dollars per month at the time of completion of the Condominium. Payment of said membership fee shall be a Common Expense of the Association, but billed on a per Unit (and not per square feet of living area) basis. There may be an additional daily or monthly fee assessed to owners, guests or tenants of Units during such times as the subject residential Unit is rented or occupied by others than the owner.

THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM.

MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS.

(See Article 2.9 of the Declaration of Restrictive Covenants and Easements for Destin West Beach and Bay Resort-Bayside, Exhibit 12)

21.1 The Health Club shall be no less than 2,000 square feet in size, containing exercise and other equipment commonly found in comparable health clubs.

21.2 The Health Club facilities will not be a part of the Condominium, nor will they be Common Properties to eventually be owned by the Master Association. Such facilities and properties will remain under title and ownership of its owner, Tolbert Fitness Company, LLC, intended and available for use and enjoyment by all Unit owners, guests, tenants and residents of Gulfside and Bayside pursuant to provisions of the Declaration of Restrictions and the terms of membership in the Health Club. Such facilities will not be conveyed to the Master Association and will not be subject to the Declaration of Restrictions. Accordingly, there will be no assessments against Unit owners or sharing of expenses by Unit

owners with regard to maintenance, upkeep and operation of the Health Club, other than mandatory Health Club membership fees.

21.3 **Term of Club Membership.** The mandatory membership with the Health Club may be terminated by the Health Club without the consent of any third party at any time after five (5) years have elapsed since a certificate of substantial completion for the Condominium has been placed of public record. No Unit Owner, nor the Condominium Association, nor Master Association, need be consulted to terminate said mandatory membership. Said mandatory membership may be terminated by the Health Club providing written notice to the Master Association, no later than ninety (90) days prior to the effective date of the termination. All of the foregoing is more fully set forth in Paragraph 2.9(b) of the Declaration of Restrictions, commencing at Page 8.

22. **MASTER ASSOCIATION BUDGET.** An estimated operating budget and schedule of assessments for the Master Association is attached as Exhibit 15. Each Unit owner will be assessed an equal share of this budget based on the total number of Units in the Project then subject to assessment by the Master Association. The Developer will not be required to pay the same share of assessments to the Master Association as do other Units and may instead pay any operating deficit over and above receipts from owners other than the Developer.

23. **ESTIMATED CLOSING EXPENSES TO BE PAID BY UNIT OWNERS.** It is estimated that a Buyer of a residential Unit will incur the following expenses at the time of closing:

23.1 **Mortgage Costs.** If the Buyer finances a portion of the purchase price by a mortgage loan, the Buyer will be obligated to pay whatever mortgage loan fees and closing costs the lending institution is then charging, which may include, but not be limited to, lender's attorney's fees, points, prepaid interest, miscellaneous costs and expenses and the costs and expenses of a title search or report or mortgagee title insurance policy, together with Florida documentary stamp tax and intangible tax on the note and mortgage. Any Buyer intending to obtain mortgage financing is advised to request a statement from the lender as to all costs and expenses which the buyer will be required to pay in connection with the mortgage.

23.2 **Title Insurance.** The Developer will provide an owner's title insurance policy to Buyer, at the expense of Developer.

23.3 **Documentary Stamps.** The Buyer shall pay Florida documentary stamp taxes payable on the special warranty deed.

23.4 **Escrow Charges.** Escrow fees of Escrow Agent shall be paid by Buyer, estimated to be in amount of One Hundred Twenty-Five ($125.00) Dollars, which may be deducted from interest paid on the escrow account at closing pursuant to terms of the Escrow Agent attached as Exhibit 9 to this Prospectus.

23.5 **Prorations and Initial Working Capital Contributions.** At closing, real property taxes will be prorated between buyer and the Developer. Condominium Association and Master Association assessments, prorated from the date of

closing, will be charged to Buyer. Any initial working capital contributions owed to said Associations, not to exceed one-quarter's regular maintenance assessment per Association, shall also be charged to Buyer at closing.

23.6 **Legal Counsel.** Buyer shall pay all expenses of legal counsel retained by Buyer.

23.7 **Impact Fees.** Any new impact fees, or any increase in impact fees, assessed by any governmental agency or utility provider which are enacted subsequent to the date of execution of the Buyer's Sales Contract, shall be charged to Buyer.

24. IDENTITY OF DEVELOPER AND CHIEF OPERATING OFFICER. The Developer is Tolbert Bayside Development Company, a Florida corporation. The Developer is developing the Sandpiper and Pelican at Destin West Beach and Bay Resort condominiums discussed above. The principal of said entity is Fred E. Tolbert, III. Mr. Tolbert has extensive prior experience in the field of hotel management and operations, and was the principal of the entity that developed Destin West Beach and Bay Resort - Gulfside.

25. MISCELLANEOUS.

25.1 Time shared Units are not being offered or created in the Condominium property.

25.2 HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium is not a phased condominium as that term is used in Florida Statutes Section 718.403. However, Destin West Beach and Bay Resort-Bayside is not a phased condominium project, but instead is expected to be physically developed in separate construction stages which may consist of separate condominiums of which HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium is one stage, as more fully described in Section 1 hereof.

26. FORM OF AGREEMENT FOR SALE OF UNIT. The form of Purchase Contract which Developer intends to use in connection with the sale of Units in HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium is attached to this Prospectus as Exhibit 7.

27. ESCROW AGREEMENT. A copy of the executed Escrow Agreement between Developer and its escrow agent, AmSouth Bank, Attention: Trust Department, 12790, Pensacola, Florida 32571, as Escrow Agent, pursuant to which earnest money deposits of purchasers will be held, is attached to this Prospectus as Exhibit 9. The Escrow Agreement sets forth the manner in which deposits are to be held by the Escrow Agent and the time and manner in which deposit monies are to be released from escrow.

28. CAUTION. This Prospectus is intended only as a summary of some of the provisions of the condominium documents which are important to purchasers. It is not intended as a complete summary of all items of relevance or importance. Buyers should

review carefully all of the provisions of the attached documents for a full explanation of the Project and HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium, and are advised to consult an attorney in order to gain a full understanding of the legal implications of all provisions.

29. **MASTER ASSOCIATION SUBJECT TO CHAPTER 718 F.S** Pursuant to Section 718.103(2), Florida Statutes, should the Master Association membership be composed exclusively of condominium Unit owners or their elected representatives when Destin West Beach and Bay Resort-Bayside is completely developed, such Association would be subject to the jurisdiction of Chapter 718, Florida Statutes and the rules promulgated thereunder, notwithstanding language to the contrary contained herein. These requirements include, but are not limited to, provisions regarding assessments, access to association records, financial reporting, voting, membership, meetings, and turnover of control of the association to Unit owners other than the Developer.

Dated: August 2, 2004

This instrument prepared by and after recording return to:

Leo J. Salvatori, Esq.
SALVATORI & WOOD
4001 Tamiami Trail North, Suite 330
Naples, Florida 34103

DECLARATION OF CONDOMINIUM

FOR

HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM

THIS DECLARATION is made this ____ day of _____, 200__, by **TOLBERT BAYSIDE DEVELOPMENT COMPANY**, a Florida corporation (the "Declarant" or "Developer"), pursuant to the Condominium Act of the State of Florida, Chapter 718 of the Florida Statutes ("The Condominium Act"). The terms used in this Declaration shall have the meaning given in the Condominium Act unless otherwise defined herein.

1. **DECLARATION.** Declarant hereby declares that it is the sole owner in fee simple title of the land described in Section 3 hereof, together with all buildings and improvements thereon or to be constructed thereon, and all easements and rights appurtenant thereto (the "Condominium Property"), and that Declarant hereby submits the same to the Condominium form of ownership as provided in the Condominium Act and this Declaration. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter having any interest in the Condominium Property.

2. **NAME AND ADDRESS.** The name of the condominium is **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM**, herein called the "Condominium". The street address is 1326 Miracle Strip Parkway SE, Ft. Walton Beach, Florida 32548.

3. **THE LAND.** The land hereby submitted to this Declaration (the "Land") is situated in Okaloosa County, Florida, and is described on Exhibit "A" attached hereto. A survey of the Land and improvements thereon submitted to this Declaration is attached hereto as a part of Exhibit "B". The Condominium is subject to that certain Declaration of Restrictive Covenants and Easements ("Declaration of Restrictions"), and any amendments thereto, subjecting to its terms the land therein described, including the land hereby submitted to condominium ownership. All terms used in the Declaration of Restrictions shall have the same meaning when used herein.

4. **DESCRIPTION OF CONDOMINIUM PROPERTY.** The improvements to be constructed on the Condominium Property consist of fifty-four (54) residential Units, located in one (1) seven-story building. Each "Unit" is identified by a number designation or a combination of letters and numbers. A graphic description of the building in which the units are to be located is annexed hereto and made a part hereof as Exhibit "B". Exhibit "B", consisting of the Land survey, and a description and floor plans of the proposed

improvements thereon, together with this Declaration, identify the "Common Elements", "Limited Common Elements", each "Unit" and their relative locations and approximate dimensions. The improvements are further described as:

4.1 **Residential Buildings.** One seven-story building containing fifty-four (54) residential Units, together with stairwells, elevator shafts, elevators lobbies and walkways exclusively serving the Condominium shall be Common Elements of the Condominium, all as disclosed on the plot plan attached hereto as Exhibit B

4.2 **Other Improvements.** In addition to and as a part of the buildings situated thereon, the Condominium Property also includes walkways, landscaping and other improvements which are part of and located within the residential building, such as elevators, wires, cables, drains, pipes, ducts, conduits, valves and fittings, as described herein.

Construction of the condominium is not substantially completed but upon substantial completion, a surveyor's certificate as required by Section 718.104, Florida Statutes, will be recorded as an amendment to this Declaration.

5. **DEFINITION OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.** The Condominium consists of "Units", "Common Elements" and "Limited Common Elements", as those terms are herein defined.

5.1 **Units.** The term "Units", as used herein, means the fifty-four (54) separate residential dwellings in the Condominium which are located and shown on Exhibit "B" hereto, excluding, however: (1) all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and above the lowest horizontal plane of the upper structural element of each Unit; (2) all spaces and improvements lying beneath the undecorated and/or unfinished inner surface of all interior columns, bearing walls and/or bearing partitions; and (3) all pipes, ducts, vents, wires, conduits and other facilities, equipment and/or fixtures running through any interior wall or horizontal or vertical partition of a Unit, for the furnishing of utility services, heating and cooling and/or ventilation to Units, Common Elements and/or Limited Common Elements. All glass and other transparent or translucent material, insect screens and screening in windows and doors and the materials covering other openings in the exterior of Units shall be construed to be within the boundaries or limits of Units exclusively served by such windows, doors and other openings. The HVAC room and air conditioning units serving a particular Unit shall be construed to be within the boundaries or limits of the Unit served by such air conditioning unit. The Declarant reserves the right to combine two or more Units into one Unit by modifying or eliminating the walls between Units. However, any Units which have been combined shall continue to be treated as separate Units for purposes of allocating assessments and votes of Unit owners.

5.2 **Common Elements.** The term "Common Elements", as used herein, means all of the real property and improvements of the Condominium except the residential Units. Common Elements includes, without limitation: (1) the building exterior, foundation, roof, bearing walls and columns, the common areas and all parts of the building not included in the Units; (2) easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility

services, heating and cooling and/or ventilation to Units and Common Elements; (3) easements of support in every portion of a Unit which contributes to the support of other Units and/or Common Elements; (4) installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation; (5) the property and installations in connection therewith required for the furnishing of services to more than one Unit or to the Common Elements; (6) fixtures owned or held for the common use, benefit and enjoyment of all owners of Units in the Condominium; (7) the riparian and/or littoral rights appertaining to the Land, if any; (8) the Water Management System described in Section 6 below.

(1) **Limited Common Elements.** "Limited Common Elements", as the term is used herein, means those portions of the Common Elements which are reserved herein for the exclusive use of a certain Unit or Units to the exclusion of other Units, consisting of the exclusive right to use any exterior private terrace, entry terrace, loggia, balcony or sun deck which is attached or contiguous to the Unit, or any parking space or garage space assigned thereto.

6. **WATER MANAGEMENT SYSTEM.** Water Management System shall mean and refer to lakes, ditches, culverts, lines, and constructed surface and/or underground systems and facilities for the drainage and/or storage of surface water. Said Water Management System may be entirely located upon the Land, but may also be comprised of lands owned, managed or operated by Master Association (the "Property"), or may be comprised of public and private easements located outside of the Land and/or Property, if those facilities service all or some portion of the Property on an exclusive or non-exclusive basis. The Water Management System shall be for the use and benefit of all lands that are now or hereafter a part of the Property and/or Land. The Water Management System may, if Developer so elects, service other lands that do not form a part of the Land and/or Property; or, at Developer's election, may need the service of other lands outside of the Property, for which the Association may pay a fee. Each Owner, the Association, the Master Association and Developer shall have a perpetual, non-exclusive easement, right, license and servitude to use the Water Management System consistent with applicable permits, and subject to such rules and regulations for its use as may be promulgated from time to time by Association. Developer, (with the consent of the owner of the fee underlying any part of the Water Management System), or Association may reconfigure such parts of the Water Management System with the consent of the Developer, provided same is then in accordance with sound engineering practices and governmental approvals. In such event, the perpetual non-exclusive drainage easement rights of Developer, Association, Master Association and all Owners shall, without necessity of additional written documentation, be transferred from the previously existing Water Management System to the revised system. Developer, Master Association and/or Association may dedicate to any applicable governmental agency or authority, all or any part of the drainage lines, structures and facilities which are part of the Water Management System. Developer, or others with consent of Developer, may execute such instruments as may be necessary or desirable to effect such dedication without the joinder or consent of the Association, any Owner, or the holder of any mortgage or other lien on any Parcel.

Master Association shall maintain the Water Management System consistent with all applicable permits, or if the Master Association elects, the Master Association may contract with third parties of its choosing to maintain the Water Management System. The

cost of maintaining the Water Management System shall be a common expense of the Master Association.

7. **COMMON OWNERSHIP; APPURTENANCES TO UNITS AND EASEMENTS.** There shall be appurtenant, and pass with title to each Unit, the rights, shares, and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

7.1 An undivided ownership share in the Common Elements and in the "Common Surplus" (as that term is elsewhere herein defined). The undivided ownership share in the Common Elements and the Common Surplus of the Condominium appurtenant to each Unit is based upon the square footage of each respective Unit (exclusive of enclosed garage area appurtenant to some of the Units) in uniform relationship to the aggregate square footage of all Units in the Condominium, as set forth on Exhibit "C"; and

7.2 The right to use exclusively, or in common with certain other Units where so specified, those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere to a certain Unit or Units as Limited Common Elements, and

7.3 An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time (as shown on Exhibit "B" hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time; and

7.4 Non-exclusive easements, to be used and enjoyed in common with the owners of all Units in the Condominium, for use of those Common Elements not designated elsewhere herein as easements for:

(1) The furnishing and maintenance of public utility services to all parts of the Condominium Property over, across, in and through the Land, buildings and other improvements, as the fixtures and equipment therefor now exist and/or may be modified or relocated; and

(2) Vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds, and other portions, if any, of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic throughout the Condominium and over, across, upon, in and through such other lands not a part of the Condominium as are provided for such pedestrian and vehicular traffic.

7.5 An exclusive easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or for any reason not caused by or resulting from the willful or negligent act of Declarant or any Unit owner or owners, including without limitation, encroachments caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times curing the continuance of such encroachment, as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment; and

7.6 The right of membership in the "Association" (elsewhere herein defined), upon the terms and conditions referenced in Sections 9 and 10 herein.

7.7 Non-exclusive easement to utilize any trash chute for the disposal of non-hazardous trash.

8. **COMMON EXPENSES AND COMMON SURPLUS.** The term "Common Expenses", as used herein, shall mean all expenses for which all the owners of residential Units in the Condominium shall be liable to the Association. The term "Common Surplus", as used herein, shall mean the excess of all receipts of the Association, including, without limitation, assessments, rents, profits and revenues on account of the Common Elements, over the amount of the Common Expenses. Except as hereafter provided, all of the owners of Units shall share the Common Expenses (exclusive of assessments owed to the Master Association, which is assessed on a "per unit" basis), and shall own the Common Surplus in the proportions or percentages set forth in the schedule annexed hereto and made a part hereof as Exhibit "C".

Pursuant to applicable provisions of Florida law, the Declarant has elected to not pay the share of Common Expenses due with respect to Units owned by it, and to instead guarantee to Unit owners other than the Declarant that assessments for Common Expenses due in respect to the Units will not exceed certain stated amounts. The period of the guarantee will commence on recording of the Condominium Declaration and continue until the earlier of any of the following events occurs: (i) six (6) months from the date of recording the Declaration have passed, which period of six (6) months may be extended by the Declarant for an additional six (6) month period, up to a total one (1) year period; (ii) control of the board of directors of the Association is turned over to owners other than the Declarant; or (iii) until all of the Units have been sold. The guaranteed assessments vary over time and are set forth below for the applicable time periods:

Developer Guaranty of Common Expenses with Reserve

Units Ending with Number	Quarterly Guaranty for First Year After Declaration Recorded
1	$1,291.14
2	947.94
3	1,278.33
4, 5, 6, 7 & 8	839.59
9	846.74

The foregoing budget for calendar year 2005 includes regular Association assessments for each Unit type. However, the foregoing budget does <u>not</u> include the assessments owed to the Master Association which for 2005 shall be approximately $407.33 per quarter per Unit (estimated).

During the period of this guarantee, Declarant will contribute to the Association the amount of any deficiency between collections from owners other than the Declarant and expenditures of the Association.

9. **VOTING RIGHTS OF UNIT OWNERS.** The owner or owners of each Unit shall become a member of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee title thereto from Declarant or, in a conveyance by a grantee or a remote grantee of Declarant, a deed which otherwise complies with the terms and conditions of this Declaration, the Articles of Incorporation and By-Laws of the Association. There shall be appurtenant, and pass with title, to each Unit one (1) vote as a member of the Association, which may be exercised by the owner(s), or the duly constituted proxy of the owner(s), from time to time, of each Unit at all meetings of members and in connection with all matters upon which members of the Association are entitled to vote. The qualification of members of and manner of admission to membership in the Association, and the termination of such membership and voting by members shall be as provided for in the Articles of Incorporation and By-Laws of the Association.

10. **NAME OF ASSOCIATION.** The entity responsible for the operation of the Condominium shall be HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC., a Florida Corporation not for profit (the "Association"). A copy of the Articles of Incorporation for the Association is annexed hereto and made a part hereof as Exhibit "D". The Association shall administer and manage the Condominium Property; provided that, the Association may, to the extent permitted by the Condominium Act, by contract, partially or wholly delegate its maintenance, management and operational duties and obligations.

11. **BY-LAWS OF ASSOCIATION.** The procedures for the internal administration and functioning of the Association are set forth in the By-laws. A copy of the By-Laws of the Association is annexed hereto and made a part hereof as Exhibit "E". The members of the Board of Directors of the Association shall be members of the Association, or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

12. **AMENDMENT OF DECLARATION.** Except for amendments which Declarant is authorized and/or obligated elsewhere herein to make, and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided, this Declaration may be amended only in the following manner:

12.1 **Notice.** Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

12.2 **Proposal.** Amendments to this Declaration may be proposed by the Board of Directors (the "Board") of the Association by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by the owners of a majority of the Units, whether by vote of such owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

12.3 **Adoption.** Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association, or, in the absence of the President, to a Vice President or other acting chief executive officer, who shall thereupon call a special meeting of the members of the Association to consider and vote upon such proposed amendment; provided, that a proposed amendment may be considered and voted upon at an annual meeting of the members of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, of the members shall be held not sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the By-Laws of the Association; provided, that any member may, in writing signed by such member, waive notice of such meeting in the manner provided for in the By-Laws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such member. The proposed amendment may be adopted, and shall become effective, by and upon the affirmative vote at such meeting of members owning Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant. Notwithstanding the foregoing, any amendment so proposed may be adopted, without a formal meeting of the members by an instrument executed and acknowledged with the formalities of a deed by members owning Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant.

12.4 **Proviso.** No amendment shall:

(1) Change any "Condominium Parcel" (as defined in the Condominium Act) unless the record owner(s) thereof and all record owners of liens thereon shall join in the execution and acknowledgment of the amendment, or

(2) Discriminate against any Unit owner or against any Unit or building comprising part of the Condominium Property, unless the record owners of all affected Units and record owners of all liens thereon shall join in the execution and acknowledgment of the amendment, or

(3) Change the share of Common Elements appurtenant to any Unit or Units or the share of any Unit owner in the Common Surplus, unless the record owners of all Units and the record owners of all liens thereon shall join in the execution and acknowledgment of such amendment, or

(4) Increase the share of any Unit owner(s) in the Common Expenses, unless the record owners of all Units and the record owners of all liens thereon shall join in the execution and acknowledgment of such amendment, or

(5) Make any substantial change in Article 14 hereof, entitled "Insurance", nor in Article 15 hereof, entitled "Reconstruction or Repair After Casualty", unless the record owners of all mortgages held by Institutional Lenders encumbering Units shall join in the execution and acknowledgment of the amendment, or

(6) Amend the provisions of paragraph 12.8 and Article 22 hereof without Declarant's joinder and consent so long as it holds any Unit for sale in the ordinary course of business.

The consent of any lien holder to the foregoing shall not be unreasonably withheld.

12.5 **Secret Ballot.** Any vote to amend this Declaration relating to a change in percentage of ownership of the Common Elements or sharing of the Common Expense shall be conducted by secret ballot, for which limited proxies may be utilized.

12.6 **Effective Date and Recording Evidence of Amendment.** Any amendment to this Declaration shall be effective at the time of filing the amendment in the Public Records of Okaloosa County, Florida. The President of the Association, or, in the absence of the President, a Vice President or other acting chief executive officer of the Association, shall cause to be filed in the Public Records of Okaloosa County, Florida, the original amendment to the Declaration. A true and correct copy of each such amendment shall be delivered, forthwith after adoption thereof, to the record owners of all Units and to the record owners of all mortgages on Units, by the President, Vice President, or other acting chief executive officer of the Association, but delivery of such copies shall not be a condition precedent to the effectiveness or any such amendment.

12.7 **Amendment to Correct Omission or Error in Condominium Documents.** Notwithstanding any provision to the contrary set forth in this Article 12 or elsewhere in this Declaration or Articles or By-Laws of the Association, the affirmative vote of the owners of not less than fifty-one (51%) percent of the Units in the Condominium shall be sufficient to adopt an amendment to this Declaration for the purpose of correcting a defect, error, or omission in or to this Declaration not materially or adversely affecting the rights of owners, lienors or mortgagees. Provided, however, nothing herein is intended to limit any statutory method of correcting an error or omission. Furthermore, the Declarant reserves the right at any time to amend this Declaration and any exhibits to it for the purpose of correcting any defect, error or omission herein or therein which prevents this Declaration from creating a valid condominium under Florida law.

12.8 **Amendments by Declarant.**

Declarant reserves the right to amend this Declaration, and any exhibits hereto, for any one or more of the following purposes:

(1) To correct any errors or omissions not affecting the rights of Unit owners, lienors or Mortgagees.

(2) For purpose of adding a Certificate of Surveyor as provided in Section 718.104(4)(e) or other sections of the Florida Statutes.

(3) To make reasonable changes to the Condominium Property or Units that do not materially or adversely affect the interest of Mortgagees, nor the Unit owners, nor the Unit owner's share of the Common Elements.

Any such amendment need be executed and acknowledged only by the Declarant and need not be approved by the Association, Unit owners, lienors or Mortgagees, whether or not elsewhere required for amendments.

12.9 **Consent to Amendments by Construction Loan Mortgagee.** Notwithstanding contrary provisions of this Declaration, the Articles of Incorporation or the By-Laws, as long as the construction loan mortgage from Declarant is not completely satisfied of record and continues to encumber any portion of the Condominium Property, neither the Declarant nor the Association for as long as the Declarant retains control thereof, shall make amendments to this Declaration, the Articles of Incorporation or the By-Laws without the prior written consent of such mortgagee; nor shall the Declarant exercise any option or privilege provided for in Section 21 of this Declaration without such prior written consent. Such consent shall not be unreasonably withheld.

13. **MAINTENANCE, REPAIRS AND REPLACEMENTS.** Responsibility for maintenance, repairs and replacements of Condominium Property and property of Unit owners located or situated within the Condominium shall be as follows:

13.1 **Units.** Each Unit, and the fixtures, equipment and appliances comprising a part thereof, located therein, or exclusively serving the same (but not otherwise including Limited Common Elements except where expressly so indicated in Section 13.3), shall be maintained, kept in good repair and replaced by and at the expense of the owner(s) thereof. Any emergency maintenance, repairs and/or replacements for which Unit owners are responsible and are obligated to perform, which, if not performed or omitted, would affect other Units or Common Elements shall be performed promptly as the need arises, and if residential Unit owner(s) fail to promptly perform same, the Association shall have the right to perform same, and to sue the responsible Unit owner and Unit therefor. Notwithstanding the obligation of residential Unit owners for maintenance, repair or replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss of, or damage to Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

13.2 **Common Elements.** The Association shall be responsible for maintaining, repairing, replacing and keeping in clean and orderly condition, all of the Common Elements, and shall assess against and collect from the owners of all Units in the Condominium, the costs thereof. The Association shall, at the expense of the owners of all Units in the Condominium, repair any and all incidental damage to Units resulting from maintenance, repairs and/or replacements of or to Common Elements.

13.3 **Limited Common Elements (LCE).** The Association shall be responsible for, and shall assess against and collect against all Unit owners the cost of performing necessary maintenance, repairs and replacements, and keeping in clean and orderly condition the <u>exterior</u> of the balconies, terraces, parking spaces, sun decks and loggias. However, the responsibility for, and the cost of, repairing, maintaining and keeping in a clean and orderly condition, the <u>interior</u> of those Limited Common Elements such as balconies, terraces, sun decks and loggias (including windows, doors, any storm shutters and screens enclosing same), which are assigned or granted to, and exclusively serve a certain residential Unit or residential Units, and the expenses of maintaining the

rooftop terraces/gardens assigned to any Penthouse Unit, other than structural components, shall be borne by the owner(s) of the Unit(s) to which the same are appurtenant. In addition, the responsibility for maintaining any hot tub on a lanai shall be borne by the owner(s) of the Unit to which the same is appurtenant.

13.4 **Terraces/Balconies.** In order to maintain and preserve the structural integrity of the terraces/balconies which are a part of the Limited Common Elements of the Condominium Property, and to hinder the deterioration of concrete by held or trapped water, each Unit owner at the respective Unit owner's sole expense, shall be required to accomplish and meet specifications and procedures promulgated by the Association from time to time in connection with the placement of any floor covering whatsoever in the outdoor terrace/balcony which is appurtenant to the owner's Unit.

The specifications and procedures must be followed only at the time a floor covering is selected and installed on the terrace/balcony, and is to be done by the contractor retained by the Unit owner at the Unit owner's sole expense. In the event that for any reason the foregoing specifications and procedures are not so accomplished by the Unit owner, the Association shall re-do and correct the work in accordance with the applicable specifications and procedures, and sue the Unit owner and the Unit therefor as elsewhere herein provided.

14. **INSURANCE.** Insurance shall be carried and kept in force at all times in accordance with the following provisions:

14.1 **Duty and Authority to Obtain.** The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Unit owners and their mortgagees. A certificate evidencing a mortgagee endorsement shall be issued to the mortgagee of each Unit upon request. The owner(s) of each Unit may, at his own expense, obtain insurance coverage against damage to and loss of the contents of the Unit and comprehensive public liability. Any such policies of insurance purchased by a Unit owner shall, where such provision is available, contain a clause providing that the insurer waives its right to subrogation as to any claim or claims against other Unit owners, the Association, and their respective employees, agents, guests and invitees.

14.2 **Required Coverage.** The Association shall purchase and carry insurance coverage as follows (however, such coverage shall only insure the Condominium in the manner permitted by law and according to the original plans and specifications and coverage for any alterations, improvements or modifications to Units made by Unit owner[s] shall be the responsibility of Unit owner[s]):

Casualty insurance covering the buildings and other improvements of the Condominium, including, without limitation, Units (i.e., all partitions, plumbing, fixtures and equipment, whether within a Unit or not, if serving or supporting the Unit) and Common Elements. For purposes of this provision, the Association shall be deemed to have an insurable interest in the foregoing. Such insurance shall be obtained in an amount equal to the maximum insurance replacement value of such improvements exclusive of

excavation and foundation costs, as determined annually by the Board of Directors of the Association. Such insurance to afford protection against:

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

(b) Such other risks of a similar or dissimilar nature as are required by law or as are customarily covered with respect to a building and other improvements similar, in construction, location and use, to the building or other improvements of the Condominium, including, without limitation, vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available; and

(c) Public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association, to protect the Association and the owners of all Units, including non-owned automobiles, off-premises employee coverage, water damage and legal liability, with cross-liability endorsements to cover liability of all Unit owners as a group to each Unit owner; and

(d) Workmen's compensation insurance to meet the requirements of law; and

(e) Flood insurance, if the same shall be necessary under the laws of the United States for federally related mortgage lenders to make mortgage loans on Units; and

(f) Fidelity insurance, as required by law, covering all officers and employees of the Association and any managing agent who handles Association funds; and

14.3 **Optional Coverage.** The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit owners, or as an institutional lender may reasonably require while it holds a mortgage encumbering any Unit.

14.4 **Premiums.** Premiums for all insurance obtained and 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 the provisions of this Article, shall be assessed against and collected from residential Unit owners as Common Expenses.

14.5 **Insured.** All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the owners of Units and their mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association as Trustee for the benefit of whomever is entitled to the proceeds or an independent "Insurance Trustee", if one has been appointed. The proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit owners and their respective mortgagees, as their interests may appear, to

be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

14.6 **Insurer.** All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

14.7 **Insurance Trustee.** The Association shall be the Insurance Trustee unless an Institutional Lender holding a mortgage on a Unit or the owners of one-third (1/3) of the Units make written demand to the Association requesting the appointment of an independent trustee. In such event, any proceeds will be paid to or any undisbursed proceeds in the control of the Association will be paid over to the independent Insurance Trustee. All persons for whose benefit such insurance is held shall be bound by the Association's selection of the Insurance Trustee.

The independent Insurance Trustee shall be selected by the Board of Directors. It shall be a bank with trust powers doing business in the State of Florida. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated, and for the benefit of the Association, Unit owners and their respective mortgagees, to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder; such fees and costs to be assessed against and collected from Unit owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Unit owners and their mortgagees, as their respective interests may appear, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association executed under oath and provided to the Insurance Trustee upon request to the Association; such certificate to certify the name or names of the owners of each Unit, the mortgagee(s) thereof, and the respective percentages of any distribution which is to be made to such owner(s) and mortgagee(s), as their respective interests may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall have no right to determine or participate in the determination of repair or replacement of any loss or damage, and shall have no right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the owner(s) of the Unit and the mortgagee(s) thereof, after such insurance proceeds have been first applied to the repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner(s) of

the Unit and the mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

14.8 **Application of Insurance Proceeds.** The proceeds of casualty insurance paid to the Association, or to an independently appointed Insurance Trustee, by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

(1) **Common Elements Only.** The proceeds paid to the Insurance Trustee for loss of or damage to real property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Insurance Trustee to the owners of all Units, and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit with the Insurance Trustee, from any Association Reserve Fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association Reserve Fund has been established, or if any such Association Reserve Fund has been established and is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against, and collect it from, all Unit owners as a Common Expense.

(2) **Units.** The proceeds paid to the Association or independent Insurance Trustee for loss of or damage to a building containing Common Elements and one or more Units shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Insurance Trustee to the owners of the damaged or destroyed Unit(s) and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each such Unit in the Common Elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Association shall assess the amount of the difference against, and collect the same from all owners as a Common Expense so long as the damage to the Units is of a nature as to which the Association is required to carry insurance. If it is not, then the affected Unit owner shall pay the cost. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements (to which the Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of Units), the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit owners, as a Common Expense.

14.9 **Deposits to Insurance Trustee After Damage.** Within sixty (60) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board of Directors may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one or more Unit owners, shall be deposited with the Association or the independent Insurance Trustee, as the case may be, not later than thirty (30) days from the day on which the Insurance Trustee receives the insurance proceeds.

15. **RECONSTRUCTION OR REPAIR AFTER CASUALTY.** Whether, and the manner in which, any or all of the Condominium Property which may be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

15.1 **Residential Buildings.** If any residential buildings are damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following:

(1) **Major Destruction of Buildings.** If any buildings are damaged or destroyed so that Units in the Condominium to which more than 50% of the Common Elements are appurtenant are not habitable, neither the building or buildings so damaged or destroyed, nor any of the improvements comprising Common Elements in said building or buildings, shall be reconstructed unless the owners of Units to which two-thirds (2/3) of the Common Elements are appurtenant agree in writing, within ninety (90) days after the date of such destruction, to reconstruct the same and unless the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed, or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder. If it is not so decided to reconstruct the building(s), then the Condominium shall be terminated as otherwise provided herein.

(2) **Other Damage to and/or Destruction of Buildings.** If any building is damaged, but Units in the Condominium to which at least 50% of the Common Elements are appurtenant are habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed, so that the buildings and/or Unit(s) shall be restored to substantially the same condition as existed prior to such damage or destruction, unless within ninety (90) days after the casualty it is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

15.2 **Common Elements.** Damaged or destroyed improvements constituting part of the Common Elements shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of all of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

15.3 **Certificate.** The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

15.4 **Plans and Specifications.** Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed; provided that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable. Any variations from the original plans and specifications submitted for approval shall be prepared by an architect registered to practice in Florida.

15.5 **Responsibility.** If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance and repair is that of the affected Unit owners, then such Unit owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

15.6 **Construction Funds.** All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit owners, shall be disbursed toward payment of such costs in the following manner:

(1) **Association.** If the total funds assessed against and collected from Unit owners by the Association for payment of repair and reconstruction costs is more than Ten Thousand Dollars ($10,000.00), then all such sums shall be deposited by the Association with and disbursed by the Insurance Trustee, if one is appointed as aforesaid. In all other cases the Association shall hold such sums so assessed and collected and shall disburse the same in payment of the costs of reconstruction and repair.

(2) **Insurance Trustee.** The proceeds of insurance collected on account of a casualty, and the sums assessed against and collected from Unit owners by the Association and deposited with the Insurance Trustee shall constitute a construction fund which shall be disbursed in payment of the costs of repair and reconstruction in the following manner:

(a) **Unit Owner.** The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more, but less than all, Unit owners, shall be paid by the Insurance Trustee to the affected Unit owners and, if any of such Units are mortgaged, to the affected Unit owners and their mortgagees jointly.

(b) **Association - Lesser Damage.** If the amount of the estimated costs for reconstruction and repair which is the responsibility of the Association is less than Ten Thousand Dollars ($10,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request by a 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 hereafter provided for the reconstruction and repair of major damage.

(c) **Association - Major Damage.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Ten Thousand Dollars ($10,000.00), then the construction fund shall be

disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect registered to practice in Florida and employed by the Association to supervise the work.

(d) **Surplus.** 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 the construction fund after payment of all costs of 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 herein stated; except, however, that the amount of any surplus which is less than the portion of the construction fund in excess of available insurance proceeds shall not be made payable to any mortgagee.

(e) **Certificate.** Notwithstanding the provisions herein, the Insurance Trustee 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 upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by owners. Instead, the Insurance Trustee 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 name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association, or a mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

16. **USE RESTRICTIONS.** Use of the Condominium Property shall be in accordance with the following provisions so long as the Condominium exists:

16.1 **Units.** Each of the residential Units shall be occupied only for residential purposes and by servants and guests, or tenants under lease, as a place of residence (temporary or permanent) and for no other purpose. Three-bedroom residential Units may be occupied by no more than ten (10) persons. Four-bedroom residential Units may be occupied by no more than twelve (12) persons. No Unit may be sub-divided.

16.2 **Common Elements.** The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities incidental to the enjoyment of the Units.

16.3 **Nuisances.** No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Common

Elements or Limited Common Elements which would increase the cost of insurance upon the Condominium Property.

16.4 **Lawful Use.** No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be as is elsewhere herein specified.

16.5 **Pets.** Unit Owners shall be permitted to keep small pets, including birds, such as canaries or parakeets; fish, such as gold fish and tropical varieties; cats and dogs. Said dogs shall not be allowed in the lobby or in any corridor except for ingress and egress. No guest, lessee or invitee shall bring any animal whatsoever upon the Condominium Property. No pets shall be raised for commercial purposes. Pets shall never be allowed to run freely upon any of the Condominium Property, except within a Unit, and when outside of a Unit shall be leashed and in the company of an individual willing and able to fully control it. Each owner shall be responsible for the actions of each pet kept within his Unit, and for cleaning up after such pet when outside of the Unit. Any Owner maintaining a pet upon the Condominium Property, or whose guests, lessee or invitee bring any animal upon the Condominium Property, shall be fully responsible for, and shall bear the expense of, any damage to persons or property resulting therefrom. Any such damage shall be determined by the Board of Directors of the Association and collected by the Association. All pet owners shall identify and register their pet with the Association. In the event that any pet kept on the premises should constitute a nuisance in the opinion of a majority of the Board of Directors, then the owner, when so notified in writing, shall be required to immediately remove said pet from the Condominium Property. The Association may promulgate rules restricting the areas within the Condominium Property where pets can be walked.

16.6 **Terraces.** Private terraces, entry terraces and lanais within a Unit or which are Limited Common Elements appurtenant thereto may be used only for recreational purposes and may not be improved except as permitted or required hereby (See Section 13.4 herein). Such areas may not be used for hanging laundry and may not be enclosed, painted or the color or appearance otherwise altered by the owner except with the prior written consent of the Board of Directors of the Association, and except for approved hurricane/storm shutter installations in accordance with Section 20.3 herein.

16.7 **Children.** Children may occupy units provided, however, that children shall be closely supervised at all times by an adult to ensure that they do not become a nuisance to other residents of the Condominium.

16.8 **Rental and For Sale Signs.** No signs advertising the rental or sale of Units or other signs of any nature may be posted on the Condominium Property, including exteriors or doors and windows of the Units, without the prior written approval of the Association's Board of Directors. No "lock boxes" shall be permitted on doors to Units. The foregoing provisions shall not apply to Declarant during development and sale of the Units.

16.9 **Exterior Improvements.** No Unit owner shall cause anything to be applied or attached to, hung, displayed or placed on the exterior walls, terraces, doors or windows of any building (including awnings, antennae, signs, screens, fixtures and equipment) without the prior written consent of the Board of Directors of the Association. Notwithstanding the foregoing, a Unit owner may display one portable, removable United States and/or military flag in a respectful manner without the prior written consent of the Board of Directors. The Board of Directors shall have the right to promulgate reasonable rules and regulations regarding the location and manner of displaying said flags to further the intent and spirit of Section 718.113(4), Florida Statutes (2003), as the same may later be modified.

16.10 **Barbecue Grills.** Gas or electric barbecue grills will be permitted and placed only on the Common Elements outside of the building, and only in areas designated by the Association. All other barbecue grills are prohibited. There shall be no grills whatsoever operated or stored on balconies or terraces, or other Limited Common Elements unless approved in writing by the Association; provided, however, electric grills or gas grills acceptable to Association (if any) may be operated on the lanais and/or roof top gardens appurtenant to Units PH-1 – PH-9 inclusive, and Lanai Units L-1-L9, inclusive.

16.11 **Hurricane Shutters.** Unit owners may install approved hurricane/storm shutters protecting the terrace/balcony/lanai, and similar areas which are a part of their Unit or limited Common Elements appurtenant to their Unit pursuant to Section 20.3 herein.

16.12 **Regulations.** Reasonable regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board; provided, however, that all such regulations and amendments thereto shall be approved by not less than two-thirds (2/3) of the total voting interest in the Association before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit owners and residents of the Condominium upon request.

16.13 **Development.** Until Declarant has completed and conveyed all of the Units, neither Unit owners nor the Association shall interfere with the completion of the proposed improvements and the sale of the Units. Declarant may make such use of the unsold Units and Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales/development office, model apartments, the showing of the Condominium Property and the display of signs showing Units for sale or for rent.

16.14 **Leasing.** Units may only be leased or rented in their entirety. Owner shall notify Association in writing as to the name of the tenant, and approximate length of stay, an such other information as Association may reasonably request, no later than twenty-four (24) hours prior to the commencement of said lease or rental.

17. **COMPLIANCE AND DEFAULT.** Each Unit owner and any member of the Unit owner's family or their guests, employees, agents, lessees or other invitee, shall be governed by and shall comply with the terms of this Declaration of Condominium, the Articles of Incorporation and By-Laws of the Association, the Declaration of Restrictions,

the Articles of Incorporation and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit owner to comply therewith shall entitle the Association or other Unit owners to the following relief in addition to the remedies provided by the By-Laws and the Condominium Act:

17.1 **Negligence.** A Unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Unit owner's act, neglect or carelessness or by that of any member of the Unit owner's family or their guests, employees, agents, lessees or other invitee, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such expense may be specially assessed against the Unit owner and his Unit and secured by the lien described in Section 18 herein.

17.2 **Costs and Attorneys' Fees.** If any legal proceeding arises because of an alleged failure of a Unit owner to comply with the terms of the Declarations, the Articles of Incorporation and By-Laws of the Association, as provided above, and any and all regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

17.3 **No Waiver of Rights.** The failure of the Association or any Unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

18. **ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT.** To provide the funds necessary for proper maintenance, operation and management of the Condominium, the Association has been granted the right to make, levy and collect assessments against the owners of all Units and against said Units. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of maintaining, operating and managing the Condominium by the Association.

18.1 **Determination of Assessments.** Assessments by the Association against each owner of a Unit and his or her Unit shall be in proportion to the enclosed, air-conditioned area each Unit bears to the area of all Units, exclusive of the area of any enclosed garage appurtenant to some of the so-called Lanai Units. Should the Association become the owner of any Unit(s), the assessment which would otherwise be due and payable to the Association by the owner(s) of such Unit(s), reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, shall be a Common Expense of the Association apportioned and the assessment therefor levied ratably among the owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or residential Units owned by the Association.

18.2 **Time for Payment.** The assessment levied against the owner of each Unit and his or her Unit shall be assessed on an annual basis and may be payable in quarterly, monthly, or such other installments and at such times as shall from time to time be fixed by the Board in accordance with provisions of applicable law.

18.3 **Annual Budget.** The Board shall, in accordance with the By-Laws of the Association and the Condominium Act, establish an Annual Budget in advance for each calendar year, including estimates for all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium, including, unless deemed unnecessary by the Board, a reasonable allowance for contingencies and general operating reserves and monies due the Master Association. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit owner, and the assessment for the year shall be based upon such Budget. Failure to deliver a copy of the Budget to a Unit owner shall, however, not affect the liability of such owner for such assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

18.4 **Reserve Fund.** The Board, in establishing each annual budget shall, unless otherwise waived by the Unit owners as provided by applicable law, include therein a sum to be collected and maintained as reserve funds for the replacement of Common Elements and personal property held for the common use and benefit of the owners of all Units, as specified in Section 718.112(2)(f)(2), Florida Statutes (2003).

18.5 **General Operating Reserve.** The Board, when establishing each annual budget, when deemed necessary or desirable, or if required by law, shall include therein a sum to be collected and maintained as a contingency line item to provide a measure of financial ability during periods of financial stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by owners of Units, as a result of emergencies, or for other reasons placing financial stress upon the Association.

18.6 **Use of Association Funds.** All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of maintaining, operating and managing the Condominium, and to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and By-Laws. As the monies for annual assessments are paid to the Association by any Unit owner, the same may be commingled with monies paid to the Association by the other owners of Units. Reserve and operating funds of the Association shall not be commingled, but may be invested in a common investment, as long as separate accounts are maintained for each fund. All funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association; however, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

18.7 **Delinquency or Default.** The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. When in default, the delinquent assessments or installments thereof shall bear interest at the rate of eighteen percent (18%) per annum until the same, and all interest due thereon, has been paid in full. If the assessment is not

paid when due, and if the Association thereafter files a claim of lien in respect to it, then all assessments due in respect to the Unit for the remainder of the budget year in which the claim of lien is filed shall be accelerated and will stand due and payable in full and be secured by such claim of lien.

18.8 **Personal Liability of Unit Owner.** The owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, interest on such delinquent assessments or installments thereof as above provided, and for all costs of collecting the assessments and interest thereon, including a reasonable attorney's fee, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

18.9 **Liability Not Subject to Waiver.** No owner of a Unit may exempt himself or herself from liability for any assessment levied against such owner and his or her Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other manner.

18.10 **Lien for Assessment.** The Association is hereby granted a lien upon each Unit and its appurtenances, which lien shall and does secure the monies due for all: (i) assessments levied against the Unit and the owner(s) thereof, (ii) interest, if any, which may become due on delinquent assessments owing to the Association, and (iii) costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association shall be established and may be foreclosed in the appropriate court in and for Okaloosa County, Florida.

18.11 **Recording and Priority of Lien.** The lien of the Association shall be effective from and after recording, in the Public Records of Okaloosa County, Florida, a claim of lien stating the description of the Unit encumbered thereby, the name and address of the Association, the name of the record owner, the amount and the date when due, and shall continue in effect for as long as is allowable under the Florida Condominium Act, or until all sums secured thereby shall have been fully paid, whichever shall occur first. Such claims of lien shall secure all unpaid assessments, interests, costs and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association (regardless of when a claim therefor is recorded or the period of time for which the assessment is due) shall be a lien on the Unit encumbered superior in priority to all mortgages or other liens regardless of when recorded, but shall be subordinate to the lien of any first mortgage which is recorded prior to the time of recording the Association's claim of lien.

18.12 **Effect of Foreclosure or Judicial Sale.** In the event that any person, firm or corporation shall acquire title to any Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, of a first mortgage, such person, firm or corporation so acquiring title shall be liable and obligated for assessments as shall accrue and become due and payable for the Unit and its appurtenant undivided interest in Common Elements subsequent to the date of acquisition

of such title, and shall be jointly and severally liable with the previous owner for the payment of any assessments which were in default and delinquent at the time it acquired such title, except that a first mortgagee acquiring title by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that become due prior to the mortgagee's receipt of the deed, as limited by the Florida Condominium Act. The grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the Common Expenses up to the time of transfer of title, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

In the event of the acquisition of title to a Unit by the first mortgagee or its successor or assign by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all owners of all Units as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent assessment from the payment thereof or the enforcement or collection of such payment by means other than foreclosure.

18.13 **Effect of Voluntary Transfer.** When the owner of any Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the owner of such Unit, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such Unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the owner of the Unit and Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the rent, proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such rent, proceeds of sale or mortgage to the owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

19. **REGISTRY OF OWNERS AND MORTGAGEES.** The Association shall at all times maintain a Register of the names and addresses of the owners and mortgagees of all Units. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his or her interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit. The owner of each Unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same. The holder of any mortgage encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

20. **ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS.** Neither a residential Unit owner nor the Association shall make any alterations, improvements or additions to Units or Common Elements, except in compliance with the following:

20.1 **By Unit Owner.** Unless the Unit owner(s) shall first submit plans for such work to the Board, and the Board, by resolution adopted by the affirmative vote of a majority of all members thereof, shall approve and consent thereto, no alteration of or improvement or addition to a Unit, or to any Limited Common Element to which the owner has an exclusive right of use, shall be made, constructed, erected or installed which shall: (1) remove, in whole or in part, replace, reroute, or otherwise affect any column, bearing wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for, or (2) remove, or change the style, pattern, material, texture or outside color of any door, window, screen, fixture, equipment or appliance in or on an exterior Unit or building wall, or (3) cover, from the inside or outside, the glass or other transparent and/or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opaque or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color material, or (4) affix to or over any exterior door or window, or otherwise install on the exterior, of any Unit or building, any storm or hurricane shutter or awning or any protective or decorative panel, paneling, trim, enclosure, fixture, or appliance, excepting hurricane/storm shutters for terraces/balconies/lanais in accordance with Section 20.3 below, or (5) enclose any balcony, terrace or lanai adjoining a Unit or forming a part of a Unit (except as permitted in this Declaration) or (6) otherwise change, modify or alter the exterior of any Unit or building so that it thereby differs in appearance from any other Units.

20.2 **By Association.** There shall be no material alterations or substantial improvements or additions to the Common Elements except in the following manner: subject to the foregoing restrictions against changing the exterior appearance of Units and/or buildings, the Association shall have the right to make or cause to be made alterations, improvements and/or additions to the Common Elements, except the acquisition of additional real property, which improvements, together with the costs thereof, have been approved by the owners of Units to which two-thirds (2/3) of the Common Elements are appurtenant. The cost of such alterations, improvements and/or additions shall be assessed against and collected from the owners of all Units as Common Expenses. Acquisition of additional land shall be made and approved only in accord with the provisions of the Condominium Act.

20.3 **Hurricane/Storm Shutters.** Unit owners may install hurricane/storm shutters protecting the terrace/balcony/lanai, and similar areas which are a part of their Unit or limited Common Elements appurtenant to their Unit as provided herein. For purposes of uniformity and exterior appearance of the Condominium Units and building, the Board of Directors of the Association shall adopt and approve a model, style and color of storm shutter as a standard storm shutter for use in the Condominium, which may be installed on the exterior of the terraces in compliance with applicable building codes. No storm shutter except of the models, colors and styles adopted by the Board of Directors shall be used in or upon the Condominium Property.

21. **TERMINATION.** The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

21.1 **Destruction.** In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because of total destruction or major damage, the Condominium plan of ownership will be thereby terminated without agreement under Article 21.2.

21.2 **Agreement.** The Condominium may be terminated at any time by the approval in writing of all of the owners of Units in the Condominium, and by all record owners of mortgages upon Units therein owned by Institutional Lenders and other mortgagees approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the owners of Units to which not less than seventy-five percent (75%) of the Common Elements are appurtenant, and of the record owners of all mortgages upon Units in the Condominium owned by Institutional Lenders and other mortgagees approved by the Association, are obtained not later than thirty (30) days after the date of such meeting, then the approving owners shall have an option to buy all of the Units of the other owners during a period ending on the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

(1) **Exercise of Option.** The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the Units to be purchased of an agreement to purchase signed by the record owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating owner and shall agree to purchase all of the Units owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

(2) **Price.** The sale price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it 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 Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific Performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(3) **Payment.** The purchase price shall be paid in cash.

(4) **Closing.** The sale shall be closed within ten (10) days following the determination of the sale price.

21.3 **Certificate.** The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Okaloosa County, Florida.

21.4 **Shares of Owners After Termination.** After termination of the Condominium the Unit owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit owners. Such undivided shares of the Unit owners shall be the same as the undivided shares in the Common Elements appurtenant to the owners' Units prior to the termination as set forth in Exhibit "C" hereto.

21.5 **Amendment.** This Article 21 shall not be amended without consent of all Unit owners and of all owners of mortgages required to approve termination by agreement.

22. **ADDITIONAL RIGHTS OF DECLARANT.** So long as Declarant, or any mortgagees succeeding Declarant in title, shall own any Unit that it holds for sale in the ordinary course of business, it shall have the right to use any such unit as a model and/or office, to lease or sell any such Unit to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interests. Declarant additionally reserves the right to add additional recreational facilities or to expand the existing facilities without the necessity of obtaining the consent of the Unit owners or the Association.

23. **MORTGAGEE PROTECTION CLAUSE.** The following provisions are for the benefit of First Mortgagees (and the holders of junior mortgages which holders are financial institutions) and to the extent these provisions conflict with any other provisions of this Declaration, these provisions shall control:

23.1 All such mortgagees who have registered their names with the Association shall be given (i) thirty (30) days written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or By-Laws of the Association and prior to the effective date of any termination of any agreement for professional management of the Common Elements following a decision of the Owners to assume self-management of the Common Elements; (ii) immediate notice following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars ($10,000.00), and as soon as the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Common Elements; (iii) thirty (30) days notice after delinquency of more than sixty (60) days in payment of assessments by the owner of the Unit on which it holds a mortgage; (iv) thirty (30) days written notice prior to lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (v) thirty (30) days

written notice prior to any proposed action which requires the consent of any percentage of mortgage holders.

23.2 Any holder of a mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage or by deed in lieu of foreclosure, shall take title to such Unit free and clear of any claims of unpaid assessments or charges due to the Association against such Unit to the extent provided in Chapter 718 of the Florida Statutes, as amended.

23.3 Unless at least sixty percent (60%) of First Mortgagees (based upon one vote for each Mortgage owned), and sixty percent (60%) of the Owners (other than Declarant) have given their prior written approval, and the approval of Declarant has been obtained if Declarant holds any Units for such in the ordinary course of business, neither the Association, nor the Owners shall:

(1) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Unit;

(2) Except as otherwise provided by reservation to Declarant herein, amend this Declaration or the Articles of Incorporation or By-Laws of the Association in such a manner that the rights of any mortgagee will be directly and adversely affected.

24. **MISCELLANEOUS.**

24.1 **Severability.** The invalidity in whole or in part of any covenant or restriction, or any Article, sub-article, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the Articles of Incorporation, By-Laws and regulations of the Association shall not affect the validity of the remaining portions thereof.

24.2 **Applicability of Declaration of Condominium.** All present or future owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, and the mere acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

24.3 **Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. Unless prohibited thereby, if any provisions of the Condominium Act conflict with the provisions of this Declaration, the latter shall control.

24.4 **Parties Bound.** The restrictions and burdens imposed by this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon Declarant, its successors and assigns, and upon all parties who may subsequently become owners of Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, Declarant has caused the foregoing Declaration of Condominium to be executed, and its corporate seal to be affixed, by its undersigned, duly authorized officers on the date first set forth above.

(Corporate Seal)
TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation

By: _____
Fred E. Tolbert, III, as President

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this ____ day of _____, 200___, by FRED E. TOLBERT, III, as President of TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation, on behalf of the corporation. He is personally known to me.

(Affix Seal)

_____
Signature of Person Taking Acknowledgment

_____
Name of Acknowledger Typed, Printed or Stamped

_____
Title or Rank

_____
Serial Number, if any
My commission expires:

JOINDER AND CONSENT TO DECLARATION OF CONDOMINIUM

The undersigned, being the owner and holder of a mortgage recorded in Official Records Book _____, Page _____, of the Public Records of Okaloosa County, Florida, which mortgage encumbers the land described in the foregoing Declaration of Condominium for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium, hereby joins in and consents to the said Declaration. The joinder by the undersigned to the Declaration of Condominium is required by Section 718.104(2), Florida Statutes (_____), and shall not be construed in a manner which affects the priority of the lien of the undersigned's mortgage or the terms thereof.

Executed this ____ day of _____, 200___.

_____
Signature (Print name below

_____

(Corporate Seal)
AMSOUTH BANK, an Alabama banking corporation

_____
Signature (Print name below)

_____

By: _____

_____
Print Name

Its: _____

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing was acknowledged before me this _____ day of _____, 200__, by _____, as _____-President of AMSOUTH BANK, an Alabama banking corporation. Such person is personally known to me or presented _____as identification.

_____
NOTARY PUBLIC

_____
TYPED, PRINTED OR STAMPED NAME OF NOTARY
MY COMMISSION EXPIRES:

EXHIBITS

A. Legal Description

B. Survey, Plot Plan, Floor Plans

C. Schedule of Undivided Shares

D. Articles of Incorporation for Association

E. By-Laws for Association

EXHIBIT "A"
to
DECLARATION OF CONDOMINIUM
FOR
HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium

Legal Description

HERON at Destin West Beach and Bay Resort a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

DESCRIPTION OF CONDOMINIUM

"CONDOMINIUM" SHALL MEAN AND COMPRISE THE SEPARATE AND NUMBERED DWELLING UNITS AS DESCRIBED HEREIN, EXCLUDING HOWEVER, ALL SPACES AND IMPROVEMENTS LYING BENEATH THE UNDECORATED AND OR UNFINISHED INNER SURFACES OF THE PERIMETER WALLS AND FLOORS, AND ABOVE THE UNDECORATED AND OR UNFINISHED INNER SURFACES OF THE CEILINGS OF EACH DWELLING UNIT, AND FURTHER EXCLUDING ALL SPACES AND IMPROVEMENTS BENEATH THE UNDECORATED AND/OR UNFINISHED INNER SURFACES OF ALL INTERIOR WALLS AND/OR BEARING PARTITIONS, AND FURTHER EXCLUDING ALL PIPES, DUCTS, WIRES, CONDUITS, AND OTHER FACILITIES RUNNING THROUGH ANY INTERIOR WALL OR PARTITION FOR THE FURNISHING OF UTILITY SERVICES TO SAID DWELLING UNITS, AND FURTHER EXCLUDING ALL COMMON PROPERTY.

DESCRIPTION OF COMMON PROPERTY

COMMON ELEMENTS SHALL MEAN AND COMPRISE ALL THE REAL PROPERTY IMPROVEMENTS AND FACILITIES TO HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM, INCLUDING ALL PARTS OF THE CONDOMINIUM BUILDINGS OTHER THAN THE CONDOMINIUM UNITS AS SAME ARE HEREIN DEFINED, AND SHALL INCLUDE EASEMENTS THROUGH CONDOMINIUM UNITS FOR CONDUITS, PIPES, DUCTS, PLUMBING, WIRING, AND OTHER FACILITIES FOR THE FURNISHING OF UTILITY SERVICE TO CONDOMINIUM UNITS AND EASEMENTS OF SUPPORT IN EVERY PORTION OF THE CONDOMINIUM UNIT WHICH CONTRIBUTES TO THE SUPPORT OF THE IMPROVEMENTS AND SHALL FURTHER INCLUDE ALL PERSONAL PROPERTY HELD AND MAINTAINED FOR THE JOINT USE AND ENJOYMENT OF ALL OF THE OWNERS OF ALL SUCH CONDOMINIUM UNITS AND SHALL EXCLUDE ALL THE CONDOMINIUM UNITS.

LEGAL DESCRIPTION: *HERON at Destin West Beach and Bay Resort, a condominium*

A PORTION OF LOT 23-B, SANTA ROSA ISLAND, SUBDIVISION OF BLOCK 13, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 84F, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF LOT 23-A IN SAID PLAT; THENCE RUN NORTH 04°08'00" EAST ALONG THE EASTERLY BOUNDARY OF LOT 23-A PER SAID PLAT, BORDERING NINTH BEACH FREEWAY, 82.00 FEET TO A CONCRETE MONUMENT (NO #), ON THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 98 (AS IT EXISTS IN 2003); THENCE NORTH 85°52'00" WEST (REFERENCE BEARING) ALONG SAID RIGHT-OF-WAY LINE, 613.45 FEET TO AN IRON PIN (# 2032); THENCE DEPARTING SAID RIGHT OF WAY LINE, NORTH 08°14'18" EAST, 301.33 FEET; THENCE SOUTH 81°45'42" EAST, 75.85 FEET FOR A POINT OF BEGINNING; THENCE NORTH 08°13'49" EAST, 12.48 FEET; THENCE NORTH 81°46'11" WEST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 19.67 FEET; THENCE SOUTH 81°46'11" EAST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 72.69 FEET; THENCE NORTH 81°46'11" WEST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 42.40 FEET; THENCE SOUTH 81°46'11" EAST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 11.60 FEET; THENCE NORTH 81°46'11" WEST, 56.83 FEET; THENCE NORTH 08°13'49" EAST, 15.67 FEET; THENCE NORTH 81°46'11", 3.83 FEET; THENCE NORTH 08°13'49" EAST, 86.67 FEET; THENCE SOUTH 81°46'11" EAST, 57.67 FEET; THENCE NORTH 08°13'49" EAST, 5.83 FEET; THENCE SOUTH 81°46'11" EAST, 30.25 FEET; THENCE SOUTH 08°13'49" WEST, 8.64 FEET; THENCE SOUTH 70°59'00" EAST, 56.75 FEET; THENCE SOUTH 08°13'49" WEST, 18.33 FEET; THENCE SOUTH 53°13'48" WEST, 10.04 FEET; THENCE SOUTH 08°13'49" WEST, 50.92 FEET; THENCE 36°46'12" EAST, 19.23 FEET; THENCE SOUTH 08°13'49" WEST, 161.47 FEET; THENCE SOUTH 53°13'48" WEST. 19.23 FEET; THENCE NORTH 81°46'11" WEST, 75.90 FEET TO THE POINT OF BEGINNING. CONTAINING 0.70 ACRES, MORE OR LESS, ALL IN UNDIVIDED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA.

CERTIFICATION OF ZONE AREA FOR FLOOD INSURANCE

I CERTIFY THAT I HAVE CHECKED THE NATIONAL FLOOD INSURANCE RATE MAP OF OKALOOSA COUNTY, FLORIDA, COMMUNITY PANEL NO. 12091C-0464-H DATED DECEMBER 6, 2002, AND DETERMINED THAT THIS PROPERTY APPEARS TO BE SITUATED IN ZONE "AE" (HAVING A BASE FLOOD ELEVATION OF 8 FEET).

Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cei@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/863-8059

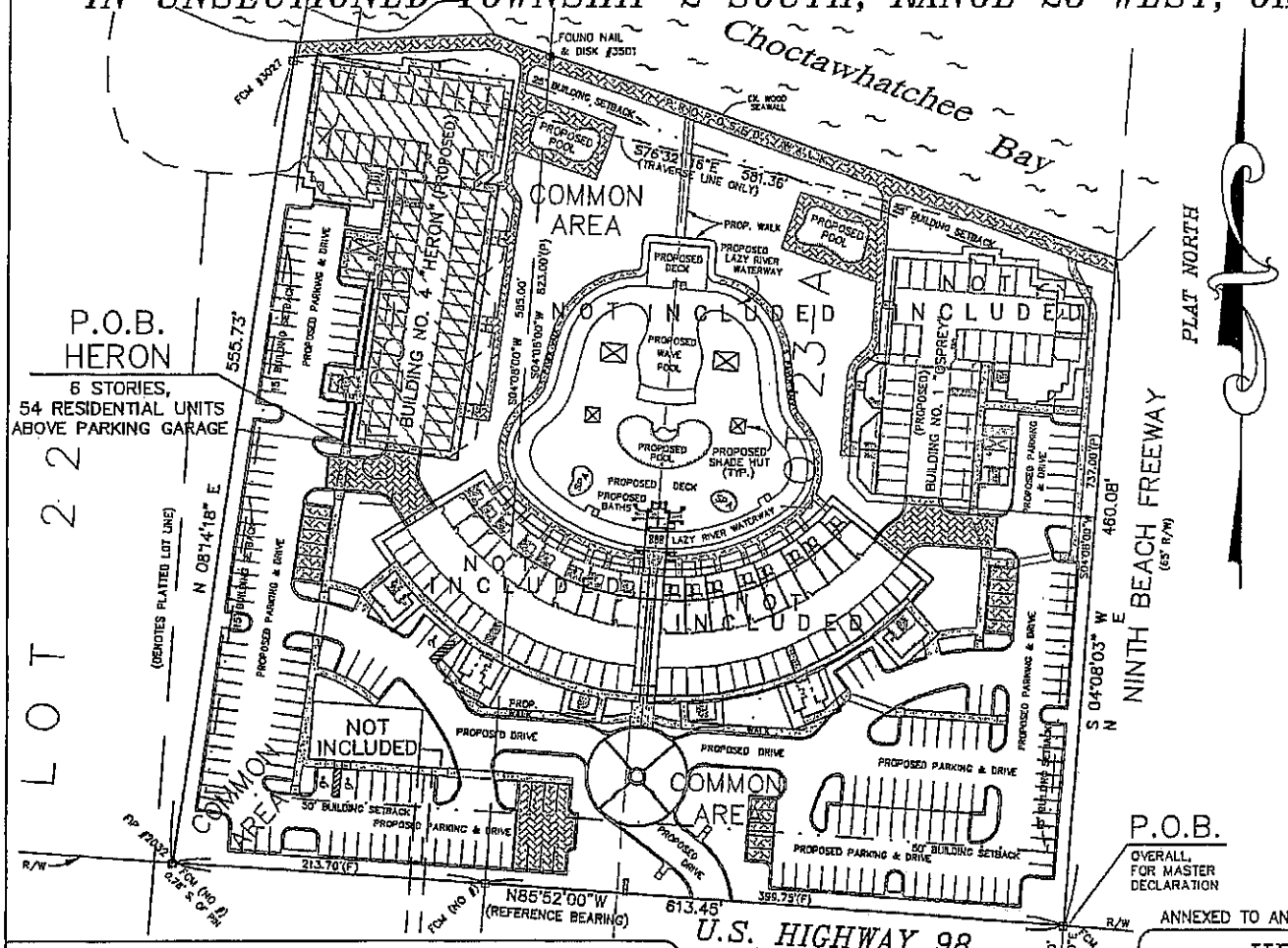
ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach and Bay Resort – a condominium

99-183-F

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



GRAPHIC SCALE

0 50 100 200

(IN FEET)

NOTES

1) THE CONSTRUCTION OF THE SUBJECT CONDOMINIUM BUILDING AND OTHER IMPROVEMENTS SHOWN HEREON IS NOT SUBSTANTIALLY COMPLETE; PORTIONS OF THE OVERALL SITE ARE UNDER CONSTRUCTION.

2) "CONDOMINIUM" REFERS ONLY TO BUILDING ENVELOPE, AS DESCRIBED.

3) DESTIN WEST BEACH AND BAY RESORT COMMUNITY AREAS CONSIST OF ALL IMPROVEMENTS -- GROUNDS, POOLS, WALKS, DRIVES, PARKING. INDIVIDUAL CONDOMINIUM PROPERTIES ARE EXCLUDED.

4) BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

5) SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

OVERALL SITE

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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HERON at Destin West Beach and Bay Resort – a condominium

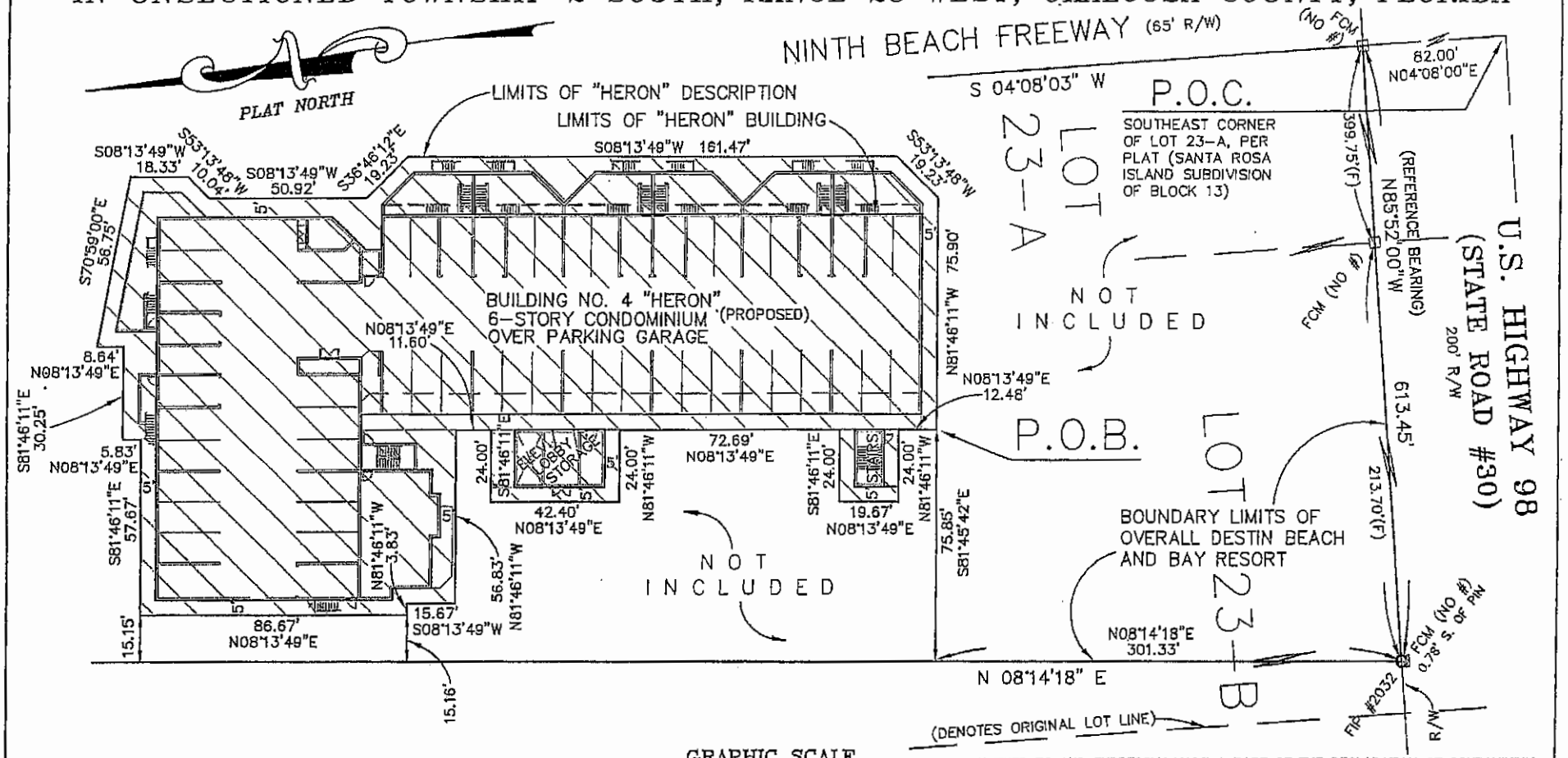
99-183-F

Exhibit B

15 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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HERON at Destin West Beach and Bay Resort – a condominium

99-183-F

5 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

PROPERTY SUBJECT TO MASTER DECLARATION

Destin West Bayside, Property Owners Association, Inc.

DESCRIPTION:

A PORTION OF LOT 23-A AND LOT 23-B, SANTA ROSA ISLAND, SUBDIVISION OF BLOCK 13, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 84F, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 23-A; THENCE RUN NORTH 04°08'00" EAST ALONG THE EASTERLY BOUNDARY OF LOT 23-A PER SAID PLAT, BORDERING NINTH BEACH FREEWAY, 82.00 FEET TO A CONCRETE MONUMENT (NO #), ON THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 98 (AS IT EXISTS IN 2003), FOR A POINT OF BEGINNING; THENCE NORTH 85°52'00" WEST (REFERENCE BEARING) ALONG SAID RIGHT-OF-WAY LINE, 613.45 FEET TO AN IRON PIN (# 2032); THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 08°14'18" EAST, 555.73 FEET TO A CONCRETE MONUMENT (#3027) WHICH IS SOUTH 08°14'18" WEST, 13 FEET, MORE OF LESS, FROM THE WATER'S EDGE OF CHOCTAWHATCHEE BAY; THENCE TRAVERSE SOUTH 76°32'16" EAST, 581.36 FEET, TO A POINT ON THE EASTERLY BOUNDARY OF LOT 23-B; THENCE SOUTH 04°08'03" WEST ALONG SAID EASTERLY BOUNDARY, 460.08 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. CONTAINING 7.32 ACRES, MORE OR LESS, ALL IN UNDIVIDED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA.

LESS & EXCEPT condominium properties.

NOTE: ALL CONDOMINIUM PROPERTIES IN DESTIN WEST BEACH AND BAY RESORT, BAYSIDE, ARE SUBJECT TO THE MASTER DECLARATION; THE GARAGE IS A PORTION OF THE MASTER DECLARATION: INDIVIDUAL CONDOMINIUM PROPERTIES ARE EXCLUDED FROM THE DESCRIPTION OF COMMON PROPERTY OWNED BY THE MASTER ASSOCIATION AS DESCRIBED IN THE MASTER DECLARATION.

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ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

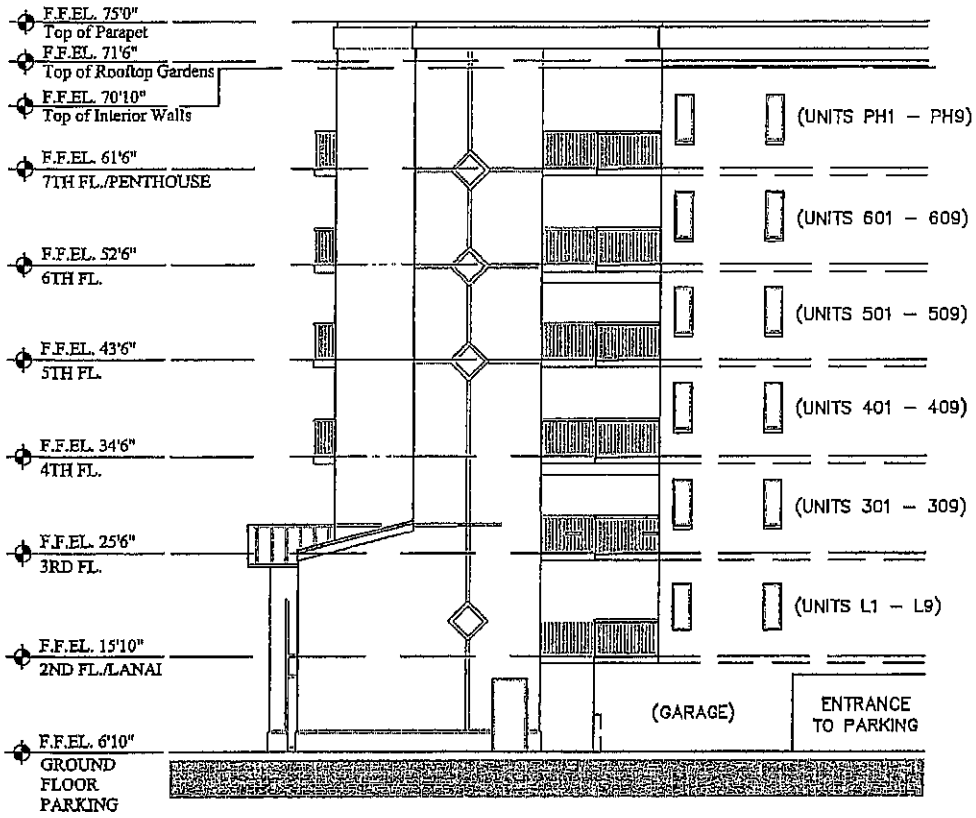
HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

5 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



ELEVATIONS

F.F.E. = FINISHED FLOOR ELEVATION

LEGEND

R/W = RIGHT–OF–WAY	P.O.C. = POINT–OF–COMMENCEMENT
℄ = CENTERLINE	P.O.B. = POINT–OF–BEGINNING
FIP = FOUND IRON PIN	E.O.P. = EDGE–OF–PAVEMENT
SIP = SET IRON PIN	FCM = FOUND CONCRETE MONUMENT
(P) = PLAT DATA	SCM = SET CONCRETE MONUMENT
(F) = FIELD DATA	Δ = DELTA ANGLE
(D) = DESCRIPTION DATA	R = RADIUS
O.R. = OFFICIAL RECORDS	A = ARC
B.S.L. = BUILDING SETBACK LINE	C = CHORD
	CB = CHORD BEARING

NOTES

⊡ DENOTES SET (UNLESS OTHERWISE NOTED) 4"X4" CONCRETE PERMANENT REFERENCE MONUMENT (P.R.M., #1532).

o DENOTES SET IRON PIN "CHOCTAW #4450".

CONSTRUCTION OF THE CONDOMINIUM BUILDING AND IMPROVEMENTS SHOWN HEREON IS NOT SUBSTANTIALLY COMPLETE.

"CONDOMINIUM" REFERS ONLY TO BUILDING ENVELOPE, AS DESCRIBED.

HORIZONTAL DATUM BASED ON DEPARTMENT OF NATURAL RESOURCES BEARING BETWEEN MONUMENT A–01 AND MONUMENT A–02, OF NORTH 85°36'12" WEST (REFERENCE BEARING).

COMMUNITY AREAS INCLUDE GROUNDS, POOL, DOCK, DRIVES, PARKING (INDIVIDUAL CONDOMINIUM PROPERTIES ARE EXCLUDED).

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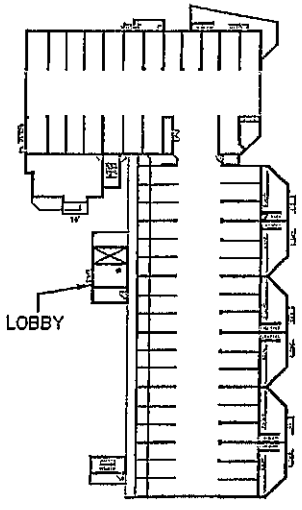
HERON at Destin West Beach and Bay Resort – a condominium

99–183–F

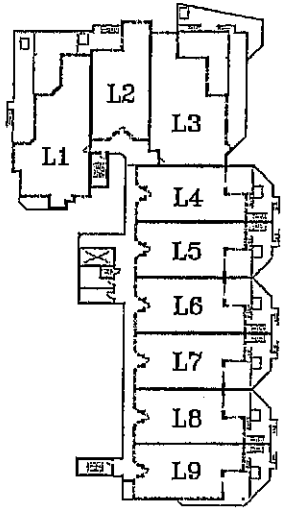
5 JUNE 2004 [FILE: 99183E–HEROD]

HERON at Destin West Beach and Bay Resort
a condominium

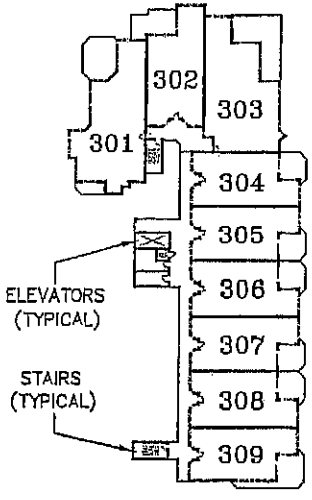
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



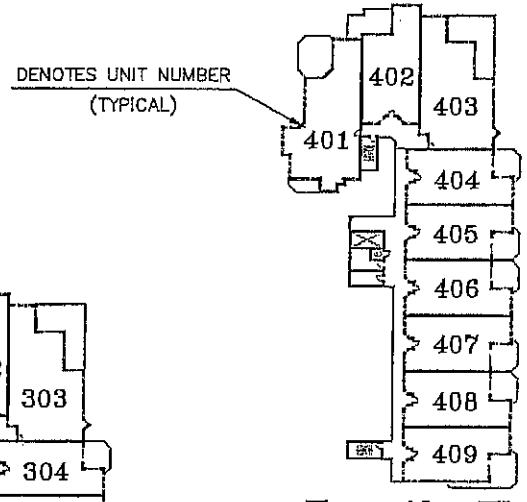
First Floor
(GROUND FLOOR, GARAGE)



Second Floor
(LANAI LEVEL, LOBBY)



Third Floor



Fourth Floor

KEY PLAN

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach
and Bay Resort – a condominium
99-183-F

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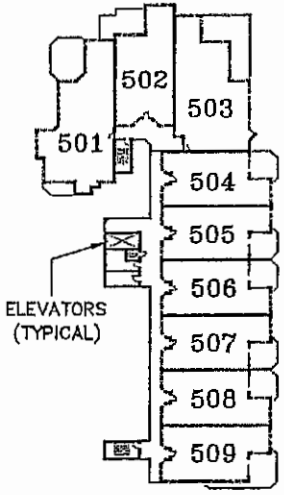
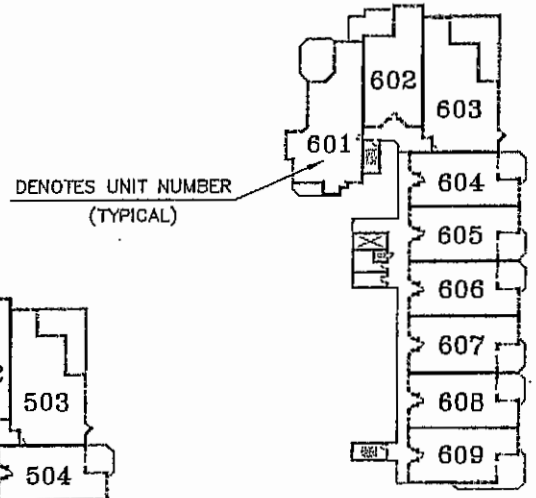
5 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

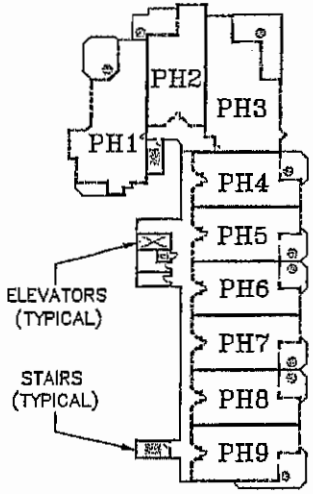
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



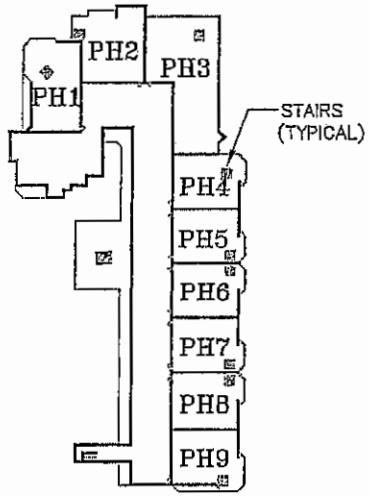
Fifth Floor



Sixth Floor



Seventh Floor
(PENTHOUSE LEVEL)



Roof
(PENTHOUSE GARDEN LEVEL)

KEY PLAN

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HERON at Destin West Beach and Bay Resort – a condominium

99–183–F

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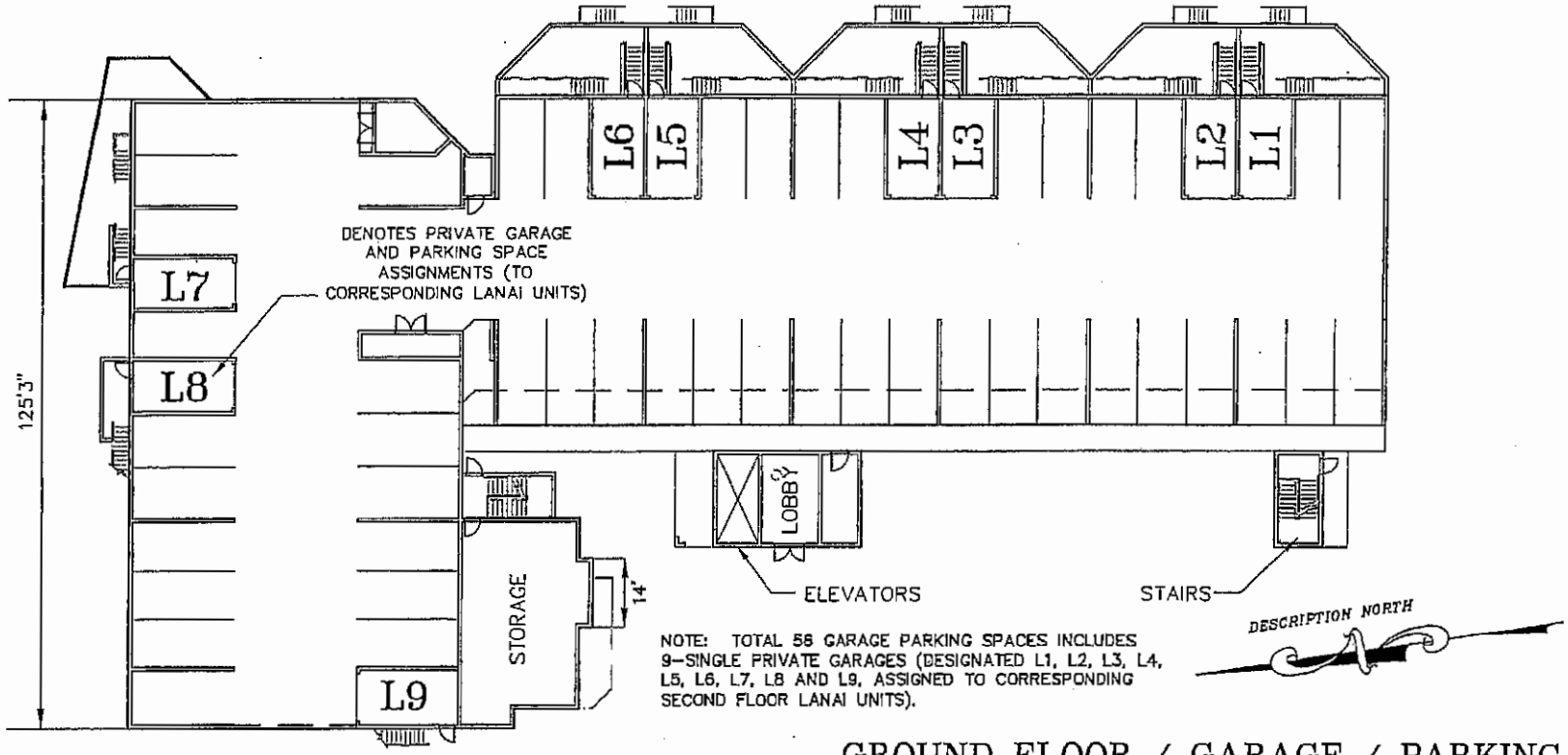
15 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



NOTE: TOTAL 58 GARAGE PARKING SPACES INCLUDES 9-SINGLE PRIVATE GARAGES (DESIGNATED L1, L2, L3, L4, L5, L6, L7, L8 AND L9, ASSIGNED TO CORRESPONDING SECOND FLOOR LANAI UNITS).

GROUND FLOOR / GARAGE / PARKING

GRAPHIC SCALE

0 30 60

(IN FEET)

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

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5 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

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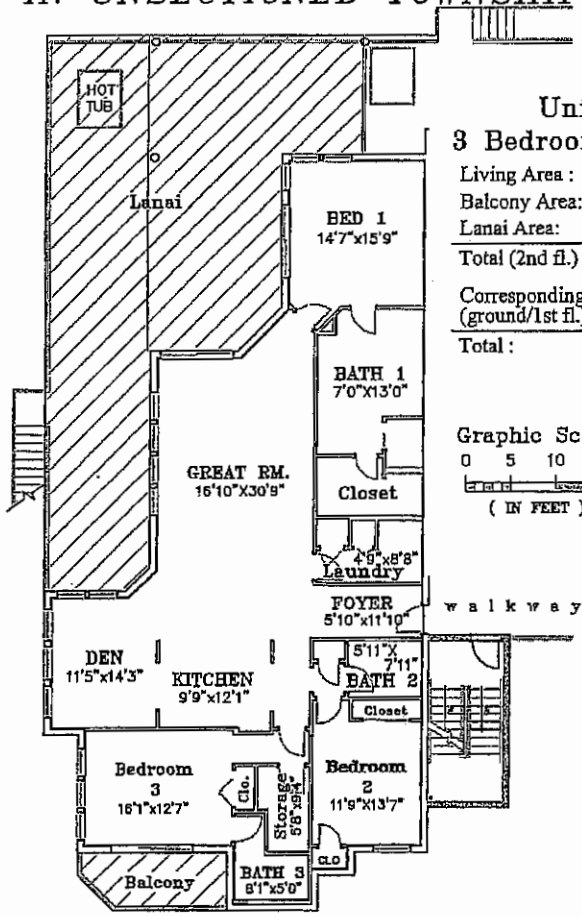


Unit: L1
3 Bedroom Unit Plan

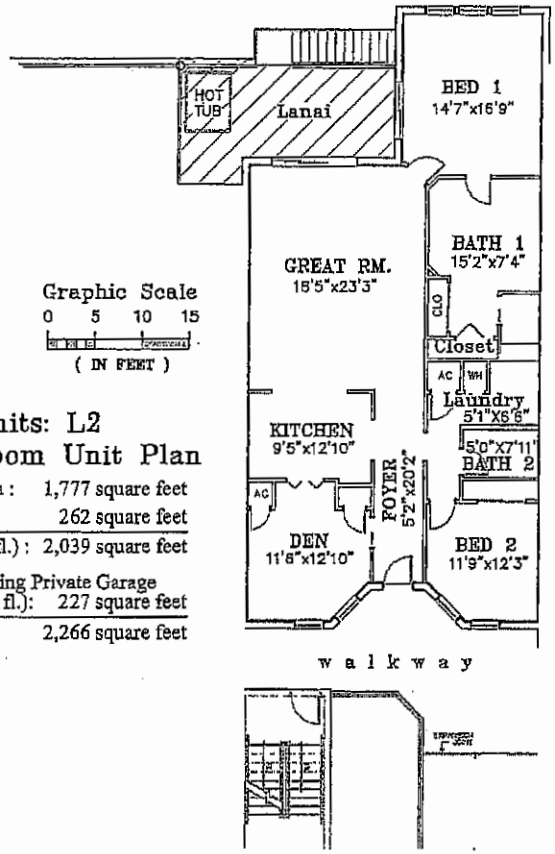
Living Area :	2,419 square feet
Balcony Area:	101 square feet
Lanai Area:	1,324 square feet
Total (2nd fl.) :	3,844 square feet
Corresponding Private Garage (ground/1st fl.):	227 square feet
Total :	4,071 square feet

Graphic Scale
0 5 10 15
(IN FEET)

Graphic Scale
0 5 10 15
(IN FEET)

Units: L2
2 Bedroom Unit Plan

Living Area :	1,777 square feet
Lanai Area:	262 square feet
Total (2nd fl.) :	2,039 square feet
Corresponding Private Garage (ground/1st fl.):	227 square feet
Total :	2,266 square feet



NOTE

SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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HERON at Destin West Beach and Bay Resort – a condominium

99-183-F

5 JUNE 2004 [FILE: 99183E-HERCD]

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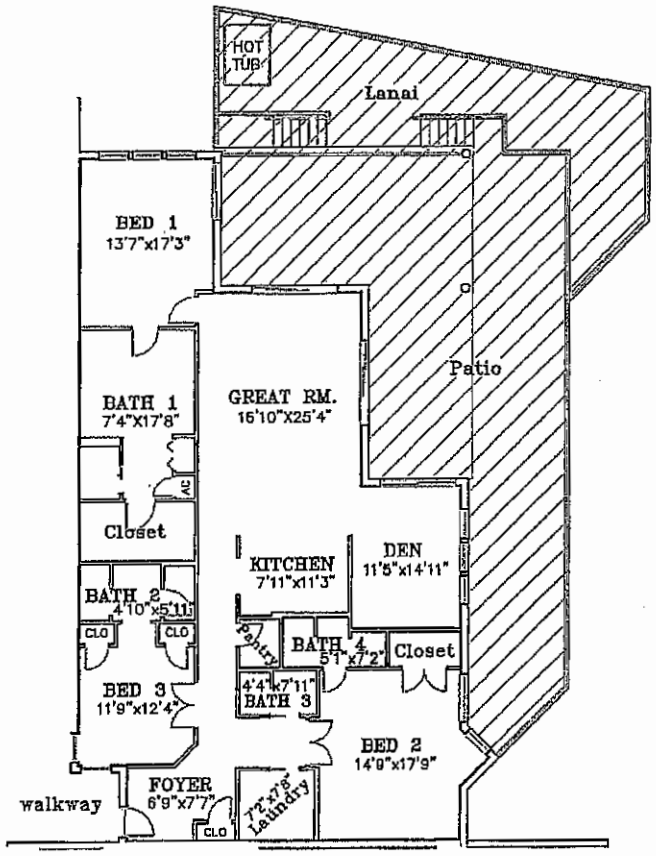


Unit: L3
3 Bedroom Unit Plan

Living Area :	2,395 square feet
Lanai Area:	536 square feet
Patio Area :	1,241 square feet
Total (2nd fl.) :	4,172 square feet
Corresponding Private Garage (ground/1st fl.):	227 square feet
Total :	4,399 square feet

Graphic Scale
0 5 10 15
(IN FEET)

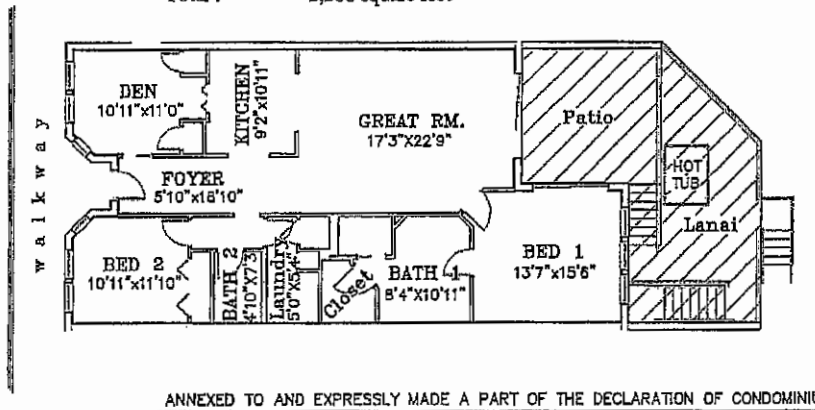
NOTE

SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Units: L4, L6 & L8
2 Bedroom Unit Plan

Living Area :	1,573 square feet
Lanai Area:	276square feet
Patio Area :	210 square feet
Total (2nd fl.) :	2,059 square feet
Corresponding Private Garage (ground/1st fl.):	227 square feet
Total :	2,286 square feet



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HERON at Destin West Beach and Bay Resort – a condominium

99–183–F

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15 JUNE 2004 [FILE: 99183E-HERCD]

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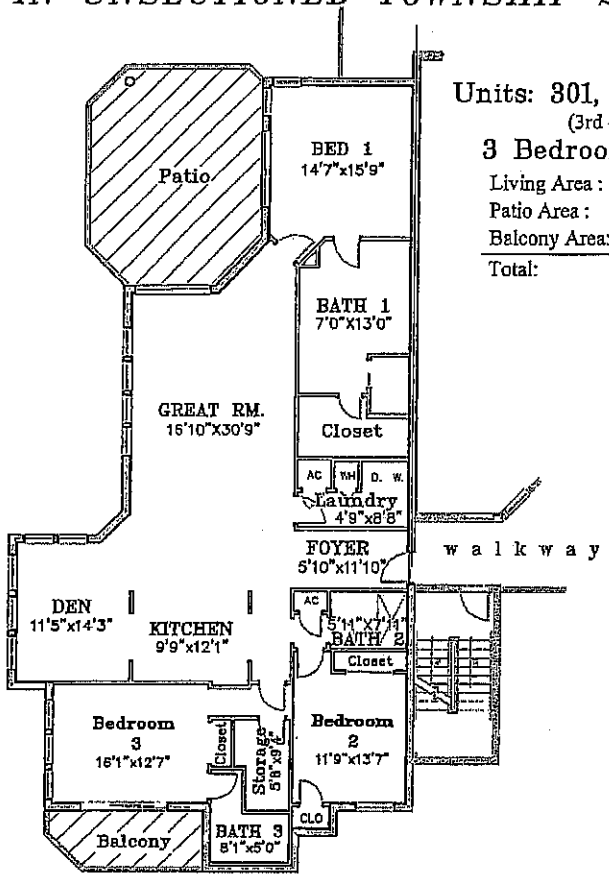


Units: 301, 401, 501, & 601
(3rd - 6th floors)

3 Bedroom Unit Plan

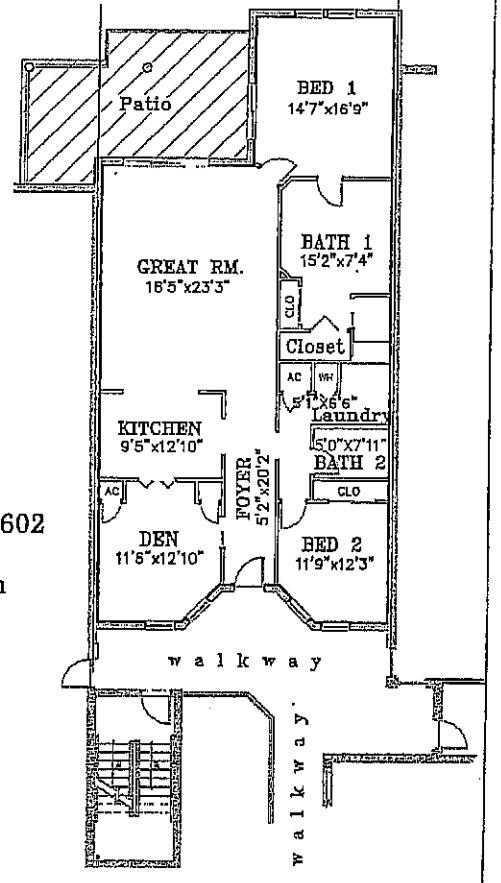
Living Area :	2,419 square feet
Patio Area :	393 square feet
Balcony Area:	101 square feet
Total:	2,913 square feet

Graphic Scale
0 5 10 15
(IN FEET)

Units: 302, 402, 502, & 602
(3rd - 6th floors)

2 Bedroom Unit Plan

Living Area :	1,777 square feet
Patio Area:	315 square feet
Total:	2,092 square feet



NOTE

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BALCONIES/TERRACES/PORCHES/DECKS ARE LIMITED COMMON ELEMENTS.

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cei@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-5611 Fax: 850/863-8059

HERON at Destin West Beach and Bay Resort – a condominium

99-183-F

SHEET 15 OF 23 SHEETS

5 JUNE 2004 [FILE: 99183E-HERCD]

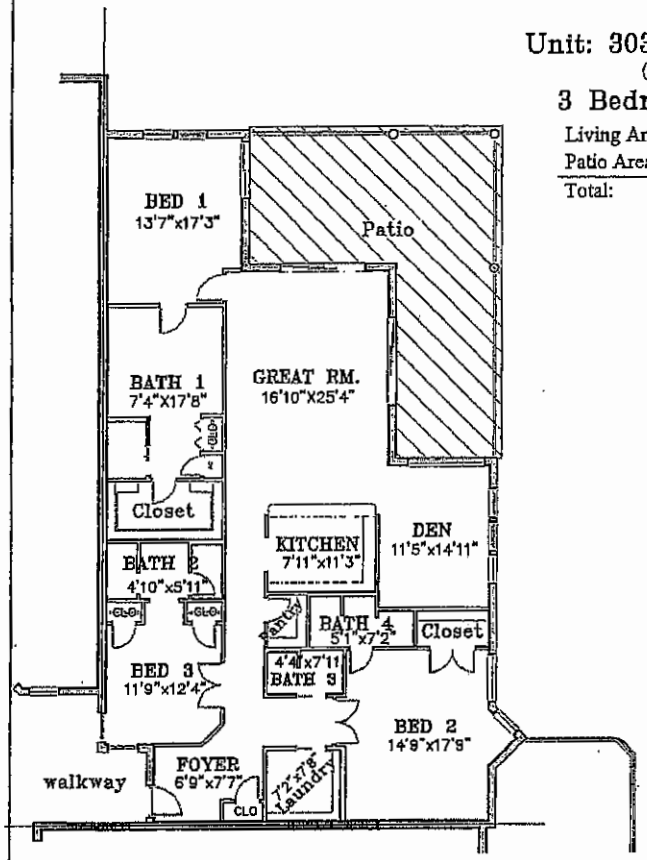
HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

Unit: 303, 403, 503, & 603
(3rd - 6th floors)

3 Bedroom Unit Plan

Living Area :	2,395 square feet
Patio Area:	601 square feet
Total:	2,996 square feet



Graphic Scale
0 5 10 15
(IN FEET)

NOTE

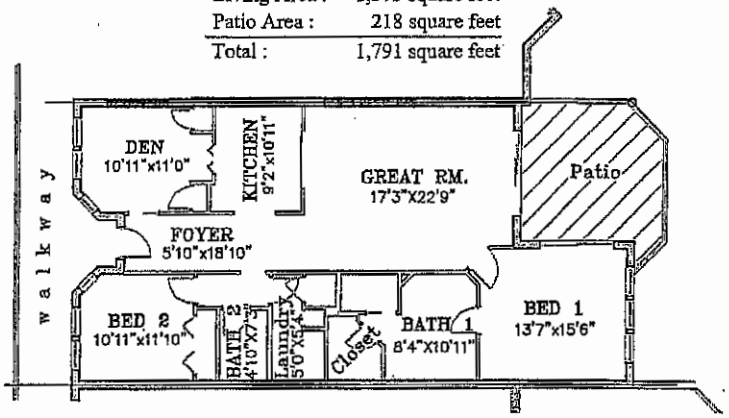
SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

BALCONIES/TERRACES/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Unit: 304, 306, 308, 404, 406, 408, 504, 506, 508, 604, 606, & 608
(3rd - 6th floors; Units 308, 408 & 508 are hearing impaired compliant)

2 Bedroom Unit Plan

Living Area :	1,573 square feet
Patio Area :	218 square feet
Total :	1,791 square feet



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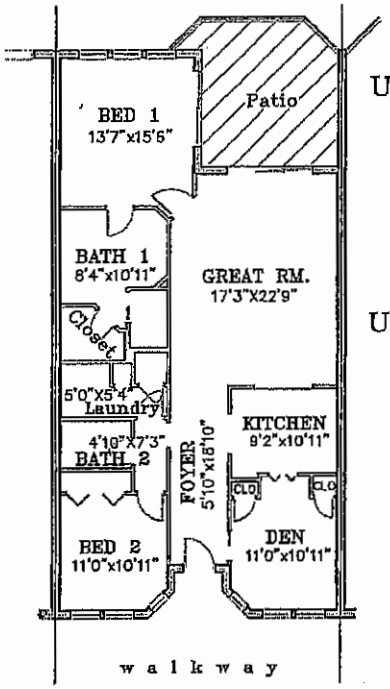
HERON at Destin West Beach and Bay Resort – a condominium

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



Unit: 305, 405, 505, & 605

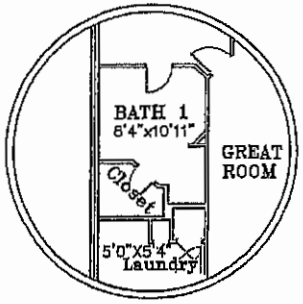
(3rd - 6th floors)

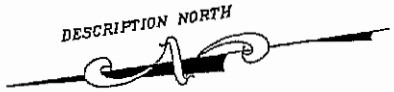
2 Bedroom Unit Plan

Living Area :	1,573 square feet
Patio Area :	210 square feet
Total:	1,783 square feet

Unit: 307, 407, 507, & 607

(Handicapped variation)





Graphic Scale

0 5 10 15

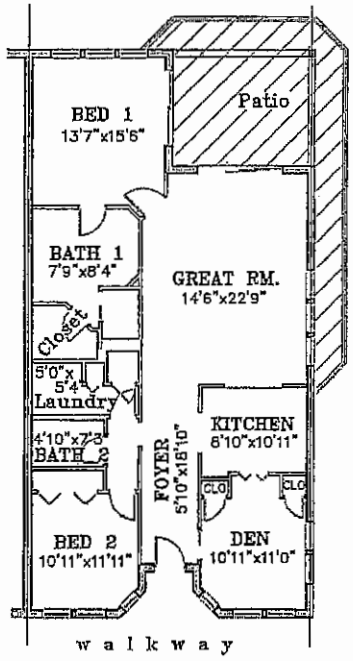
(IN FEET)

Unit: 309, 409, 509, & 609

(3rd - 6th floors)

2 Bedroom Unit Plan

Living Area :	1,573 square feet
Patio Area:	352 square feet
Total:	1,925 square feet



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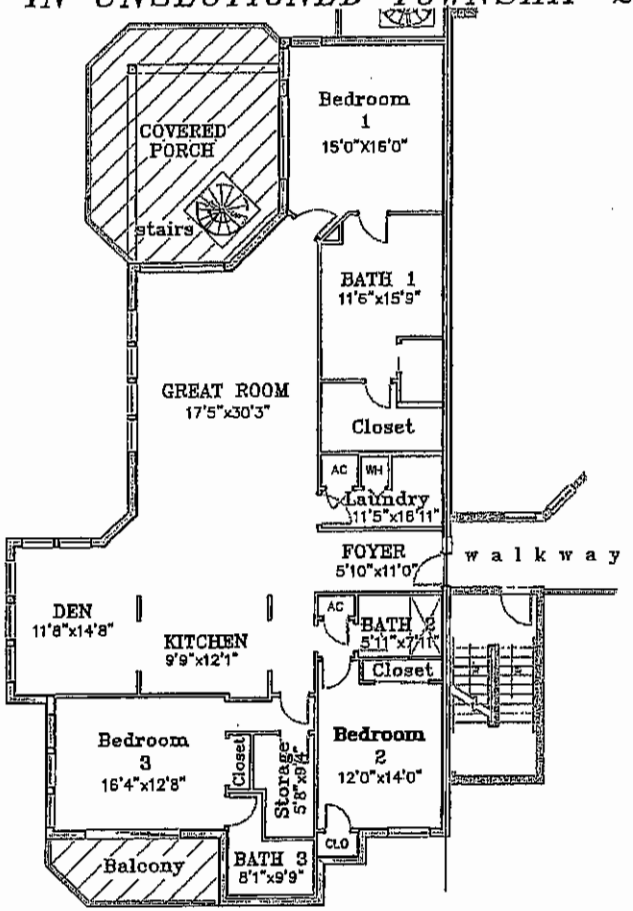
HERON at Destin West Beach and Bay Resort – a condominium

99-183-F

15 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



Unit: PH1

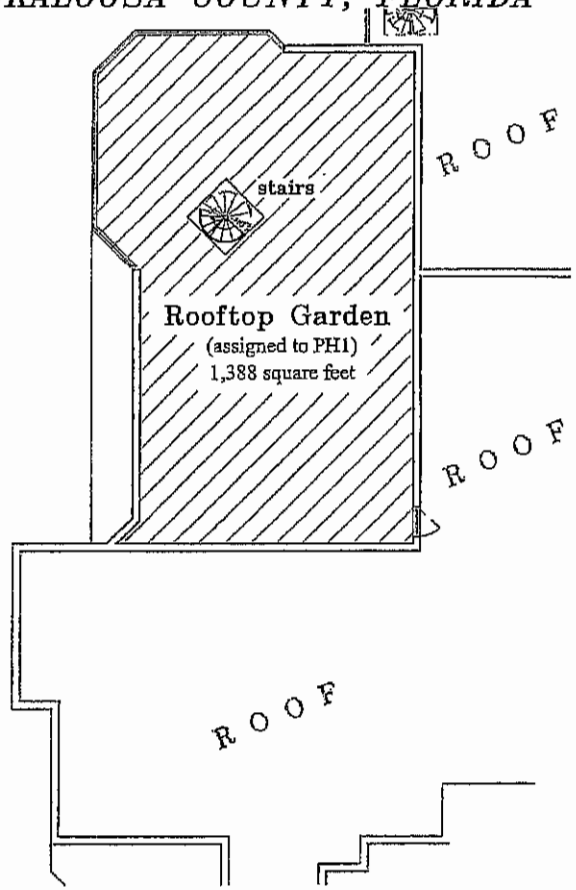
3 Bedroom Unit Plan

Living Area :	2,419 square feet
Porch Area :	366 square feet
Balcony Area :	101 square feet
Total (7th fl.) :	2,886 square feet
Rooftop Garden :	1,388 square feet
Total :	4,274 square feet

Graphic Scale

0 5 10 15

(IN FEET)



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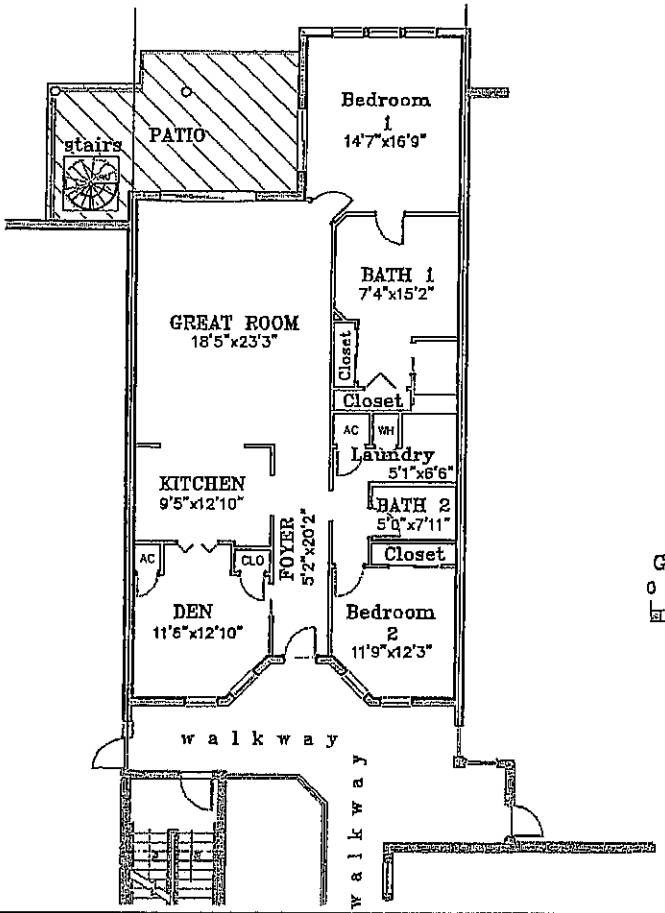
HERON at Destin West Beach and Bay Resort — a condominium

99-183-F

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

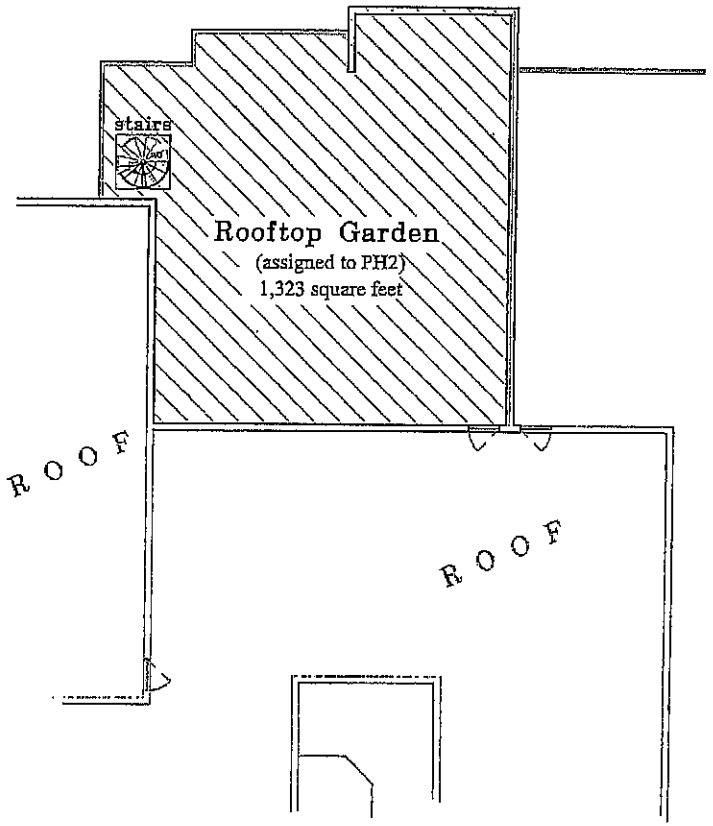


Unit: PH2
2 Bedroom Unit Plan

Living Area :	1,777 square feet
Patio Area :	315 square feet
Total (7th fl.) :	2,092 square feet
Rooftop Garden :	1,323 square feet
Total :	3,415 square feet

Graphic Scale
0 5 10 15
(IN FEET)

DESCRIPTION NORTH



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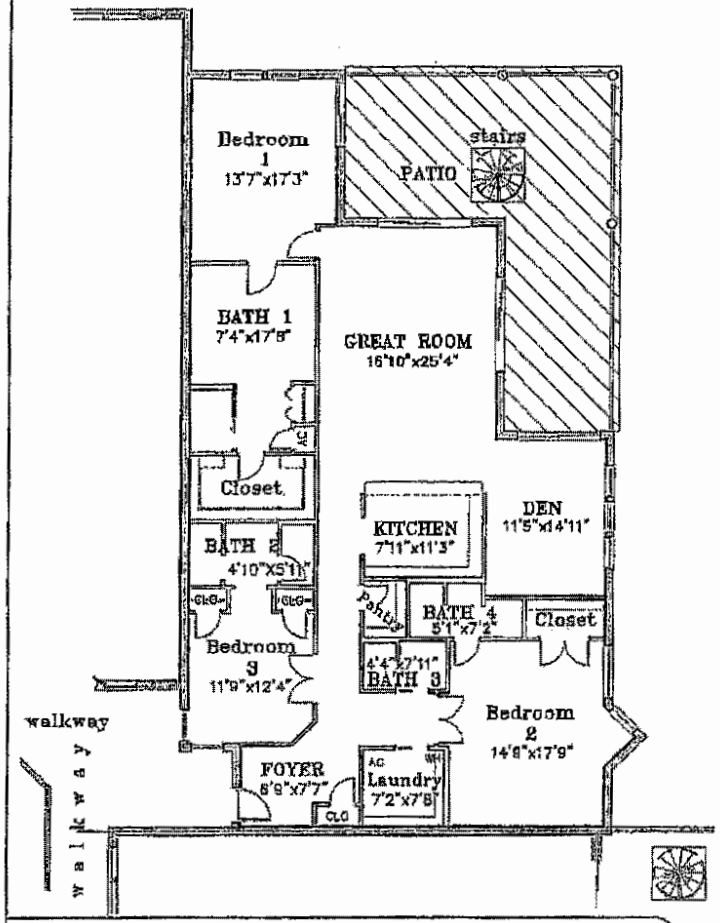
ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach and Bay Resort — a condominium

99-183-F

HERON at Destin West Beach and Bay Resort
a condominium

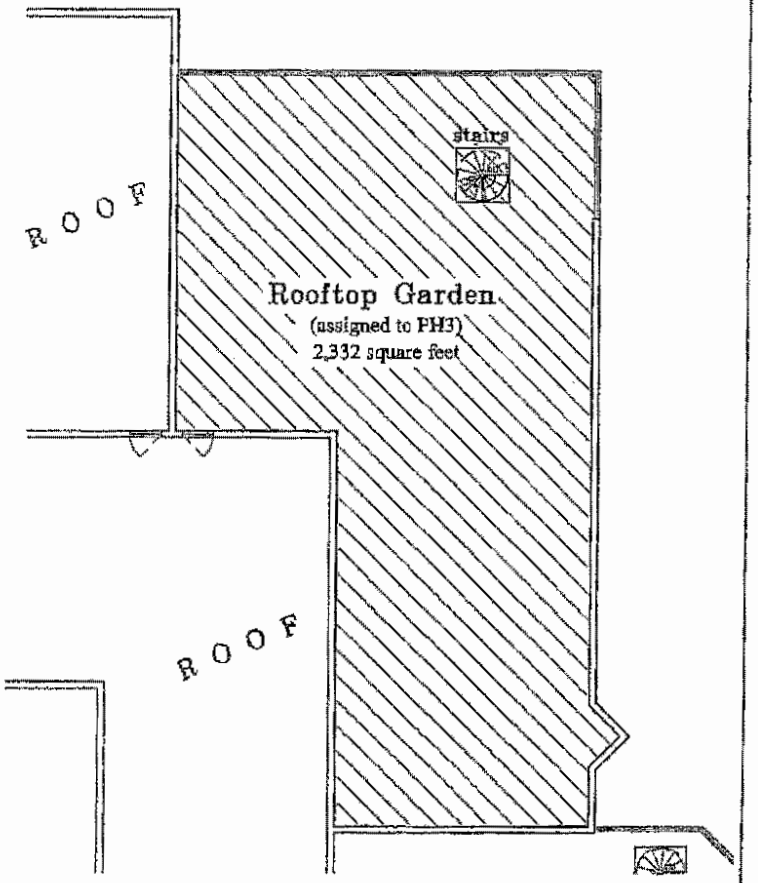
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



Unit: PH3
3 Bedroom Unit Plan

Living Area :	2,395 square feet
Patio Area :	579 square feet
Total (7th fl) :	2,974 square feet
Rooftop Garden :	2,332 square feet
Total :	5,306 square feet

Graphic Scale
0 5 10 15
(IN FEET)



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HERON at Destin West Beach and Bay Resort — a condominium

99—183—F

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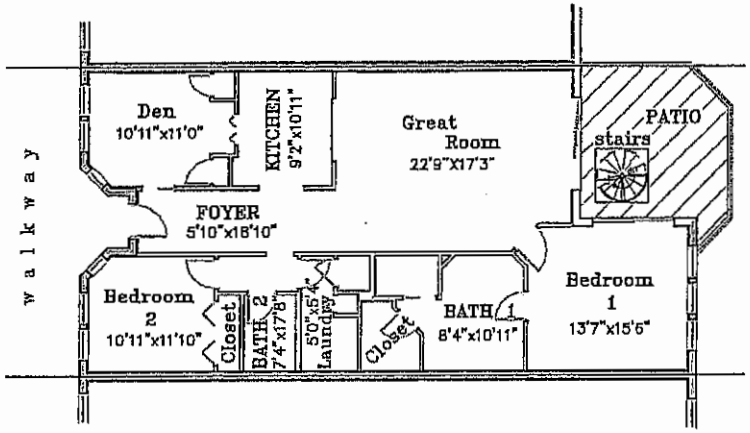
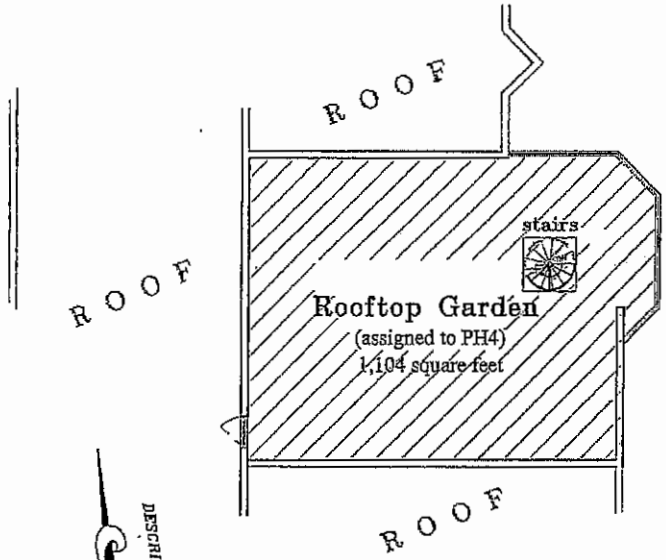
FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/888-8059

5 JUNE 2004 [FILE: 991835-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA





Graphic Scale
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(IN FEET)

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Unit: PH4
2 Bedroom Unit Plan

Living Area :	1573 square feet
Patio Area :	212 square feet
Total (7th fl.) :	1,785 square feet
Rooftop Garden :	1,104 square feet
Total :	2,889 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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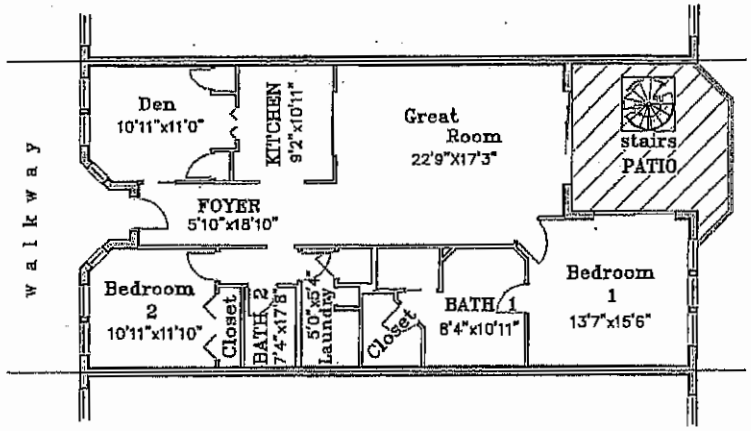
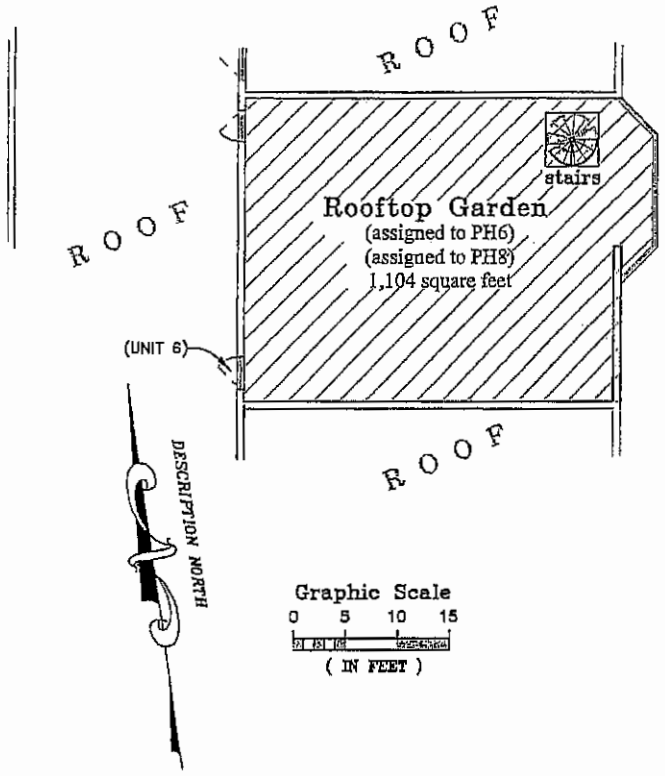
HERON at Destin West Beach and Bay Resort – a condominium
99-183-F

5 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA





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Units: PH6 & PH8
2 Bedroom Unit Plan

Living Area :	1573 square feet
Patio Area :	212 square feet
Total (7th fl.) :	1,785 square feet
Rooftop Garden :	1,104 square feet
Total :	2,889 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach and Bay Resort – a condominium

99–183–F

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15 JUNE 2004 [FILE: 99183E-HERCO]

HERON at Destin West Beach and Bay Resort
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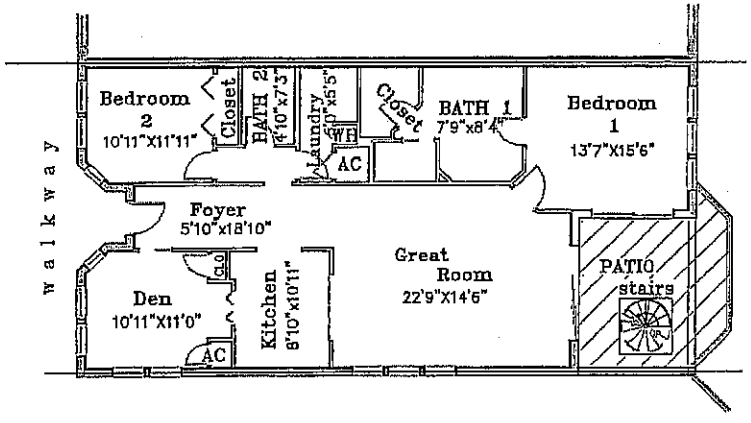

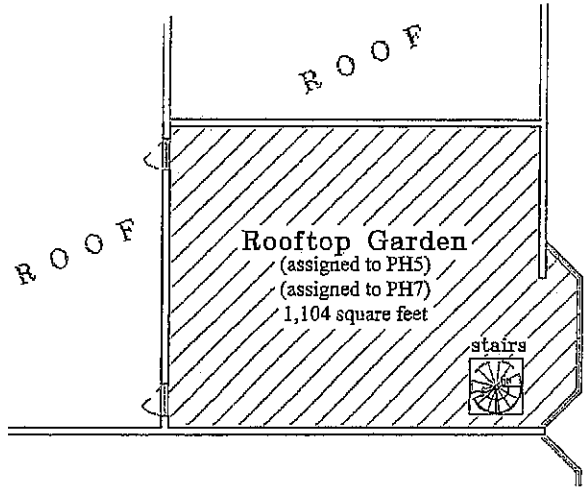

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Units: PH5 & PH7
2 Bedroom Unit Plan

Living Area :	1573 square feet
Patio Area :	212 square feet
Total (7th fl.) :	1,785 square feet
Rooftop Garden :	1,104 square feet
Total :	2,889 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach and Bay Resort — a condominium

99-183-F

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5 JUNE 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
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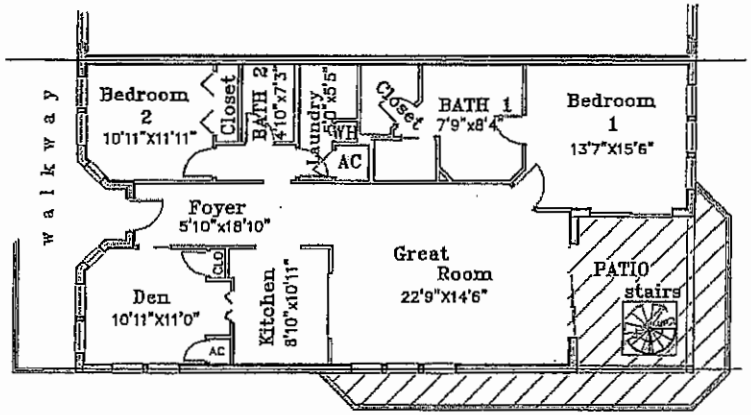

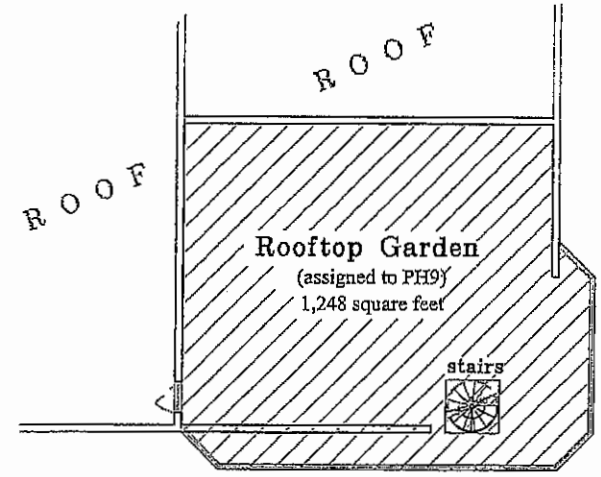

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Unit: PH9
2 Bedroom Unit Plan

Living Area :	1587 square feet
Patio Area :	352 square feet
Total (7th fl.) :	1,939 square feet
Rooftop Garden :	1,248 square feet
Total :	3,187 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

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5 JUNE 2004 [FILE: 99183E-HERCD]

Exhibit "C"
to
DECLARATION OF CONDOMINIUM
FOR
HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM

Each Unit Undivided Share of Common Elements, Common Surplus,
and Common Expenses in HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium:

Units Ending with Number	No. of Units	Square Footage (A/C)	Undivided Shares (percentage per unit)
1	6	2,416	.0251
2	6	1,776	.0185
3	6	2,389	.0248
4, 5, 6, 7 & 8	30	1,568 / 1,573	.0163
9	6	1,587	.0165
TOTAL	54	96,063	

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation, filed on March 28, 2003, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H03000085441. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N03000002710.

Authentication Code: 803A00019177-033103-N03000002710-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Thirty-first day of March, 2003

Glenda E. Hood

Glenda E. Hood
Secretary of State

ARTICLES OF INCORPORATION

OF

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

A Corporation Not-For-Profit

In order to form a corporation under the Laws of Florida for the formation of corporations not for profit, we, the undersigned, hereby associate ourselves into a corporation for the purposes and with the powers herein specified; and to that end we do, by these Articles of Incorporation, set forth:

I. Name. The name of the corporation shall be: **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** (the "Association").

II. Purposes. The purposes of the Association shall be to administer the operation, maintenance, and management of **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM** (the "Condominium"), to be established as a condominium in accordance with the Florida Condominium Act (the "Act") upon land situated in Okaloosa County, Florida (the "Land"), and to perform the acts and duties incident to operation and management of the Condominium in accordance with the provisions of these Articles of Incorporation, the By-Laws of the Association (the "By-Laws") and the Declaration of Condominium of the Condominium (the "Declaration"), which will be recorded in the Public Records of Okaloosa County, Florida, when the Land, and the improvements now and to be constructed thereon, are submitted to the condominium form of ownership; and to maintain, operate, encumber, lease, manage, and otherwise deal with the Land, the improvements and such other property, real and/or personal, as may be or become part of the Condominium (the "Condominium Property") to the extent necessary or convenient in the administration of the Condominium, including to operate and manage any recreation facilities or Water Management System which are part of the Condominium Property and created for the use and enjoyment of the Condominium. The Association shall be conducted as a non-profit organization for the benefit of its members.

III. Powers. The Association shall have the following powers:

3.1 All of the powers and privileges granted to corporations not for profit under the law pursuant to which this Corporation is chartered.

3.2 All of the powers conferred on a condominium association by law and which are reasonably necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to:

(a) Make and establish reasonable rules and regulations governing the use of the Units, Common Elements, Limited Common Elements, and Water Management System in and of the Condominium, as such terms are defined in the Declaration.

(b) Levy and collect assessments against members of the Association to defray the Common Expenses of the Condominium, as provided in the Declaration and the By-Laws; including the right to levy and collect assessments for the purpose of acquiring, owning, holding, operating, leasing, encumbering, selling, conveying, exchanging, managing and otherwise dealing with the Condominium Property, including Units, which may be necessary or convenient in the operation and management of the Condominium and in accomplishing the purposes set forth in the Declaration and the right to levy and collect assessments for the management and operation of any recreation facilities and Water Management System which are created for the use of the members of the Association.

(c) Maintain, repair, replace, operate and manage the Condominium Property, including the right to reconstruct improvements after casualty and further to improve and add to the Condominium Property.

(d) Contract for the management of the Condominium and, in connection therewith, to delegate any and/or all of the powers and duties of the Association to the extent and in the manner permitted by the Declaration, the By-Laws, and the Act.

(e) Enforce the provisions of these Articles of Incorporation, the Declaration, the By-Laws, and all rules and regulations governing use of the Condominium and Condominium Property which may from time to time be established.

(f) Exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association in the Declaration and the Act.

(g) Provide and/or arrange for all services which the law permits to be provided by a condominium association including those services set forth in Florida Statutes, Section 718.111.

(h) Maintain, or by contract provide for the maintenance of, any Water Management System servicing the Land.

IV. **Members**. The qualification of members, the manner of their admission to and the termination of membership, and voting by members shall be as follows:

4.1 The record owners of all Units in the Condominium shall be members of the Association, and no other persons or entities shall be entitled to membership, except as provided in Article 4.5 hereof.

4.2 Membership shall be established by the acquisition of fee title to a Unit in the Condominium, or by acquisition of a fee ownership interest therein, by voluntary conveyance or operation of law, and the membership of any person or entity shall be automatically terminated when such person or entity is divested of all title or his or her entire fee ownership in such Unit; provided, that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two or more Units at any time while such person or entity shall retain fee title to or a fee ownership interest in any Unit.

4.3 The interest 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(s) owned by such member. The funds and assets of the Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the By-Laws.

4.4 On all matters on which the membership shall be entitled to vote, there shall be one, and only one, vote for each Unit in the Condominium (the "Voting Interest"), which Voting Interest may be exercised or cast by the owner(s) of each Unit as provided in the By-Laws. Should any member own more than one Unit, such member shall be entitled to exercise or cast one (1) Voting Interest for each such Unit, in the manner provided by the By-Laws.

4.5 Until such time as the Land, and the improvements now and to be constructed thereon, are submitted to the condominium form of ownership by recordation of the Declaration in the Public Records of Okaloosa County, Florida, the membership of the Association shall be comprised of the subscribers to these Articles, each of whom shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

V. **Duration**. The Association shall have perpetual existence.

VI. **Office**. The principal office of the Association shall be located in Florida, but the Association may maintain offices and transact business in such places, within or without the State of Florida, as may from time to time be designated by the Board of Directors. The initial principal place of business shall be 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548.

VII. **Management**. The affairs of the Association shall be managed by the Board of Directors of the Association ("Board"), directing and acting through the officers of the Association, including the President of the Association assisted by the Vice Presidents, Secretary and Treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, always subject to the direction of the Board of Directors. The Board of Directors, or the President with the approval of the Board of Directors, may employ a managing agent, agency, and/or other managerial and supervisory personnel for the operation and management of the Condominium and the affairs of the Association, and any and all such persons and/or entity or entities may be so employed without regard to whether any such person or entity is a member of the Association or a Director or officer of the Association, as the case may be.

VIII. **Directors**. The number of members of the first Board of Directors shall be three (3). The number of members of succeeding Boards of Directors shall be not less than three (3), or as otherwise provided for from time to time by the By-Laws, and they shall be elected by the members of the Association at the annual meetings of the membership as provided by the By-Laws. At least a majority of the members of all Boards of Directors shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

Tolbert Bayside Development Company, a Florida corporation (the "Declarant"), shall have the right to designate the members of the Board of Directors for so long as the law will permit it to do so. Unit owners, other than the Declarant, shall have the right to elect such Directors at such time and in such manner as the law requires, to wit:

(1) When Unit owners other than the Declarant own 15 percent or more of the Units, the Unit owners other than the Declarant shall be entitled to elect no less than one-third of the members of the Board of Directors.

(2) Unit owners other than the Declarant are entitled to elect not less than a majority of the members of the Board of Directors:

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

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

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

(e) Seven years after recordation of the Declaration of Condominium; whichever first occurs.

The Declarant shall have the right to elect, in the manner provided in the By-Laws, one (1) member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium. Notwithstanding the foregoing, the Declarant shall be entitled at any time to waive in writing its rights hereunder, and to transfer control of the Association to the Unit owners prior to the times required by law. After Unit owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall, within the time required by law and in a manner to be provided in the By-Laws, relinquish control of the Association and shall deliver to the Association possession and control of all Condominium Property of the Unit Owners and of the Association held or controlled by the Declarant.

IX. **Officers**. The Board of Directors shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall deem advisable from time to time. The President shall be elected from the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided,

however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

X. **Initial Board**. The names and addresses of the members of the first Board of Directors, who, subject to the provisions of the laws of Florida, these Articles of Incorporation and the By-Laws, shall hold office until the annual meeting of the Association in the year following the year this corporation is formed, and thereafter until their successors are selected and have qualified, are as follows:

1. Fred E. Tolbert, III
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

2. William G.P, Kreuser
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

3. Gail Cluck
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

XI. **Initial Officers**. The initial officers of the Corporation, who shall hold office until their successors are elected and have qualified pursuant to these Articles of Incorporation and the By-Laws, shall be the following:

President:	Fred E. Tolbert, III 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548
Vice-President:	William G.P, Kreuser 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548
Treasurer/Secretary:	Gail Cluck 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548

XII. **Subscriber**. The Subscriber to these Articles of Incorporation and his address, are set forth below:

Leo J. Salvatori, Esquire
c/o **SALVATORI & WOOD**
4001 Tamiami Trail North, Suite 330
Naples, Florida 34103

XIII. **By-Laws**. The original By-Laws of the Association shall be adopted by a majority vote of the Directors of this Association at a meeting at which a majority of the Directors are present, and, thereafter, the By-Laws may be altered or rescinded only by

affirmative vote of two-thirds (2/3) of the votes entitled to be cast by members of the Association.

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

XV. **Amendment**. An amendment or amendments to these Articles of Incorporation may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors; or by the members of the Association owning a majority of the Units in the Condominium, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles of Incorporation being proposed by the Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days or later than sixty (60) days from the receipt by him or her of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written notice of such meeting stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed or presented personally to each member not less than ten (10) days nor more than thirty (30) days before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at his or her Post Office address as it appears on the records of the Association, with first class postage thereon prepaid. Such notice shall further be posted on the Condominium Property for at least 14 continuous days preceding the meeting. Any member may waive such notice by written waiver of notice signed by such member and such waiver when filed in the records of the Association, whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the members holding Voting Interests of Units in the Condominium to which not less than two-thirds (2/3) of the Common Elements are appurtenant in order for such amendment or amendments to become effective. Only a limited proxy may be utilized if voted upon by proxy. Thereupon, such amendment or amendments of these Articles of Incorporation shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of State of the State of Florida. A certified copy of each such amendment of these Articles of Incorporation shall be recorded in the Public Records of Okaloosa County, Florida, within thirty (30) days from the date on

which the same is filed in the office of the Secretary of State. Notwithstanding the foregoing provisions of this Article XV, no amendment to these Articles of Incorporation which shall abridge, amend or alter the right of Declarant to designate and select members of the Board of Directors of the Association, as provided in Article VIII hereof, or otherwise alter or abrogate rights of Declarant, may be adopted or become effective without the prior written consent of Declarant.

IN WITNESS WHEREOF, the Subscriber hereto has hereunto set this hand and seal this _____ day of _____, 200__.

_____
LEO J. SALVATORI

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day personally appeared before me, the undersigned authority, **LEO J. SALVATORI** to me well known and well known to me to be the person who executed the foregoing instrument and acknowledged before me that he executed the same freely and voluntarily for the uses and purposes therein set forth and expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this the _____day of _____, 200__.

_____
NOTARY PUBLIC

_____
TYPED, PRINTED OR STAMPED NAME OF NOTARY
MY COMMISSION EXPIRES:

CERTIFICATE DESIGNATING REGISTERED AGENT AND REGISTERED OFFICE

In compliance with Florida Statutes Sections 48.091, 617.0501 and 607.0501, the following is submitted:

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

desiring to organize as a corporation under the laws of the State of Florida, has designated 4001 Tamiami Trail North, Suite 330, Naples, Florida 34103, as its initial Registered Office, and has named **SALVATORI & WOOD, P.L.**, located at said address, as its initial Registered Agent.

ACCEPTANCE OF REGISTERED AGENT

Having been named Registered Agent for the above stated corporation, at the designated Registered Office, the undersigned hereby accepts said appointment, is familiar with and accepts the obligations thereof, and agrees to comply with the provisions of Florida Statutes Section 48.091 and 617.0501, relative to keeping open said office.

SALVATORI & WOOD, P.L.

By: _____
Leo J. Salvatori, as Manager

BY-LAWS

OF

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

A Corporation Not For Profit

I. THE ASSOCIATION.

1.1 These are the By-Laws of **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** (the "Association"), a Florida corporation not-for-profit, the Articles of Incorporation (the "Articles") of which were filed in the office of the Secretary of State of Florida on _____. The Association has been organized for the purpose of administering the maintenance, operation and management of **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM** (the "Condominium"), established or to be established in accordance with the Florida Condominium Act (the "Act") upon land, situated in Okaloosa County, Florida, described in the Declaration of Condominium.

1.2 The provisions of these By-Laws are applicable to the Condominium and are subject to the provisions of the Articles. A copy of the Articles and a copy of these By-Laws will be annexed, as Exhibits, to the Declaration of Condominium for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium (the "Declaration") which will be recorded in the Public Records of Okaloosa County, Florida. The terms and provisions of the Articles and Declaration shall control wherever the same may conflict herewith.

1.3 All members of the Association and their invitees, including, without limitation, all present or future owners and tenants of units in the Condominium ("Units") and other persons using the Condominium or any of the facilities thereof in any manner, are subject to these By-Laws, the Articles and the Declaration.

1.4 The office of the Association shall be at 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548, or at such other place as may be established by resolution of the Board of Directors.

1.5 The fiscal year of the Association shall be the calendar year.

1.6 The seal of the Association shall bear the name of the Association, the word "Florida", the words, "Corporation Not For Profit", and the year of incorporation. An impression of the seal is as follows:

(SEAL)

II. MEMBERSHIP, VOTING, QUORUM, AND PROXIES.

2.1 The qualification of members of the Association (the "Members"), the manner of their admission to membership and termination of such membership, and voting by Members, shall be as set forth in Article IV of the Articles, the provisions of which are incorporated herein by reference.

2.2 A quorum at meetings of Members shall consist of persons entitled to cast one-third (1/3) of the Voting Interests of the entire membership.

2.3 The Voting Interest of the owner(s) of a Unit owned by more than one natural person, as tenants in common, joint tenants (including a husband and wife as tenants by the entirety), a partnership, or any other association of natural persons, or by a corporation, a trust, or any other entity shall be cast or otherwise exercised, at all meetings at which members of the Association are entitled to vote or otherwise act, by one natural person designated by the owner(s) of such Unit as the " Unit Representative" thereof. In each instance where title to a Unit is proposed to be conveyed or is otherwise to become vested in more than one natural person (excluding a husband and wife, a partnership, or any association of natural persons, or a corporation, a trust, or any other entity, the prospective owner(s) shall designate one natural person as the Unit Representative, whose name shall be included in the Registry of Owners under the Declaration. The written instrument designating the Representative shall be filed with the Association, and the person so designated shall be and remain the Unit Representative until such designation has been revoked by written instrument executed by the owner(s) of the Unit or by conveyance of the Unit. The Unit Representative shall be the only person entitled to cast or exercise, in person or by proxy, the Voting Interest of the owner(s) of such Unit at any meeting of members or in connection with any action concerning which members of the Association shall be required or allowed to vote or otherwise act. In the case of a Unit, title to which is held by a husband and wife, each of them shall be the Representative but only one may cast the vote.

2.4 Evidence of the approval or disapproval of the owner(s) of a Unit upon any matter, whether or not the subject of an Association meeting, shall be given to the Association by the same person who would cast the Voting Interest of such owner if in an Association meeting.

2.5 Except where otherwise required under the provisions of the Articles, these By-Laws or the Declaration, or where the same may otherwise be required by law, the affirmative vote of the persons holding a majority of the Voting Interests represented at any meeting of the Members duly called and at which a quorum is present, shall be binding upon the members.

2.6 Voting Interests may be cast in person or by proxy pursuant to terms of the Act. Proxies may be made by the Unit Representative and shall be effective only for the specific meeting for which given and any lawfully 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 by written notice from the Unit Representative.

III. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP.

3.1 The annual meeting of Members shall be held, at the office of the Association or such other place in Okaloosa County, Florida, at such time and on such date in November of each year as may be determined by the Board of Directors and as shall be specified in the notice of the meeting, for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members.

3.2 Special meetings of Members shall be held whenever called by the President or Vice president or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members owning a majority of the Units or as otherwise required herein or by law. If the Board of Directors adopts a budget which requires assessments against unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, upon written request to the Board of Directors by unit owners holding 10 percent or more of the Voting Interests, the Board shall call a special meeting for the enactment of a budget by the unit owners. Subject to the rights of the Declarant to maintain control of the Association pursuant to Florida law, a special meeting of the unit owners to recall a member or members of the Board of Directors may also be called by unit owners holding 10 percent or more of the Voting Interests.

3.3 Notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member (unless waived in writing). Each notice shall be written or printed and shall state the time and place of and purpose for which the meeting is called. The notice of any meeting to consider assessments shall specifically state that fact and the nature of the assessment. Each notice shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed or delivered personally to each Member. If delivered personally, receipt of the notice shall be signed by the Member, indicating the date received. If mailed, such notice shall be mailed via first class United States mail, certified, return receipt requested, addressed to the Member at the Member's Post Office address as it appears on the records of the Association, with postage thereon prepaid. The post office certificate of mailing shall be retained as proof of such mailing; provided, however, that if Florida law is subsequently changed to eliminate the requirement for a post office certificate of mailing, such notice shall be deemed properly given when deposited in the United States Mail, postage prepaid, addressed as hereinabove described, to the Member, and proof of such mailing shall be given by the affidavit of the person giving the notice. Any Member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall be deemed equivalent to the filing of such notice to such Member. Each notice shall in addition be posted in a conspicuous place in the Condominium at least fourteen (14) continuous days prior to said meeting. The Secretary of the Association shall provide an affidavit to be included in the official records of the Association affirming that notices of such Association meeting were mailed or hand-delivered in accordance with the By-Laws of the Association and applicable law, to each member at the address last furnished to the Association. If any meeting of Members cannot be held because a quorum is not present, or because a greater percentage of the membership required to constitute a quorum for particular purposes is not present,

whenever the latter percentage of attendance may be required as set forth in the Articles, the By-Laws or the Declaration, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance is present.

3.4 At meetings of Members, the President of the Association, or in his or her absence, the Vice- President, shall preside, or in the absence of both, the Members present shall select a chairman of the meeting.

3.5 The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

(1) Collection of Election Ballots.
(2) Calling the roll and certifying of proxies
(3) Proof of notice of meeting or waiver of notice
(4) Reading or waiver of reading of minutes of previous meeting of Members
(5) Reports of officers
(6) Reports of committees
(7) Appointment by Chairman of Inspectors of Election
(8) (Election of Directors
(9) Unfinished business
(10) New business
(11) Adjournment

IV. BOARD OF DIRECTORS.

4.1 The number of members of the first Board of Directors shall be three (3). The number of members of succeeding Boards of Directors shall be not less than three (3), or as otherwise provided for from time to time by the By-Laws, and they shall be elected by the members of the Association at the annual meetings of the membership as provided by the By-Laws. At least a majority of the members of all Boards of Directors shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

4.2 Directors shall be elected in the following manner:

a. Until such time as Members other than the Declarant own 15% or more of the Units, Declarant shall be entitled to elect all Members of the Board. At such time as Members other than Declarant own 15% or more of the Units, Members other than the Declarant shall be entitled to elect no less than one-third of the members of the Board. Members other than Declarant shall be entitled to elect a majority of the Members of the Board upon the first of the following occur: (i) three years after 50% of the Units have been conveyed to purchasers; (ii) three months after 90% of the Units have been conveyed to purchasers; (iii) when all of the Units have been completed, some of which have been conveyed to purchasers, and none of the others of which are being offered for sale by Declarant in the ordinary course of business; (iv) at such time as some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Declarant in the ordinary course of business; or (v) seven years after recordation of the Declaration of Condominium.

Declarant shall be entitled to elect at least one member of the Board for so long as Declarant holds for sale in the ordinary course of business at least 5% of all Units operated by the Association. At such time as the Declarant fully relinquishes control of the Board, Declarant may exercise the right to vote any Declarant owned Units in the same manner as any other Member, except for purposes of re-acquiring control of the Association or selecting the majority members of the Board.

b. All members of the Board who Declarant shall not be entitled to designate under these By-Laws or under the Florida Condominium Act, shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or inclusion in another Association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of election. Any unit owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Association not less than forty (40) days before a scheduled election. Together with the written notice and agenda for the meeting, the Association shall mail or deliver a second notice of the election to all Unit Owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of the Candidate, the Association shall include an information sheet, no larger than 8 1/2" by 11", which must be furnished by the Candidate not less than thirty-five (35) days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. However, the Association has no liability for the contents of the information sheets prepared by the candidates. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least twenty (20%) percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. No unit owner shall permit any other person to cast the unit owner's ballot, and any such ballots improperly cast shall be deemed invalid. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions of this Section, election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board. Upon election of the first unit owner other than the Declarant, the Declarant shall forward to the Division of Florida Land Sales, Condominiums and Mobile Homes the name and mailing address of the Unit Owner Director.

c. Vacancies on the Board may be filled, to expire on the date of the next annual meeting, by the remaining Directors; except that (i) should any vacancy in the Board be created in any directorship previously filled by any person designated by Declarant, such vacancy shall be filled by Declarant designating, by written instrument delivered to any officer of the Association, the successor Director and (ii) should any vacancy in the Board be created in any directorship previously filled by any person elected by members other than Declarant, such vacancy shall be filled by the remaining Directors who were elected by such members, and if there are no such remaining Directors, such vacancy shall be filled by a majority vote of the members other than Declarant, present in person at a special meeting called for such purpose. The Board shall call such special meeting when required for filling such vacancy. Directors appointed or elected to fill vacancies shall fill the vacated directorship for the unexpired term thereof.

d. By a vote of the membership at any duly called meeting the members may determine to elect Directors to staggered terms of no more than 3 years. At the same meeting a procedure for implementing the terms may be approved. Directors shall hold office for the terms

to which elected or designated, and thereafter until their successors are duly elected, or designated by Declarant, and qualified or until removed in the manner elsewhere herein provided or as provided by law.

e. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected; provided, however, that no member or owner of any Unit may cast more than one vote for any person nominated as a Director; it being the intent hereof that voting for Directors shall be non-cumulative.

f. In the event that Declarant selects any person or persons to serve on any Board, Declarant shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or other persons to serve on the Board. Replacement of any person or persons designated by Declarant to serve on any Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the persons so removed from the Board. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any officer of the Association. Persons selected by Declarant to serve on the Board need not be members of the Association.

4.3 The organizational meeting of a newly elected or designated Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected. Notice of the same shall be posted in a conspicuous place in the Condominium (if then built) at least forty-eight (48) continuous hours prior to said meeting.

4.4 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, and shall be open to all members of the Association. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless notice is waived; notice shall also be posted in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. The notice of any Board meeting at which assessments to be made against Unit owners are to be considered shall so state and shall also set forth the nature of the assessment.

4.5 Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of one of the Directors. Not less than three (3) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Such notice shall also be posted in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. In the event that a special meeting of the Board of Directors has been called to discuss non-emergency special assessments, or amendments to rules regarding unit use, notice of said meeting shall be mailed or delivered to Unit Owners, and posted in a conspicuous place in the Condominium, no less than fourteen (14) days prior to the meeting.

4.6 Any Director may waive notice of a meeting before, at or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

4.7 A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles, these By-Laws or the Declaration. If any meeting of the Board cannot be held because a quorum is not present, or because a greater percentage of the Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, these By-Laws or the Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum or the required percentage of attendance if greater than a quorum, is present. Upon adjournment, the Board shall state the time and date the adjourned meeting is to be re-convened, and shall post a notice of such meeting in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. At any re-convened meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.8 The presiding officer at meetings of the Board shall be the President of the Association. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

4.9 All of the powers and duties of the Association shall be exercised by the Board, including those existing under the law of Florida, the Articles, these By-Laws and the Declaration. Such powers and duties shall be exercised in accordance with the Articles, these By-Laws and the Declaration, and shall include, without limitation, the right, power and authority to:

a. Make, levy and collect assessments against Members and Members' residential Units to defray the expenses of the Condominium, and to use the proceeds of assessments in the exercise of the powers and duties of the Association.

b. Maintain, repair, replace, operate and manage the Condominium and Condominium Property as the same is required to be done and accomplished by the Association for the benefit of Members;

c. Repair and reconstruct improvements after casualty;

d. Make and amend regulations governing the use of the Condominium Property, real and personal; provided that such regulations or amendments thereto shall not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles and Declaration;

e. Acquire, own, hold, operate, lease, encumber, convey, exchange, manage, and otherwise trade and deal with property, real and personal, including Units, of and in the Condominium, as may be necessary or convenient in the operation and management of the Condominium, and in accomplishing the purposes set forth in the Declaration, including to grant easements for the benefit of others on, over, or across the Condominium Property and to accept easements for the use and benefit of the Condominium;

f. Contract for the management of the Condominium and in connection therewith to delegate such of the powers and duties of the Association as may be deemed appropriate, except those which may be required by the Declaration to have approval by the Board or Members of the Association, or which may not be delegated by law;

g. Enforce by legal means the provisions of the Articles, these By-Laws, the Declaration and all regulations governing use of property of and in the Condominium hereafter adopted;

h. Pay all taxes and assessments which are liens against any part of the Condominium other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

i. Carry insurance for the protection of the members and the Association against casualty and liability;

j. Pay all costs of power, water, sewer and other utility services rendered to the Condominium and not billed to the owners of the separate Units;

k. Employ personnel for reasonable compensation to perform the services required to properly accomplish the purposes of the Association;

l. Maintain, operate and manage any recreation facilities created for the use of the members of the Association, including to employ personnel and enter into contracts for such management and to assess members for costs associated with such recreation facilities;

m. Make arrangements and enter into contracts to purchase any services for which a budget exists and which the law permits the Association to provide.

n. Accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium units to the applicable fire and life safety code.

4.10 Should any member of the first Board be unable to serve for any reason, the Declarant shall have the right to select and designate a successor to act and serve for the unexpired term of the Director who is unable to serve.

4.11 Directors may be removed from office in the manner provided by applicable Florida law.

V. ADDITIONAL PROVISIONS - MEETINGS OF MEMBERS AND DIRECTORS.

5.1 Notwithstanding anything contained in these By-Laws to the contrary, any meeting of Members or the Board may be held at any place, within Okaloosa County, in the State of Florida, designated in the notice of any such meeting, or notice of which is waived. Board meetings may also be conducted by telephone or other electronic means in accordance with Chapter 718, Florida Statutes (2003).

5.2 To the extent now or from time to time hereafter permitted by the laws of Florida, Unit Owners may take any action which they might take at a meeting of the

Members of the Association by written consent without a meeting; provided, however, that any approval of Unit Owners to be made only at a meeting, called for by the laws of Florida, as from time to time amended, the Declaration or these By-Laws, shall only be made at a duly noticed meeting of Unit Owners.

5.3 Minutes of all Board and membership meetings shall be retained in a secure place, available for review by the membership, for a period of at least ten (10) years from the date of the meeting.

VI. OFFICERS.

6.1 The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall deem advisable from time to time. The President shall be elected from the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. The Board may from time to time elect such other officers, and designate their powers and duties, as the Board may deem necessary properly to manage the affairs of the Association. Officers may be removed from office by the Board.

6.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees from among the Members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall preside at all meetings of the Board and the Members at which he is present. He shall have such additional powers as the Board may designate.

6.3 The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

6.4 The Secretary shall keep the minutes of all proceedings of the Board and the Members. He shall attend to the giving and serving of all notices to the Members and Board, and such other notices as may be required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a 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 secretary of a corporation not for profit and as may be required by the Board and the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

6.5 The Treasurer shall have custody of all of the monetary properties of the Association, including funds, bank accounts, check books, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the Members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties customarily incident to the office of Treasurer.

6.6 The compensation of all employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Association, nor preclude contracting with a Director for the management of the Condominium.

VII. FISCAL MANAGEMENT.

The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

7.1 The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such account shall designate the name and mailing address of the owner(s) and mortgagee(s) of each Unit, the amount of each assessment against the owner(s) of each Unit, the amount of each assessment and due date thereof, and all amounts paid, and the balance due upon each assessment.

7.2 The Board shall adopt for, and in advance of, each calendar year, a budget showing the estimated costs of performing all of the functions of the Association for the year. Each budget shall show the total estimated expenses of the Association for that year and shall contain an itemized breakdown of the Common Expenses, which shall include, without limitation, the costs of operating and maintaining the Common Elements and Limited Common Elements, wages and salaries of Association employees, management, legal and accounting fees, office supplies, public utility services not metered or charged separately to Units, premiums for insurance carried by the Association and any reserve accounts and/or funds which may be established from time to time by the Board. The budget shall be prepared in the form and contain categories, including reserves, as required from time to time by the Florida Condominium Act. Each budget shall also show the proportionate share of the total estimated expenses to be assessed against and collected from the owner(s) of each Unit and the due date(s) and amounts of installments thereof. Nothing herein contained shall be construed as a limitation upon any additional assessment in the event that any budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

7.3 A copy of the proposed annual budgets of the Association shall be mailed to the Unit owners 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 the time and place of the meeting. Such meeting of the Board shall be open to Unit owners. If a budget is adopted by the Board which requires aggregate assessments of the Unit owners in any budget year exceeding 115% of such assessments for the preceding budget year, upon written application of persons holding 10% of the Voting Interests, a special meeting of the Unit owners shall be held upon not less than fourteen (14) days' written notice to each Unit owner, but within sixty (60) days of adoption of the budget, at which special meeting Unit owners may consider only and enact only a revision of the budget. Any such revision of the budget shall require a vote of persons holding not less than two-thirds (2/3) of the Voting Interests. The Board may in any event first propose a budget to the Unit owners at any such meeting of members or by writing, and if such budget or proposed budget be approved by persons holding a majority of the Voting Interests at such meeting or in writing, such budget may not thereafter be reexamined by the Unit owners in the manner

hereinabove set forth. If a meeting of Unit Owners has been called and a quorum is not attained or a substituted budget is not adopted by the Unit Owners, the budget adopted by the Board of Directors shall become effective as scheduled.

7.4 In determining whether assessments exceed 115% of assessments in the prior budget year, there shall be excluded in the computation any provision for reasonable reserves made by the Board in respect of repair and replacement of the Condominium Property, or in respect of anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis; and there shall be excluded from such computation, assessments or betterments to the Condominium Property. Provided, however, that so long as Declarant is in control of the Board of Directors the Board shall not impose an assessment for a budget year greater than 115% of the prior budget year's assessment without approval of persons, other than the Declarant, holding a majority of the Voting Interests.

7.5 Upon adoption of budgets, the Board shall cause a written copy thereof to be delivered to each Unit owner. Assessments shall be made against Unit owners pursuant to procedures established by the Board, and in accordance with terms of the Declaration and the Articles. Assessments shall be levied on an annual basis and installments shall be due and payable not less often than quarterly. Provided, however, that the lien or lien rights of the Association as to assessments shall not be impaired by failure to comply with procedures established pursuant to these By-Laws.

7.6 The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board, in which all monies of the Association shall be deposited. Withdrawal of monies from such bank(s) shall be only by check signed by such persons as are designated by the Board.

7.7 A review and written report of the accounts of the Association shall be made annually by a Certified Public Accountant, and a copy of the report together with a financial report in the form required by law shall be furnished to each Member not later than sixty (60) days following the year for which the report is made.

7.8 Fidelity bonds shall be required by the Board as to all officers, employees and/or agents of the Association handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least the amount required by law. The premiums on such bonds shall be paid by the Association.

VIII. PARLIAMENTARY RULES.

Roberts' Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles, these By-Laws or the laws of Florida.

IX. AMENDMENTS TO BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner:

9.1 Amendments to these By-Laws may be proposed by the Board, acting upon vote of a majority of the Directors, or by persons holding a majority of the Voting Interests whether meeting as members or by instrument in writing signed by them.

9.2 Upon any amendment or amendments to these By-Laws being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association, or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth; provided, that proposed amendments to the By-Laws may be considered and voted upon at annual meetings of the members.

9.3 In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of the persons holding Voting Interests of Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant and a copy of such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of Okaloosa County, Florida, within fifteen (15) days from the date on which any amendment or amendments have been affirmatively approved by the Members.

9.4 Notwithstanding the foregoing provisions of this Article IX, no amendment to these By-Laws which shall abridge, amend or alter the right of Declarant to designate members of each Board of Directors of the Association, as provided in Article IV hereof, or otherwise abrogate any rights of Declarant, may be adopted or become effective without the prior written consent of Declarant.

X. MANDATORY NON-BINDING ARBITRATION.

In the event of a dispute between one or more Unit owners and/or the Association arising from the operation of the Condominium, the parties shall submit the dispute to mandatory nonbinding arbitration under the rules of the Division of Florida Land Sales and Condominiums and Mobile Homes.

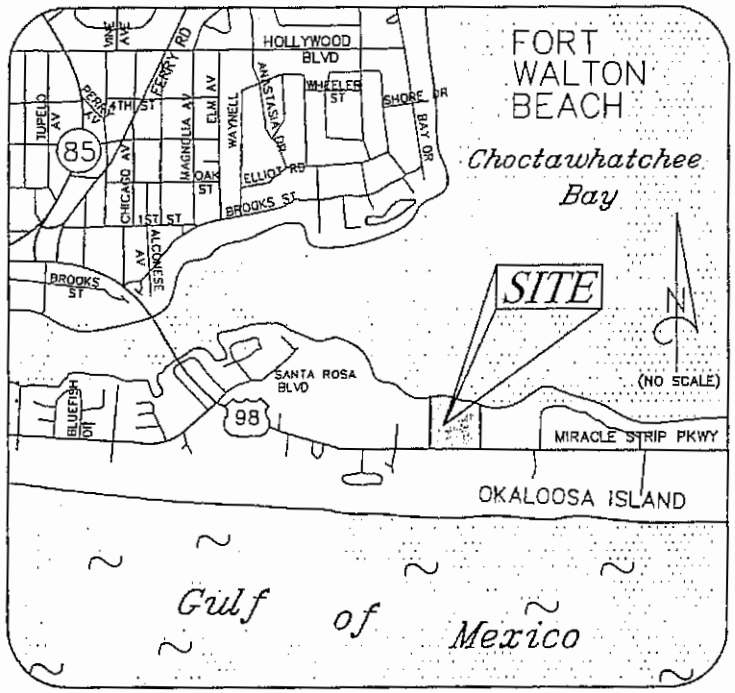
MISCELLANEOUS.

All provisions of Sections 718.112(2)(a) through (m), Florida Statutes (2003), are deemed included in these by-laws.

The foregoing were adopted as the By-Laws of **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.**, A Corporation Not-For-Profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the _____ day of _____, 200__.

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



LOCATION MAP

OVERALL LEGAL DESCRIPTION:

Destin West Beach and Bay Resort, a condominium

[INCLUDES "CONDOMINIUM", FUTURE DEVELOPMENT" AND "COMMUNITY PROPERTY"]

A PORTION OF LOT 23-A AND LOT 23-B, SANTA ROSA ISLAND, SUBDIVISION OF BLOCK 13, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 84F, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 23-A; THENCE RUN NORTH 04°08'00" EAST ALONG THE EASTERLY BOUNDARY OF LOT 23-A PER SAID PLAT, BORDERING NINTH BEACH FREEWAY, 82.00 FEET TO A CONCRETE MONUMENT (NO #), ON THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 98 (AS IT EXISTS IN 2003), FOR A POINT OF BEGINNING; THENCE NORTH 85°52'00" WEST (REFERENCE BEARING) ALONG SAID RIGHT-OF-WAY LINE, 613.45 FEET TO AN IRON PIN (# 2032); THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 08°14'18" EAST, 555.73 FEET TO A CONCRETE MONUMENT (#3027) WHICH IS SOUTH 08°14'18" WEST, 13 FEET, MORE OF LESS, FROM THE WATER'S EDGE OF CHOCTAWHATCHEE BAY; THENCE TRAVERSE SOUTH 76°32'16" EAST, 581.36 FEET, TO A POINT ON THE EASTERLY BOUNDARY OF LOT 23-B; THENCE SOUTH 04°08'03" WEST ALONG SAID EASTERLY BOUNDARY, 460.08 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. CONTAINING 7.32 ACRES, MORE OR LESS, ALL IN UNDIVIDED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA.

SURVEYOR'S CERTIFICATE

THE UNDERSIGNED, A REGISTERED LAND SURVEYOR DULY AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA, HEREBY CERTIFIES THAT THIS IS A TRUE AND CORRECT SURVEY OF THE PROPERTY DESCRIBED HEREON, AND THAT THE CONSTRUCTION OF THE IMPROVEMENTS DEPICTED AND DESCRIBED IN THIS EXHIBIT OF HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM, IS NOT SUBSTANTIALLY COMPLETE; SUCH MATERIALS WHICH COMPRISE THIS EXHIBIT, TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM DESCRIBING THE CONDOMINIUM PROPERTY, ARE AN ACCURATE REPRESENTATION OF THE LOCATION AND APPROXIMATE DIMENSIONS OF THE PROPOSED IMPROVEMENTS, AND THE IDENTIFICATION, LOCATION AND APPROXIMATE DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM SAID MATERIALS.

FLORIDA REGISTERED SURVEYOR

JON A. PROKASKA, CERTIFICATE NO. 4450

CHOCTAW ENGINEERING, INC. LB #1532
112 TRUXTON AVENUE
FORT WALTON BEACH, FLORIDA 32547

DATE AUG. 17, 2004

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

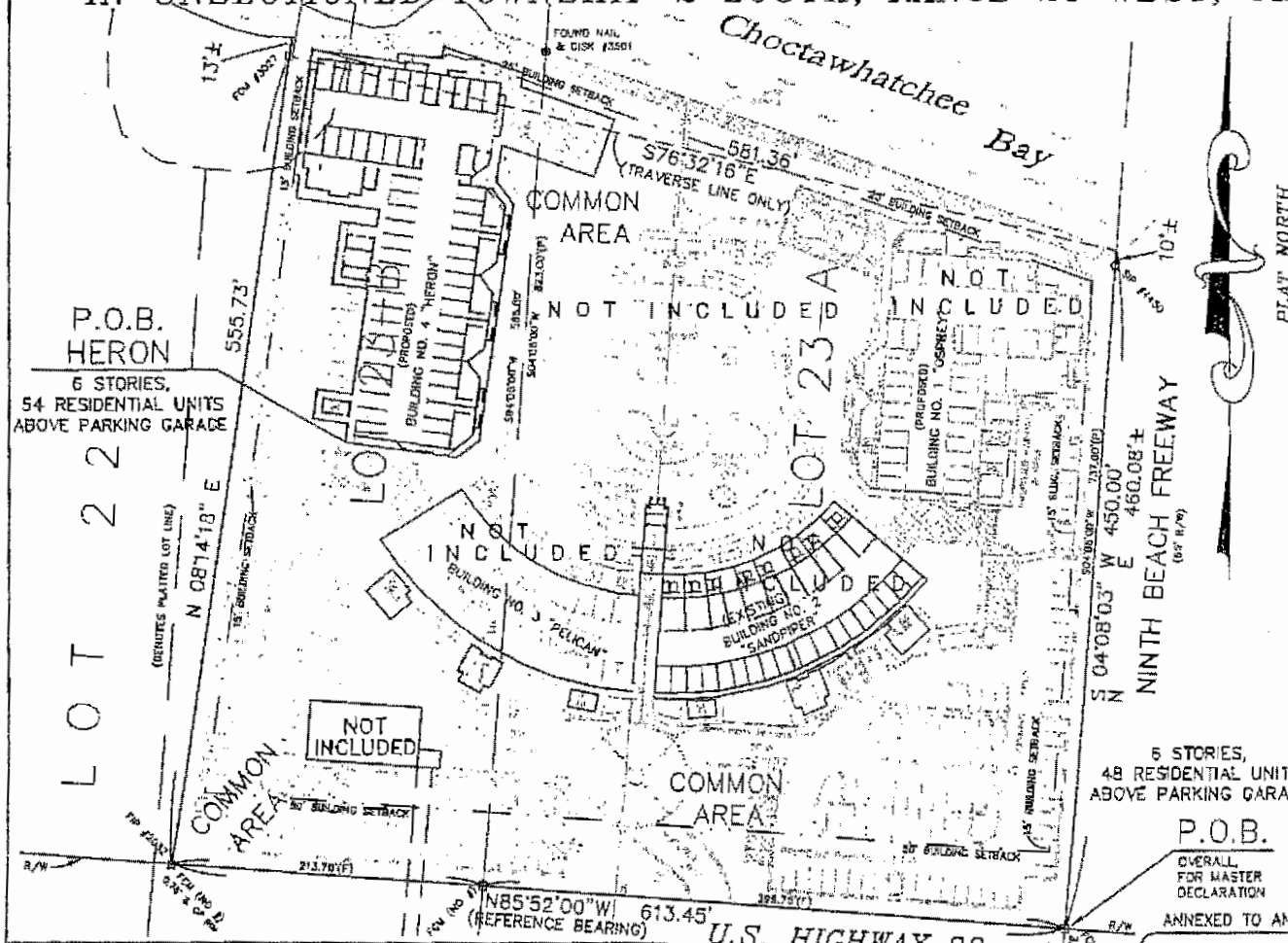
Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cei@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/863-8059

HERON at Destin West Beach and Bay Resort – a condominium
99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



OVERALL SITE

NOTES

1) THE CONSTRUCTION OF THE SUBJECT CONDOMINIUM BUILDING AND OTHER IMPROVEMENTS SHOWN HEREON IS NOT SUBSTANTIALLY COMPLETE; PORTIONS OF THE OVERALL SITE ARE UNDER CONSTRUCTION.

2) "CONDOMINIUM" REFERS ONLY TO BUILDING ENVELOPE, AS DESCRIBED.

3) DESTIN WEST BEACH AND BAY RESORT COMMUNITY AREAS CONSIST OF ALL IMPROVEMENTS – GROUNDS, POOLS, WALKS, DRIVES, PARKING. INDIVIDUAL CONDOMINIUM PROPERTIES ARE EXCLUDED.

4) BALCONIES/TERRACES/PORCHES/DECKS ARE LIMITED COMMON ELEMENTS.

5) SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

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HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HEROD]

HERON at Destin West Beach and Bay Resort a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

DESCRIPTION OF CONDOMINIUM

"CONDOMINIUM" SHALL MEAN AND COMPRISE THE SEPARATE AND NUMBERED DWELLING UNITS AS DESCRIBED HEREIN, EXCLUDING HOWEVER, ALL SPACES AND IMPROVEMENTS LYING BENEATH THE UNDECORATED AND OR UNFINISHED INNER SURFACES OF THE PERIMETER WALLS AND FLOORS, AND ABOVE THE UNDECORATED AND OR UNFINISHED INNER SURFACES OF THE CEILINGS OF EACH DWELLING UNIT, AND FURTHER EXCLUDING ALL SPACES AND IMPROVEMENTS BENEATH THE UNDECORATED AND/OR UNFINISHED INNER SURFACES OF ALL INTERIOR WALLS AND/OR BEARING PARTITIONS, AND FURTHER EXCLUDING ALL PIPES, DUCTS, WIRES, CONDUITS, AND OTHER FACILITIES RUNNING THROUGH ANY INTERIOR WALL OR PARTITION FOR THE FURNISHING OF UTILITY SERVICES TO SAID DWELLING UNITS, AND FURTHER EXCLUDING ALL COMMON PROPERTY.

DESCRIPTION OF COMMON PROPERTY

COMMON ELEMENTS SHALL MEAN AND COMPRISE ALL THE REAL PROPERTY IMPROVEMENTS AND FACILITIES TO HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM, INCLUDING ALL PARTS OF THE CONDOMINIUM BUILDINGS OTHER THAN THE CONDOMINIUM UNITS AS SAME ARE HEREIN DEFINED, AND SHALL INCLUDE EASEMENTS THROUGH CONDOMINIUM UNITS FOR CONDUITS, PIPES, DUCTS, PLUMBING, WIRING, AND OTHER FACILITIES FOR THE FURNISHING OF UTILITY SERVICE TO CONDOMINIUM UNITS AND EASEMENTS OF SUPPORT IN EVERY PORTION OF THE CONDOMINIUM UNIT WHICH CONTRIBUTES TO THE SUPPORT OF THE IMPROVEMENTS AND SHALL FURTHER INCLUDE ALL PERSONAL PROPERTY HELD AND MAINTAINED FOR THE JOINT USE AND ENJOYMENT OF ALL OF THE OWNERS OF ALL SUCH CONDOMINIUM UNITS AND SHALL EXCLUDE ALL THE CONDOMINIUM UNITS.

LEGAL DESCRIPTION: HERON at Destin West Beach and Bay Resort, a condominium

A PORTION OF LOT 23-B, SANTA ROSA ISLAND, SUBDIVISION OF BLOCK 13, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 84F, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF LOT 23-A IN SAID PLAT; THENCE RUN NORTH 04°08'00" EAST ALONG THE EASTERLY BOUNDARY OF LOT 23-A PER SAID PLAT, BORDERING NINTH BEACH FREEWAY, 82.00 FEET TO A CONCRETE MONUMENT (NO #), ON THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 98 (AS IT EXISTS IN 2003); THENCE NORTH 85°52'00" WEST (REFERENCE BEARING) ALONG SAID RIGHT-OF-WAY LINE, 613.45 FEET TO AN IRON PIN (# 2032); THENCE DEPARTING SAID RIGHT OF WAY LINE, NORTH 08°14'18" EAST, 301.33 FEET; THENCE SOUTH 81°45'42" EAST, 75.85 FEET FOR A POINT OF BEGINNING; THENCE NORTH 08°13'49" EAST, 12.48 FEET; THENCE NORTH 81°46'11" WEST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 19.67 FEET; THENCE SOUTH 81°46'11" EAST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 72.69 FEET; THENCE NORTH 81°46'11" WEST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 42.40 FEET; THENCE SOUTH 81°46'11" EAST, 24.00 FEET; THENCE NORTH 08°13'49" EAST, 11.60 FEET; THENCE NORTH 81°46'11" WEST, 56.83 FEET; THENCE NORTH 08°13'49" EAST, 15.67 FEET; THENCE NORTH 81°46'11", 3.83 FEET; THENCE NORTH 08°13'49" EAST, 86.67 FEET; THENCE SOUTH 81°46'11" EAST, 57.67 FEET; THENCE NORTH 08°13'49" EAST, 5.83 FEET; THENCE SOUTH 81°46'11" EAST, 30.25 FEET; THENCE NORTH 08°13'49" EAST, 8.64 FEET; THENCE SOUTH 70°59'00" EAST, 56.75 FEET; THENCE SOUTH 08°13'49" WEST, 9.72 FEET; THENCE SOUTH 70°25'54" EAST, 67.73 FEET; THENCE SOUTH 19°34'06" WEST, 42.00 FEET; THENCE NORTH 70°25'54" WEST, 66.55 FEET; THENCE SOUTH 08°13'49" WEST, 25.21 FEET; THENCE SOUTH 36°46'12" EAST, 19.23 FEET; THENCE SOUTH 08°13'49" WEST, 161.47 FEET; THENCE SOUTH 53°13'48" WEST, 19.23 FEET; THENCE NORTH 81°46'11" WEST, 75.90 FEET TO THE POINT OF BEGINNING. CONTAINING 0.77 ACRES, MORE OR LESS, ALL IN UNDIVIDED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA.

CERTIFICATION OF ZONE AREA FOR FLOOD INSURANCE

I CERTIFY THAT I HAVE CHECKED THE NATIONAL FLOOD INSURANCE RATE MAP OF OKALOOSA COUNTY, FLORIDA, MAP NO. 12091C-0464-H, COMMUNITY PANEL NO. 120173-0464-H DATED DECEMBER 6, 2002, AND DETERMINED THAT THIS PROPERTY APPEARS TO BE SITUATED IN ZONE "AE" (HAVING A BASE FLOOD ELEVATION OF 8 FEET).

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

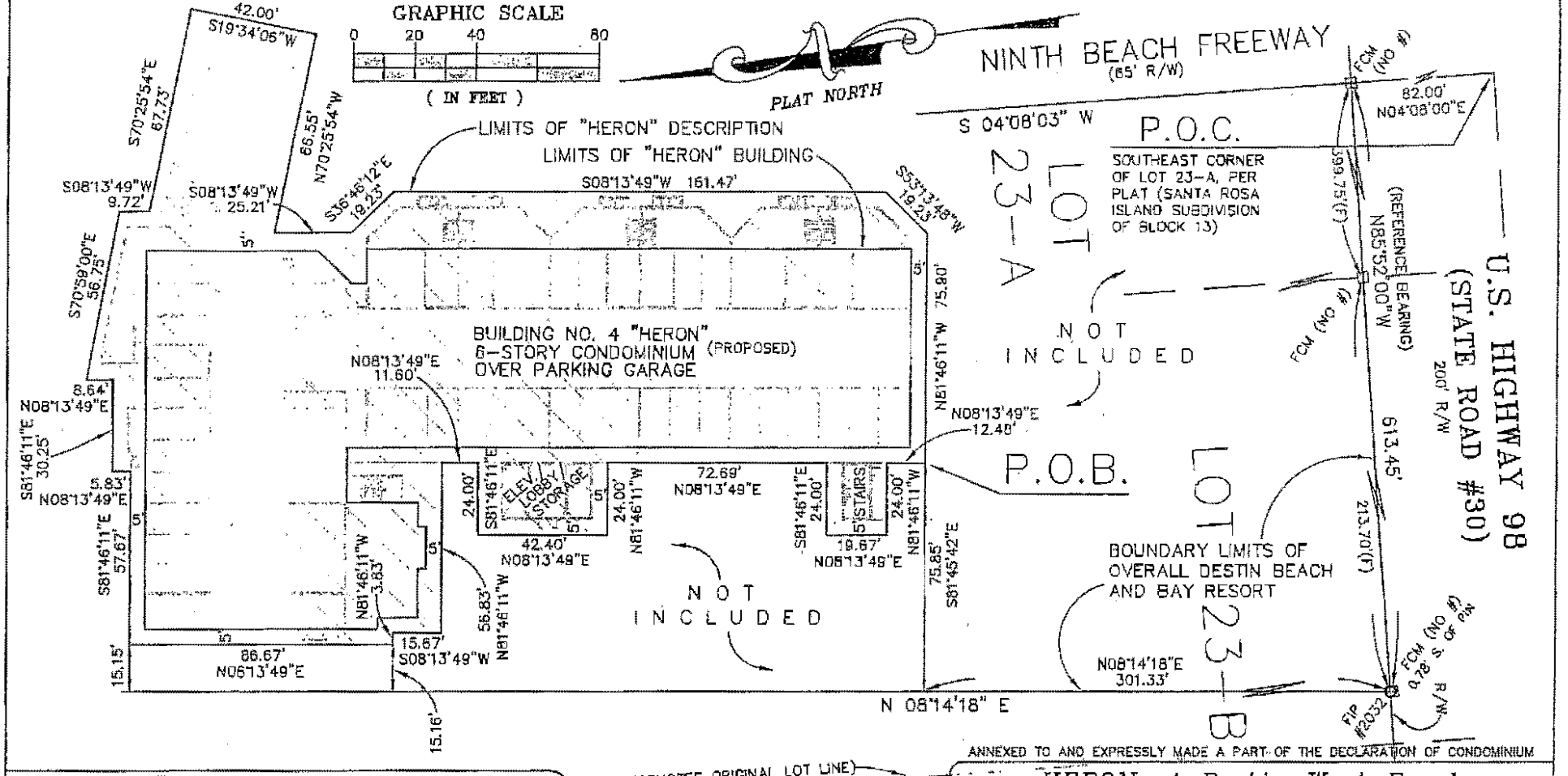
Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING · ENVIRONMENTAL · SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cel@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/863-8059

HERON at Destin West Beach and Bay Resort – a condominium
99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

(DENOTES ORIGINAL LOT LINE)

OSPREY BOUNDARY

Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1582 E-MAIL: cei@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-5611 Fax: 850/863-8069

HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

15 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

PROPERTY SUBJECT TO MASTER DECLARATION

Destin West Bayside, Property Owners Association, Inc.

DESCRIPTION:

A PORTION OF LOT 23-A AND LOT 23-B, SANTA ROSA ISLAND, SUBDIVISION OF BLOCK 13, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 84F, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 23-A; THENCE RUN NORTH 04°08'00" EAST ALONG THE EASTERLY BOUNDARY OF LOT 23-A PER SAID PLAT, BORDERING NINTH BEACH FREEWAY, 82.00 FEET TO A CONCRETE MONUMENT (NO #), ON THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 98 (AS IT EXISTS IN 2003), FOR A POINT OF BEGINNING; THENCE NORTH 85°52'00" WEST (REFERENCE BEARING) ALONG SAID RIGHT-OF-WAY LINE, 613.45 FEET TO AN IRON PIN (# 2032); THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 08°14'18" EAST, 555.73 FEET TO A CONCRETE MONUMENT (#3027) WHICH IS SOUTH 08°14'18" WEST, 13 FEET, MORE OF LESS, FROM THE WATER'S EDGE OF CHOCTAWHATCHEE BAY; THENCE TRAVERSE SOUTH 76°32'16" EAST, 581.36 FEET, TO A POINT ON THE EASTERLY BOUNDARY OF LOT 23-B; THENCE SOUTH 04°08'03" WEST ALONG SAID EASTERLY BOUNDARY, 460.08 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. CONTAINING 7.32 ACRES, MORE OR LESS, ALL IN UNDIVIDED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA.

LESS & EXCEPT condominium properties.

NOTE: ALL CONDOMINIUM PROPERTIES IN DESTIN WEST BEACH AND BAY RESORT, BAYSIDE, ARE SUBJECT TO THE MASTER DECLARATION; THE GARAGE IS A PORTION OF THE MASTER DECLARATION: INDIVIDUAL CONDOMINIUM PROPERTIES ARE EXCLUDED FROM THE DESCRIPTION OF COMMON PROPERTY OWNED BY THE MASTER ASSOCIATION AS DESCRIBED IN THE MASTER DECLARATION.

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FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/863-8059

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

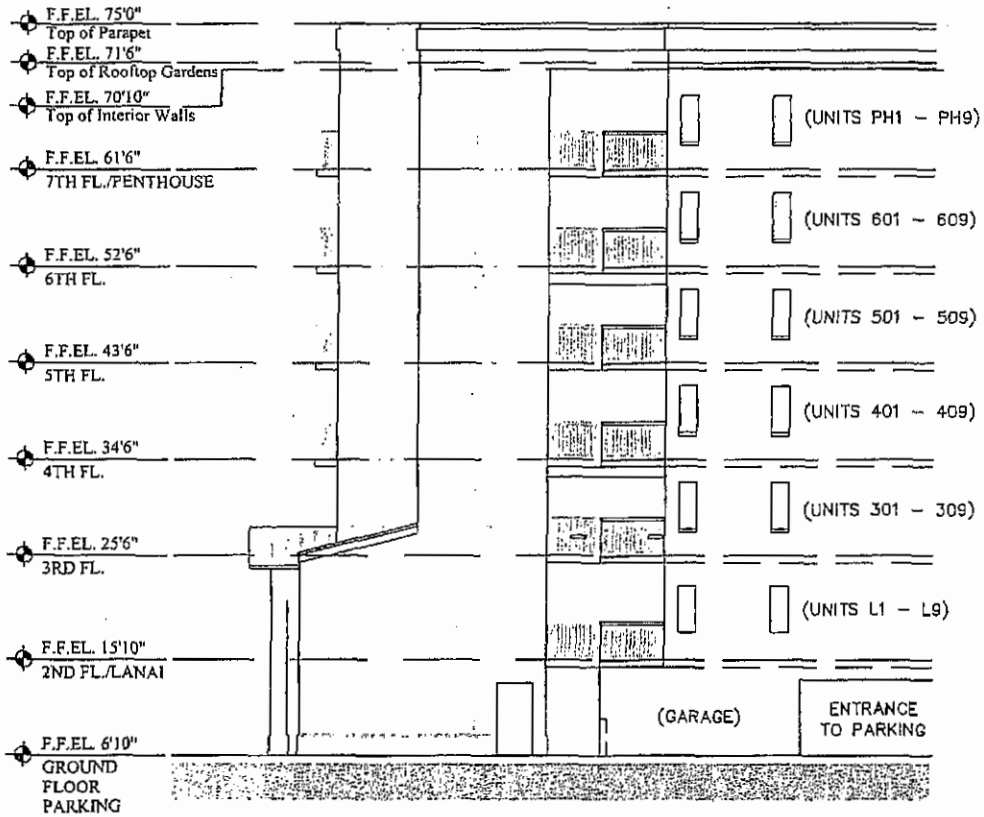
HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



ELEVATIONS

F.F.E. = FINISHED FLOOR ELEVATION

LEGEND

R/W = RIGHT-OF-WAY	P.O.C. = POINT-OF-COMMENCEMENT
℄ = CENTERLINE	P.O.B. = POINT-OF-BEGINNING
FIP = FOUND IRON PIN	E.O.P. = EDGE-OF-PAVEMENT
SIP = SET IRON PIN	FCM = FOUND CONCRETE MONUMENT
(P) = PLAT DATA	SCM = SET CONCRETE MONUMENT
(F) = FIELD DATA	Δ = DELTA ANGLE
(D) = DESCRIPTION DATA	R = RADIUS
O.R. = OFFICIAL RECORDS	A = ARC
B.S.L. = BUILDING SETBACK LINE	C = CHORD
	CB = CHORD BEARING

NOTES

⊡ DENOTES SET (UNLESS OTHERWISE NOTED) 4"X4" CONCRETE PERMANENT REFERENCE MONUMENT (P.R.M., #1532).

o DENOTES SET IRON PIN "CHOCTAW #4450".

CONSTRUCTION OF THE CONDOMINIUM BUILDING AND IMPROVEMENTS SHOWN HEREON IS NOT SUBSTANTIALLY COMPLETE.

"CONDOMINIUM" REFERS ONLY TO BUILDING ENVELOPE, AS DESCRIBED.

HORIZONTAL DATUM BASED ON DEPARTMENT OF NATURAL RESOURCES BEARING BETWEEN MONUMENT A-01 AND MONUMENT A-02, OF NORTH 85°36'12" WEST (REFERENCE BEARING).

COMMUNITY AREAS INCLUDE GROUNDS, POOL, DOCK, DRIVES, PARKING (INDIVIDUAL CONDOMINIUM PROPERTIES ARE EXCLUDED).

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cei@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-5611 Fax: 850/863-8059

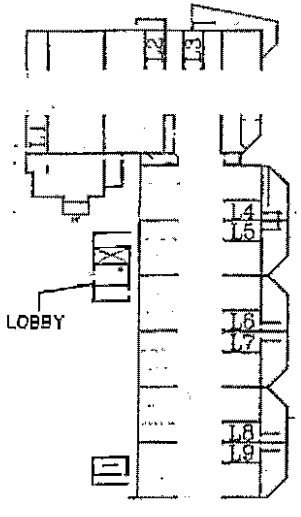
HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

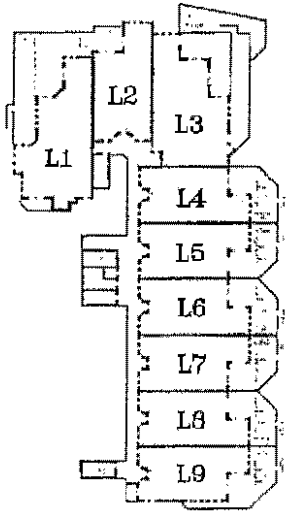
16 AUGUST 2004 [FILE: 99183E-HEROD]

HERON at Destin West Beach and Bay Resort
a condominium

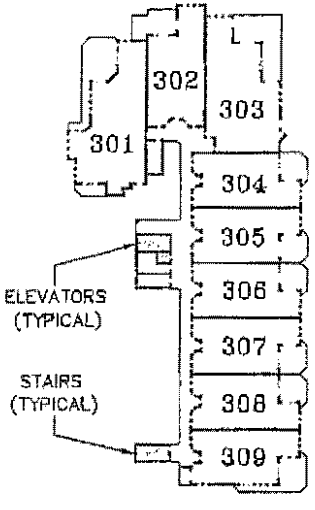
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



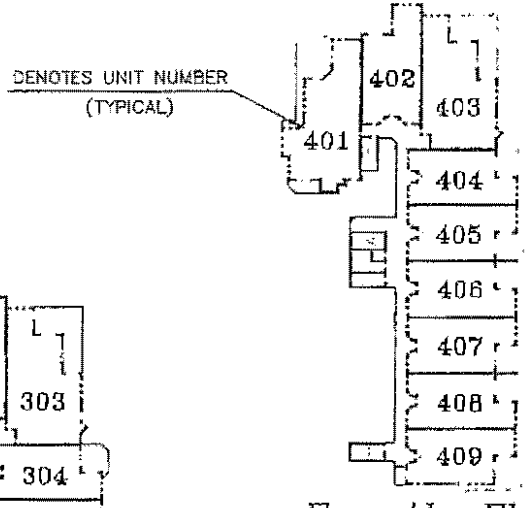
First Floor
(GROUND FLOOR, GARAGE)



Second Floor
(LANAI LEVEL, LOBBY)



Third Floor



Fourth Floor

KEY PLAN

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

HERON at Destin West Beach
and Bay Resort – a condominium
99-183-E

SHEET 7 OF 26 SHEETS

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15 AUGUST 2004 (FILE: 99183E-HEROD)

HERON at Destin West Beach and Bay Resort
a condominium

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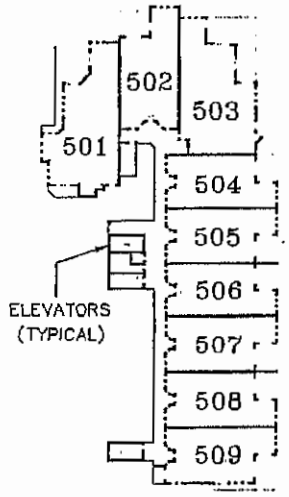
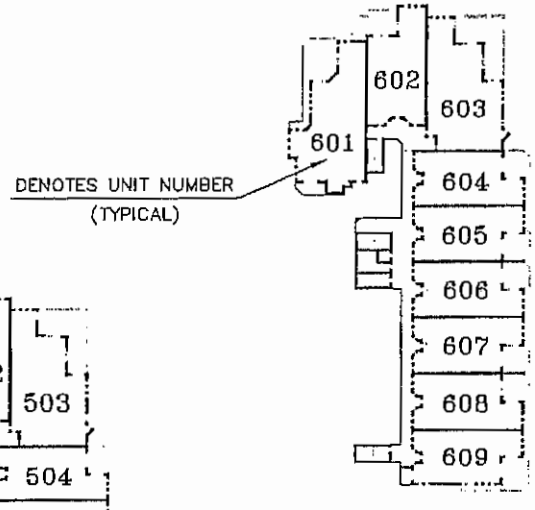
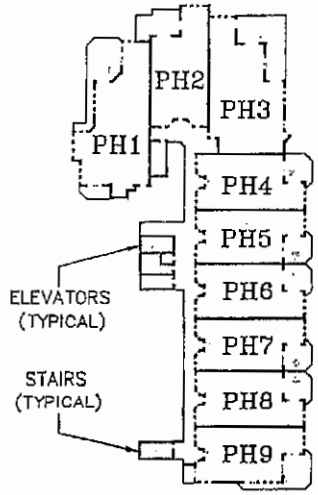


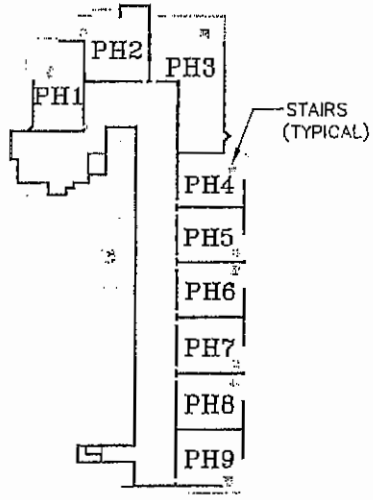
Fifth Floor



Sixth Floor



Seventh Floor
(PENTHOUSE LEVEL)



Roof
(PENTHOUSE GARDEN LEVEL)

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HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

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a condominium

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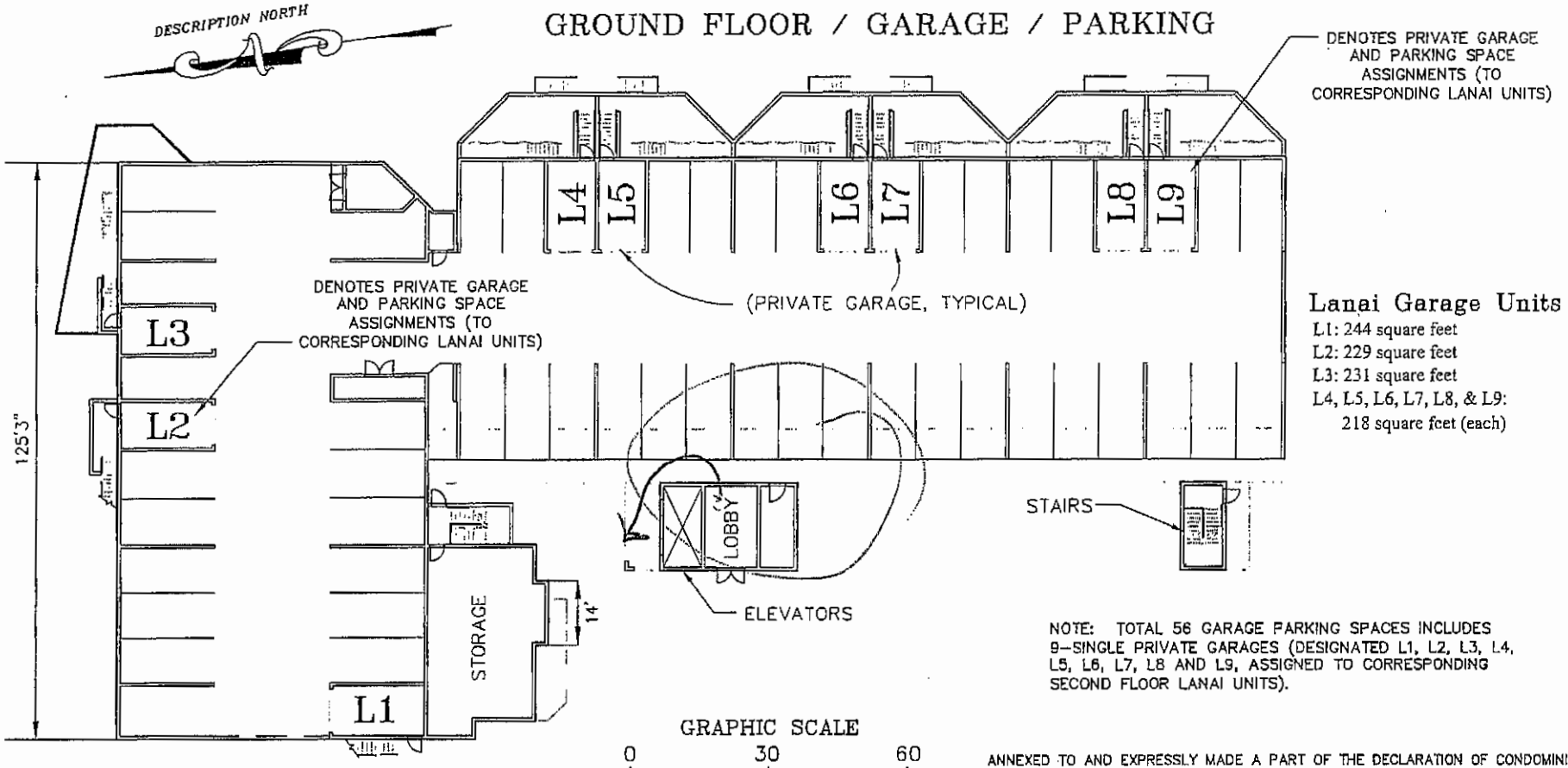

Lanai Garage Units

L1: 244 square feet
L2: 229 square feet
L3: 231 square feet
L4, L5, L6, L7, L8, & L9:
218 square feet (each)

NOTE: TOTAL 56 GARAGE PARKING SPACES INCLUDES 9–SINGLE PRIVATE GARAGES (DESIGNATED L1, L2, L3, L4, L5, L6, L7, L8 AND L9, ASSIGNED TO CORRESPONDING SECOND FLOOR LANAI UNITS).

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99–183–E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

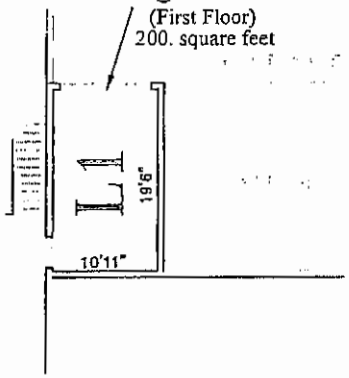
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

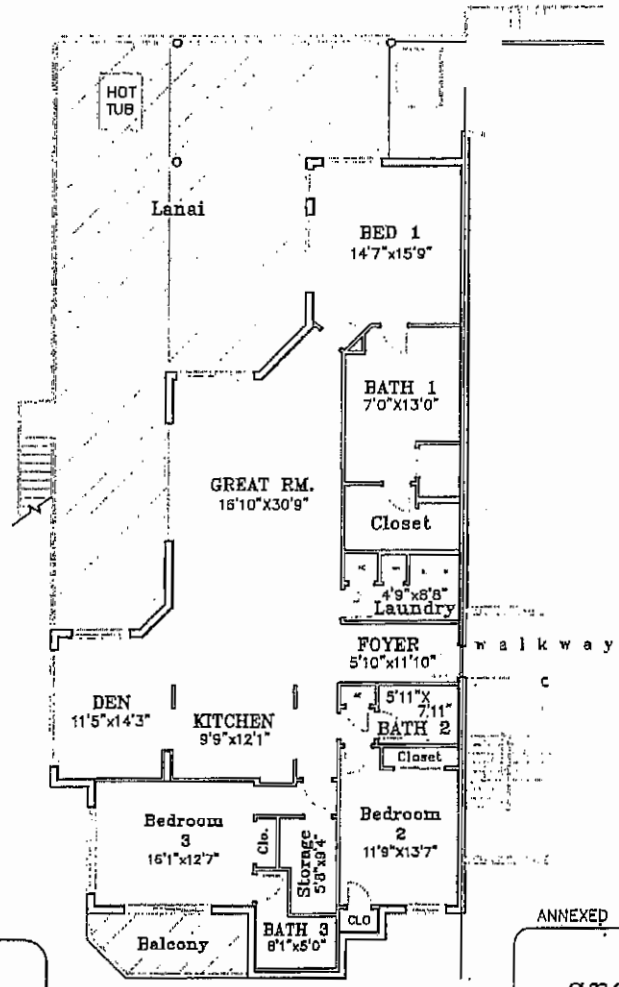
NOTE

SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Lanai
Garage Unit L1
(First Floor)
200. square feet





Graphic Scale
0 5 10 15
(IN FEET)

Unit: L1
3 Bedroom Unit Plan

Living Area :	2,416 square feet
Balcony Area:	100 square feet
Lanai Area:	1,308 square feet
Total (2nd fl.) :	3,824 square feet
Corresponding Private Garage (ground/1st fl.):	200 square feet
Total :	4,024 square feet

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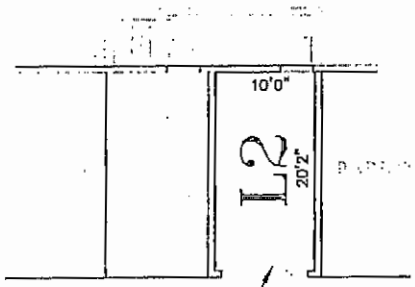
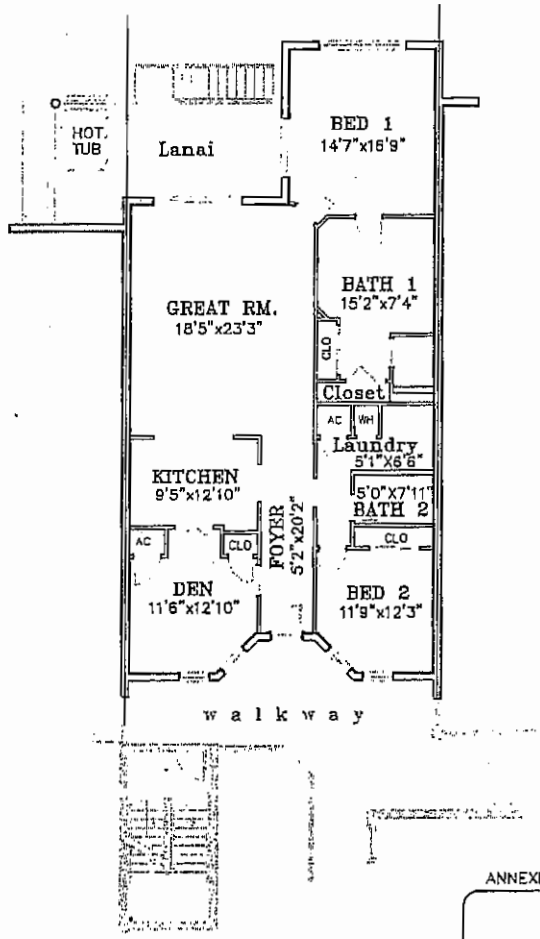


Lanai
Garage Unit L2
(First Floor)
200 square feet



Graphic Scale
0 5 10 15
(IN FEET)

Units: L2
2 Bedroom Unit Plan

Living Area :	1,776 square feet
Lanai Area:	307 square feet
Total (2nd fl.) :	2,083 square feet
Corresponding Private Garage (ground/1st fl.):	200 square feet
Total :	2,283 square feet

NOTE

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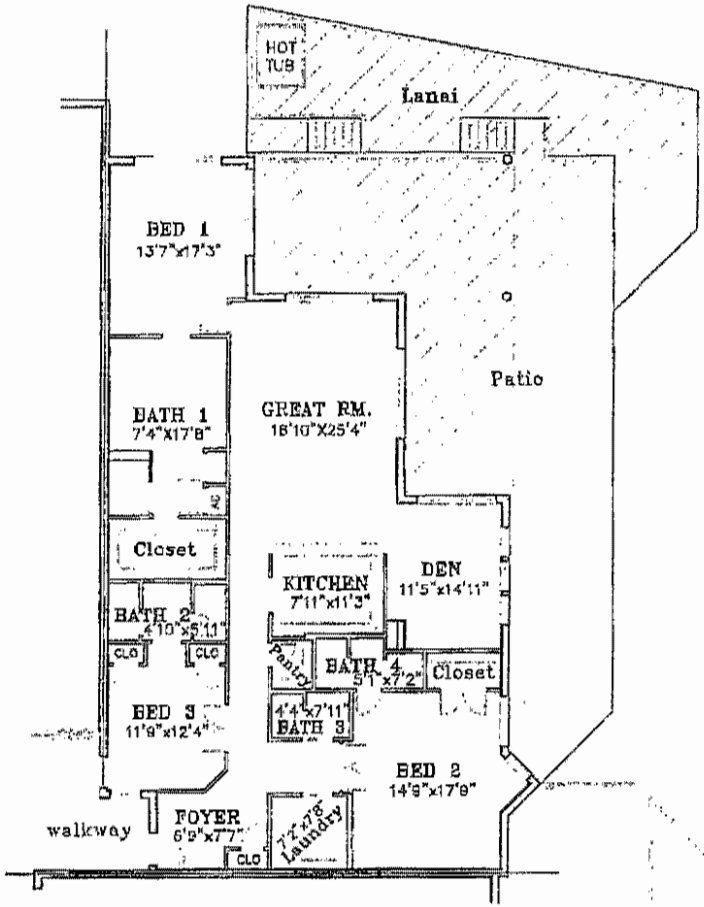

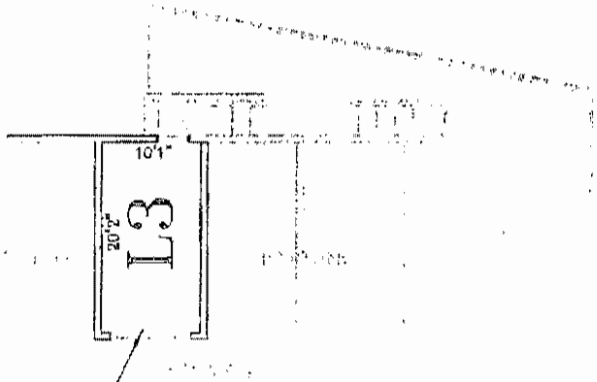

Unit: L3
3 Bedroom Unit Plan

Living Area :	2,389 square feet
Lanai Area:	586 square feet
Patio Area :	1,228 square feet
Total (2nd fl.) :	4,203 square feet
Corresponding Private Garage (ground/1st fl.):	200 square feet
Total :	4,403 square feet

Graphic Scale
0 5 10 15
(IN FEET)

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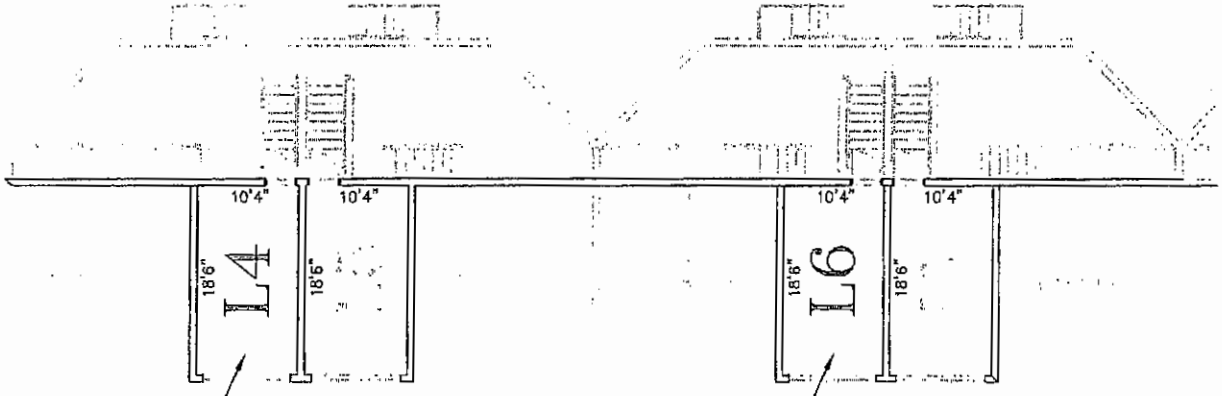
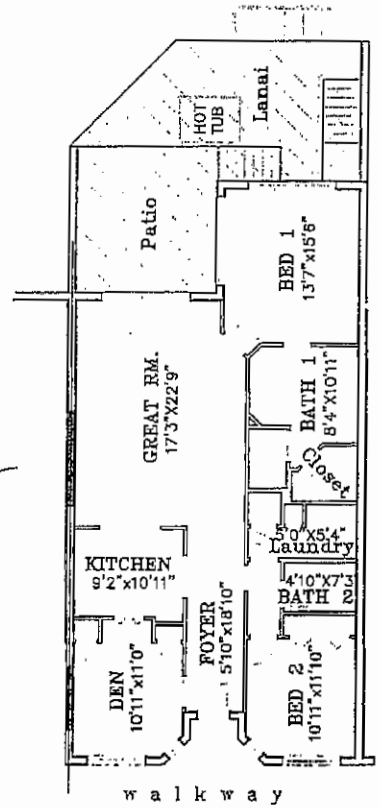


Lanai
Garage Unit L4
(First Floor)
200 square feet

Lanai
Garage Unit L6
(First Floor)
200 square feet

Graphic Scale
0 5 10 15
(IN FEET)



NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Units: L4 & L6
2 Bedroom Unit Plan

Living Area :	1,568 square feet
Lanai Area:	345 square feet
Patio Area :	222 square feet
Total (2nd fl.) :	2,135 square feet

Units L4 & L6 Corresponding Private Garages (ground/1st fl.):	200 square feet
Total :	2,335 square feet

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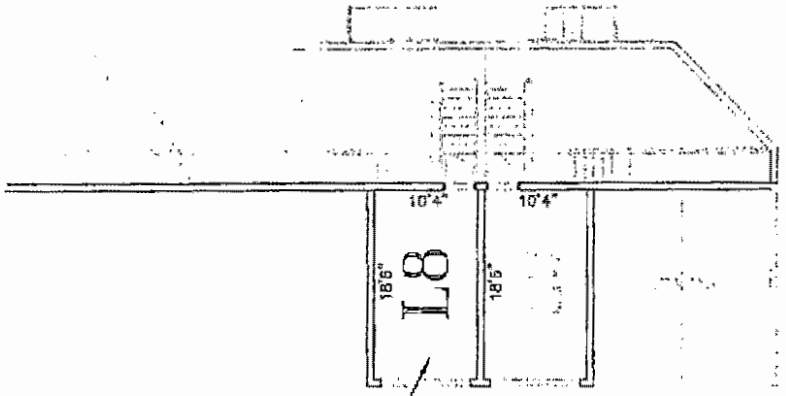
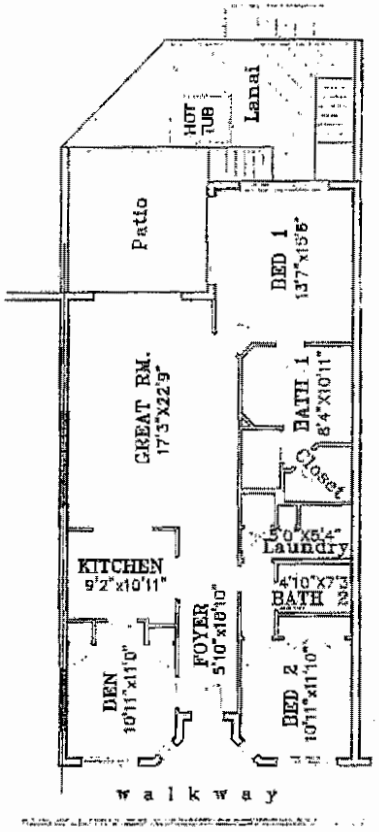


Lanai
Garage Unit L8
(First Floor)
197 square feet



Graphic Scale
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(IN FEET)

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Unit L8
2 Bedroom Unit Plan

Living Area :	1,568 square feet
Lanai Area:	345 square feet
Patio Area :	222 square feet
Total (2nd fl.) :	2,135 square feet
Unit L8 Corresponding Private Garage (ground/1st fl.):	197 square feet
Total :	2,332 square feet

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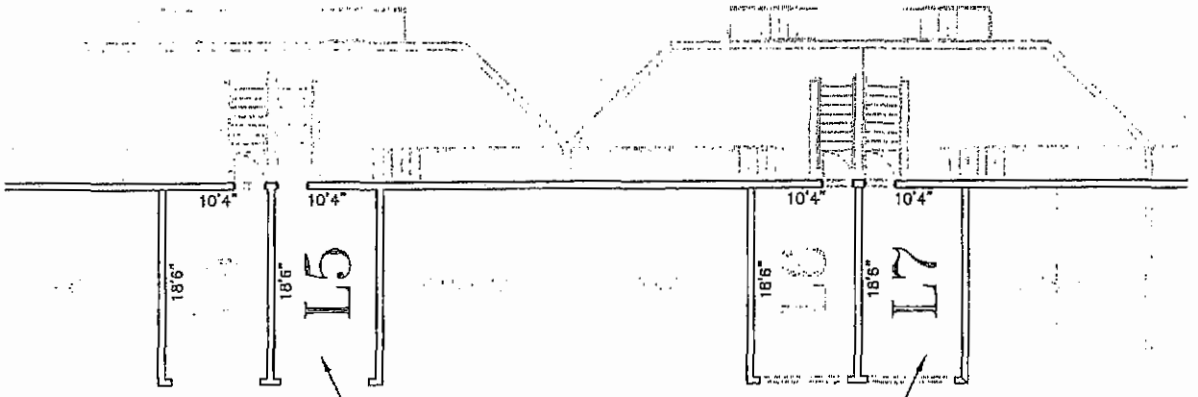
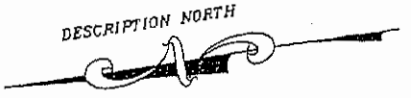
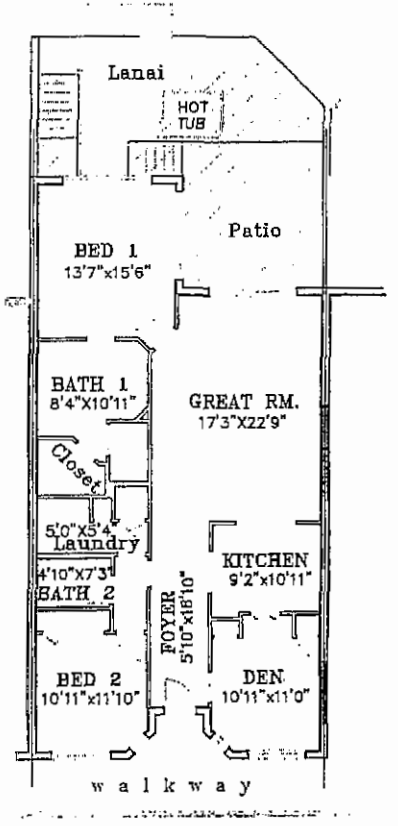


Lanai
Garage Unit L5
(First Floor)
200 square feet

Lanai
Garage Unit L7
(First Floor)
197 square feet





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Units: L5 & L7
2 Bedroom Unit Plan

Living Area :	1,568 square feet
Lanai Area:	345 square feet
Patio Area :	222 square feet
Total (2nd fl.) :	2,135 square feet

Unit L5 Corresponding Private Garage (ground/1st fl.):	200 square feet
Total :	2,335 square feet

Unit L7 Corresponding Private Garage (ground/1st fl.):	197 square feet
Total :	2,332 square feet

Graphic Scale
0 5 10 15
(IN FEET)

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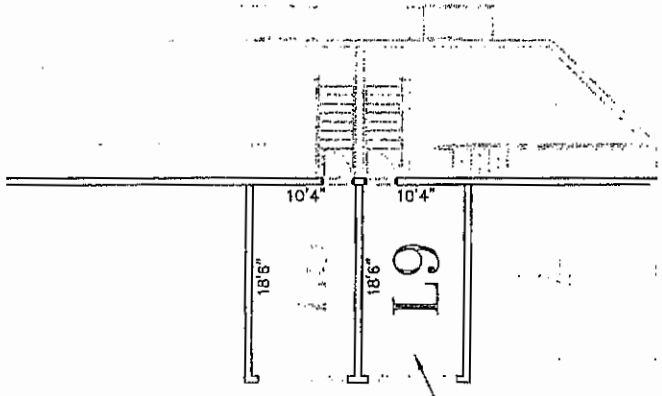
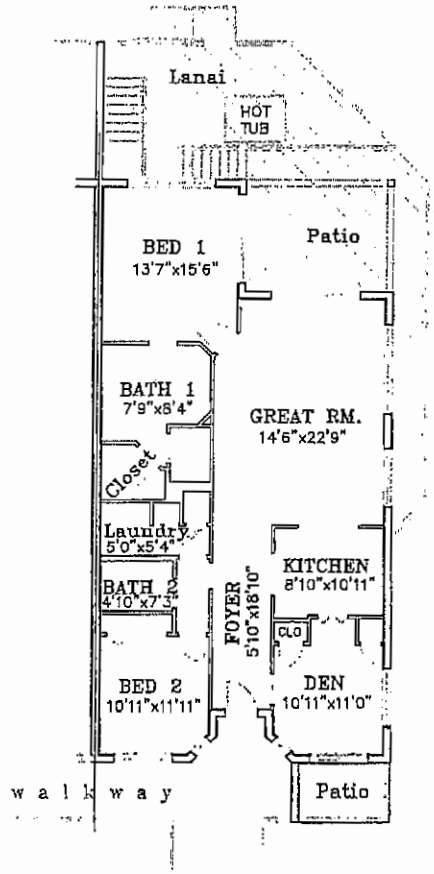


Lanai
Garage Unit L9
(First Floor)
212 square feet

Graphic Scale
0 5 10 15
(IN FEET)



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Unit: L9
2 Bedroom Unit Plan

Living Area :	1,587 square feet
Lanai Area :	345 square feet
Patio #1 Area:	346 square feet
Patio #2 Area:	55 square feet
Total (2nd fl.) :	2,333 square feet
Corresponding Private Garage (ground/1st fl.):	212 square feet
Total :	2,545 square feet

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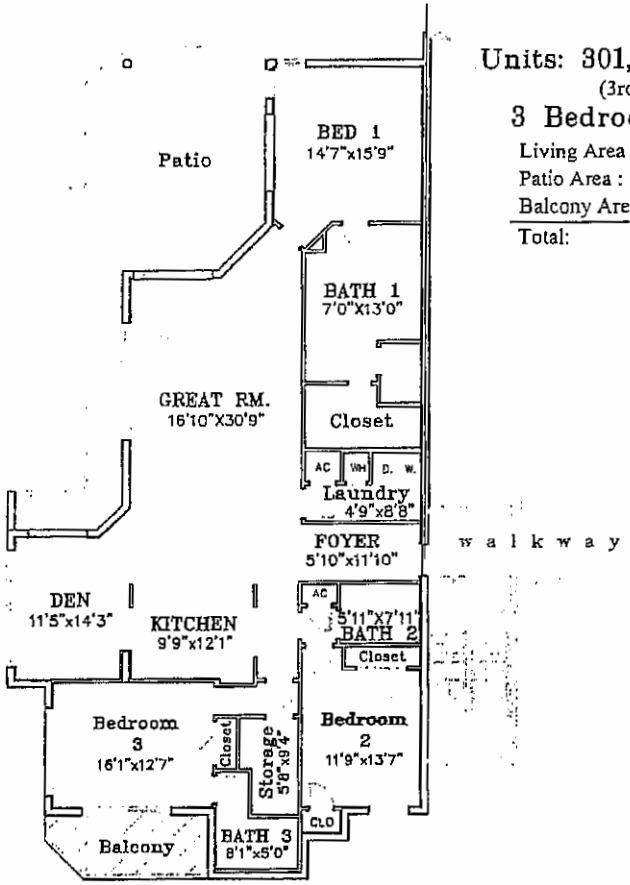
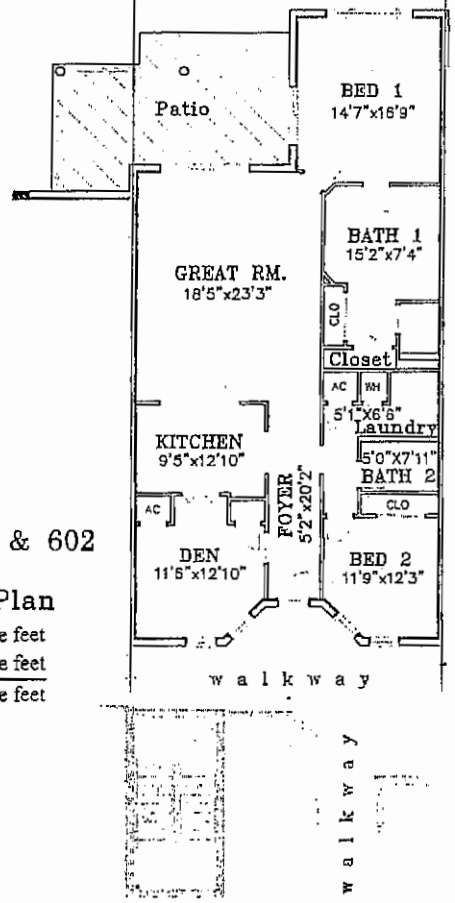


Units: 301, 401, 501, & 601
(3rd - 6th floors)

3 Bedroom Unit Plan

Living Area :	2,416 square feet
Patio Area :	530 square feet
Balcony Area:	100 square feet
Total:	3,046 square feet

Graphic Scale
0 5 10 15
(IN FEET)



Units: 302, 402, 502, & 602
(3rd - 6th floors)

2 Bedroom Unit Plan

Living Area :	1,776 square feet
Patio Area:	307 square feet
Total:	2,083 square feet

NOTE

SQUARE FOOTAGES ARE APPROXIMATIONS; DIMENSIONS HAVE BEEN ROUNDED TO THE NEAREST WHOLE NUMBER.

BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cei@choctaweng.com
FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/863-8059

16 AUGUST 2004 [FILE: 99183E-HERCD]

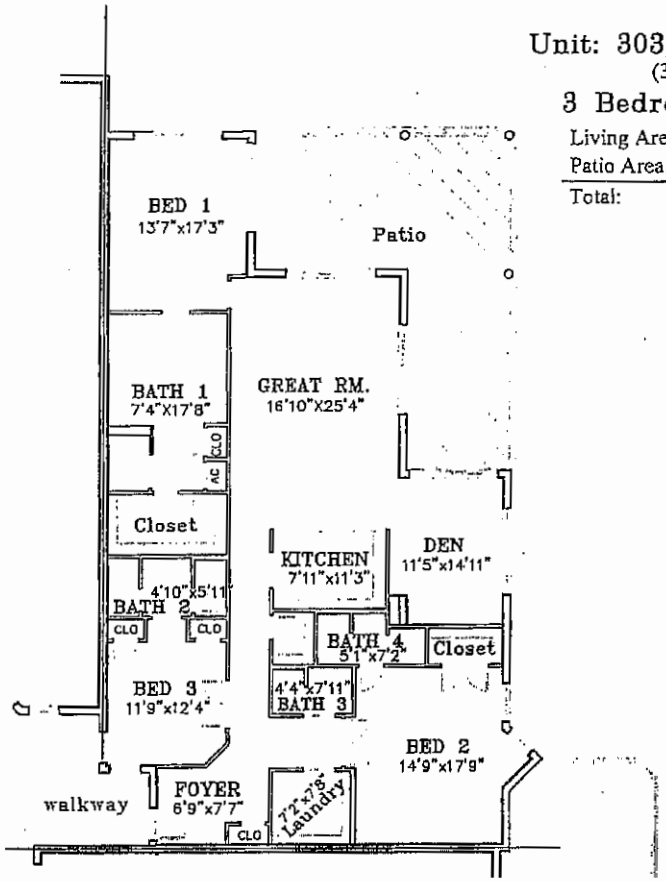
HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

Unit: 303, 403, 503, & 603
(3rd - 6th floors)

3 Bedroom Unit Plan

Living Area :	2,389 square feet
Patio Area:	600 square feet
Total:	2,989 square feet



Graphic Scale
0 5 10 15
(IN FEET)

NOTE

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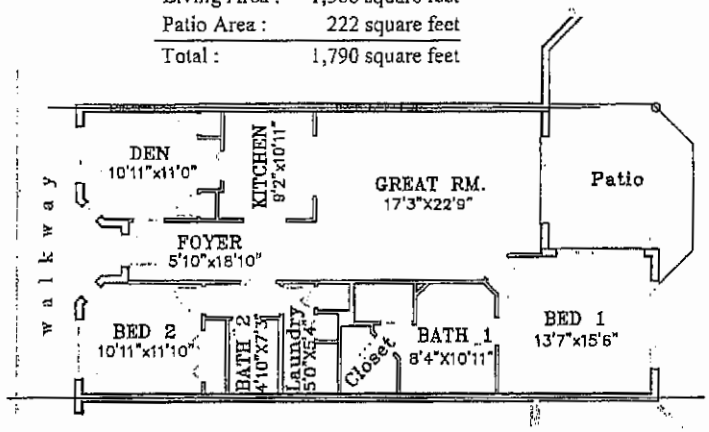
Unit: 304, 306, 308, 404, 406, 408, 504, 506, 508, 604, 606, & 608
(3rd - 6th floors; Units 308, 408 & 508 are hearing impaired compliant)

2 Bedroom Unit Plan

Living Area :	1,568 square feet
Patio Area :	222 square feet
Total :	1,790 square feet



ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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FORT WALTON BEACH, FL 32547 Tele.: 850/862-6611 Fax: 850/863-8059

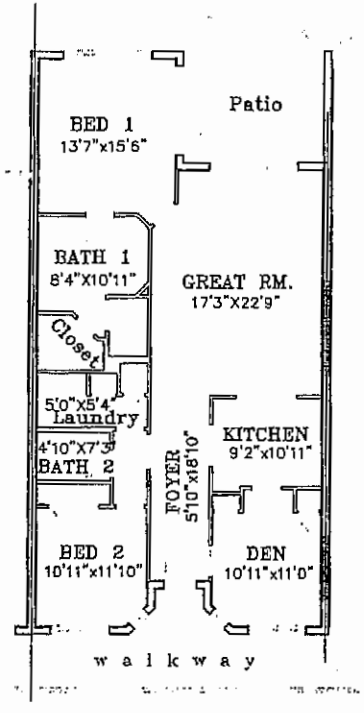
HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



Unit: 305, 405, 505, & 605

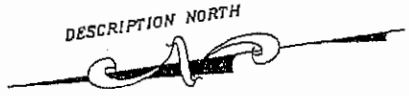
(3rd - 6th floors)

2 Bedroom Unit Plan

Living Area :	1,568 square feet
Patio Area :	222 square feet
Total:	1,790 square feet

Unit: 307, 407, 507, & 607

(Handicapped variation)



Graphic Scale

0 5 10 15

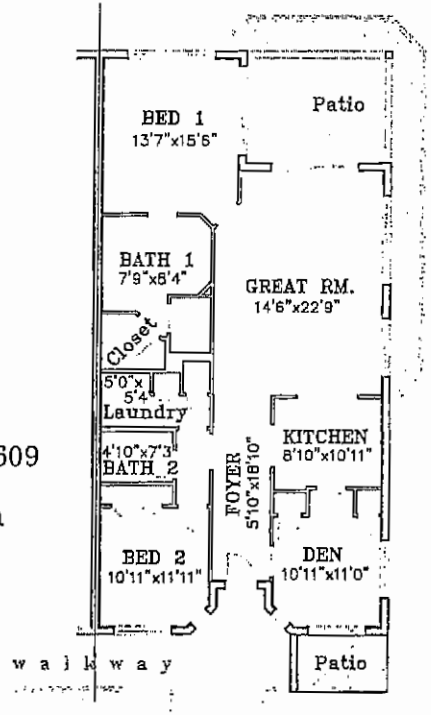
(IN FEET)

Unit: 309, 409, 509, & 609

(3rd - 6th floors)

2 Bedroom Unit Plan

Living Area :	1,573 square feet
Patio #1 Area:	346 square feet
Patio #2 Area:	55 square feet
Total:	1,974 square feet



NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

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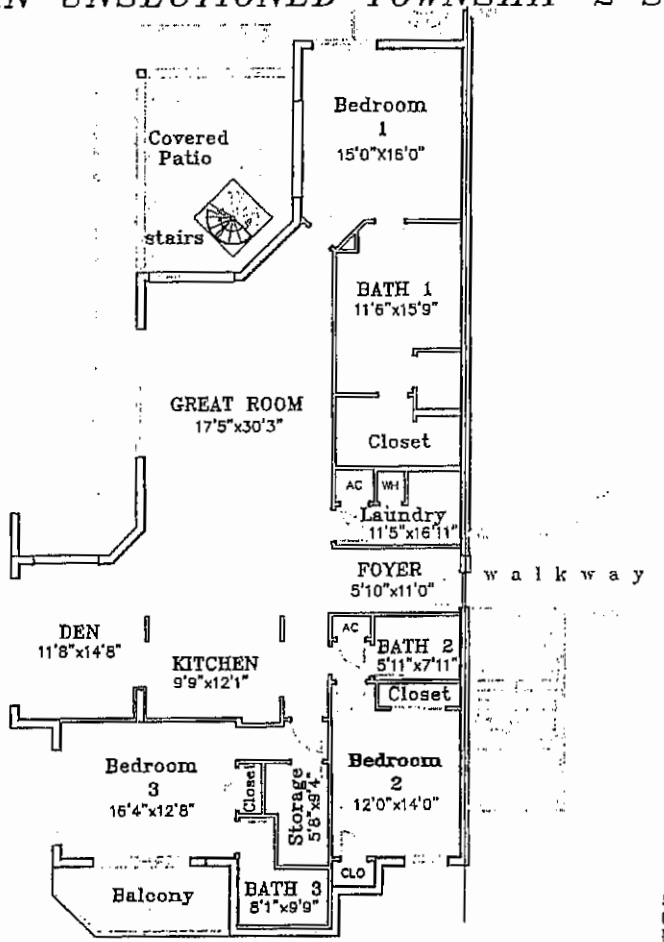
HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA

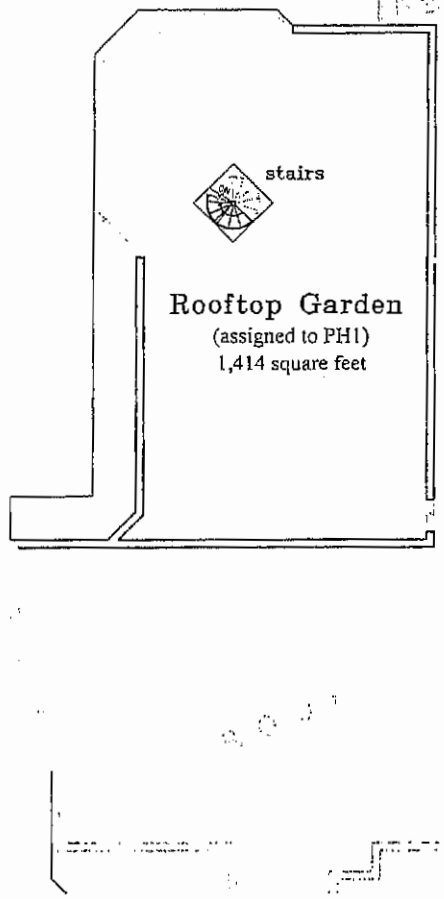


Unit: PH1
3 Bedroom Unit Plan

Living Area :	2,416 square feet
Porch Area :	530 square feet
Balcony Area :	100 square feet
Total (7th fl.) :	3,046 square feet
Rooftop Garden :	1,414 square feet
Total :	4,460 square feet

Graphic Scale
0 5 10 15
(IN FEET)

DESCRIPTION NORTH



NOTE

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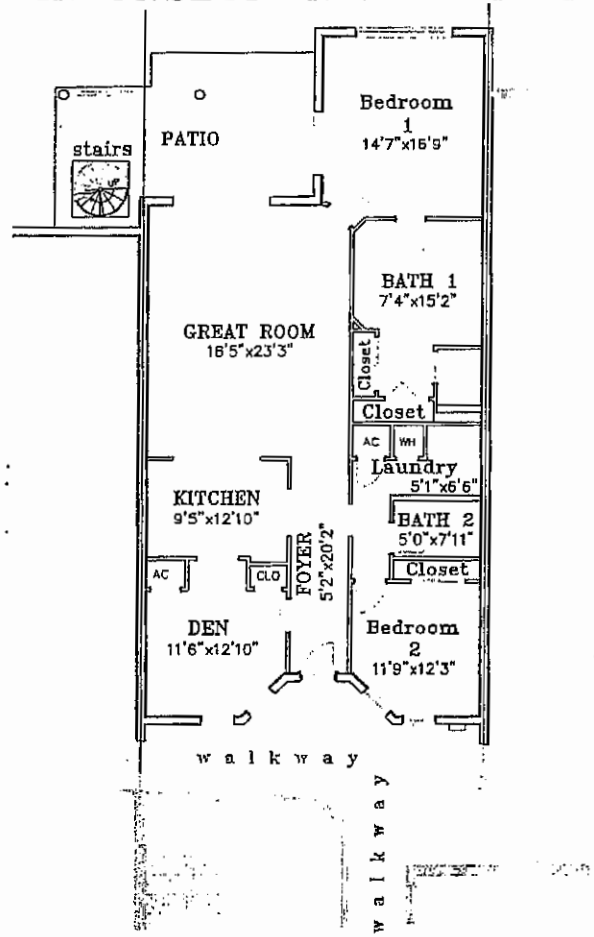
HERON at Destin West Beach and Bay Resort – a condominium
99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

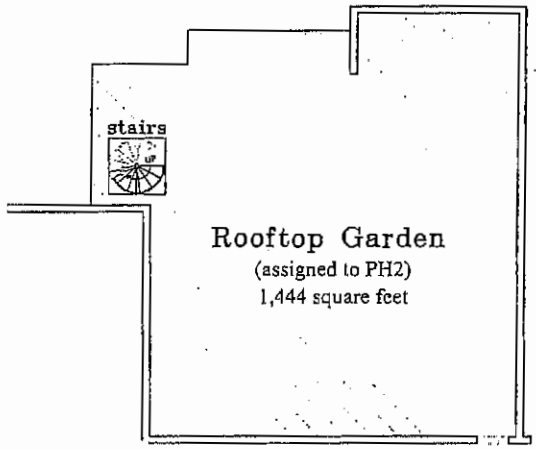
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



Unit: PH2
2 Bedroom Unit Plan

Living Area :	1,776 square feet
Patio Area :	307 square feet
Total (7th fl.) :	2,083 square feet
Rooftop Garden :	1,444 square feet
Total :	3,527 square feet

Graphic Scale
0 5 10 15
(IN FEET)



NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

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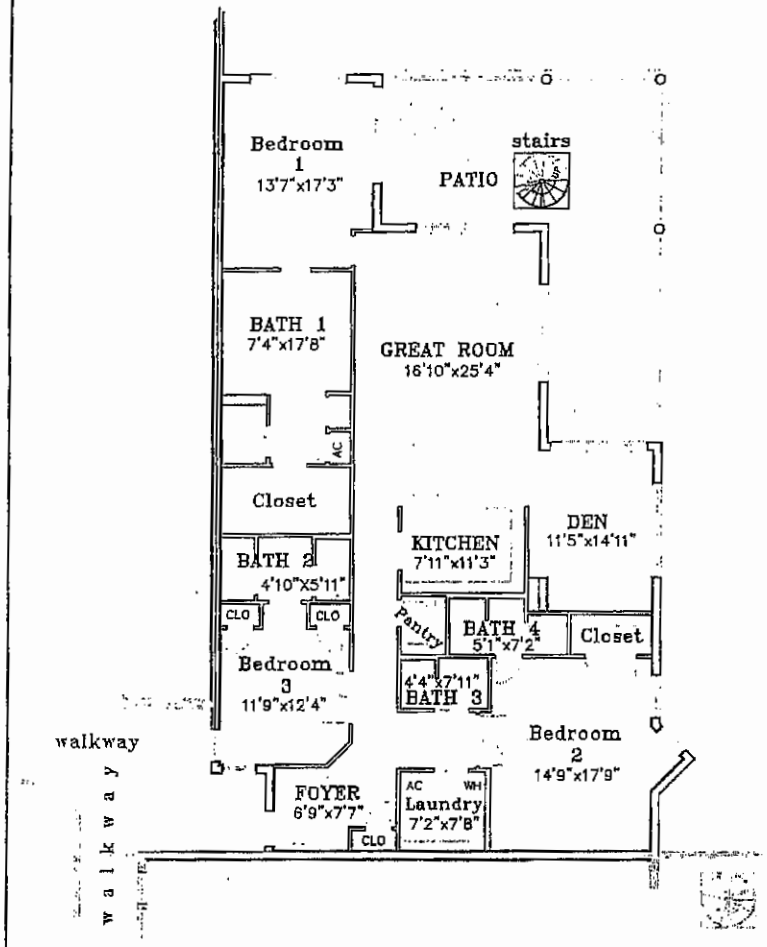
HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

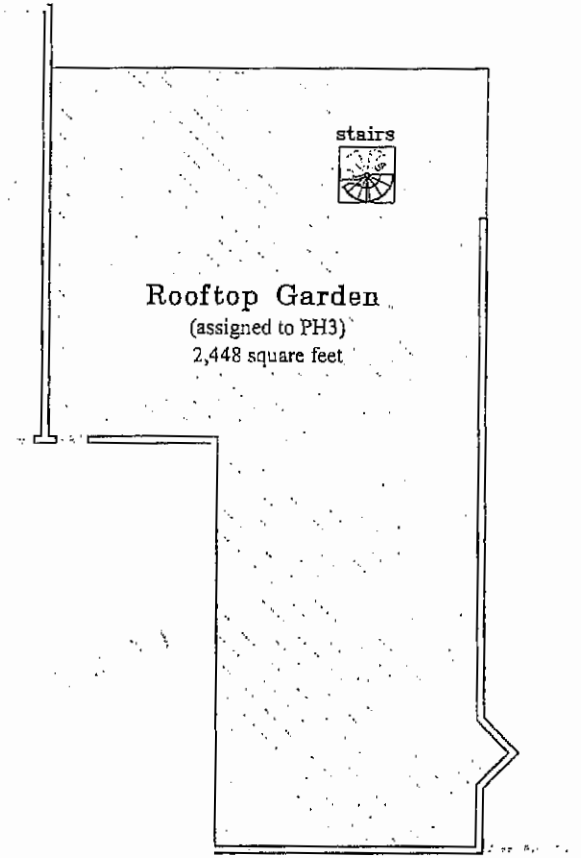
IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



Unit: PH3
3 Bedroom Unit Plan

Living Area :	2,389 square feet
Patio Area :	600 square feet
Total (7th fl.) :	2,989 square feet
Rooftop Garden :	2,448 square feet
Total :	5,437 square feet

Graphic Scale
0 5 10 15
(IN FEET)



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112 TRUXTON AVENUE LB #1582 E-MAIL: cei@choctaweng.com
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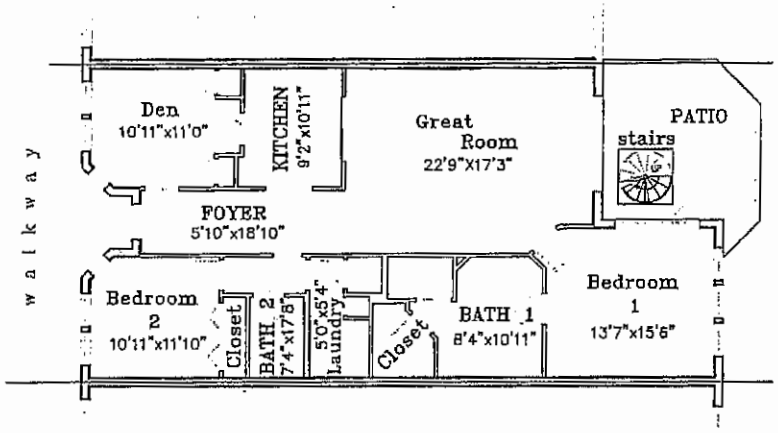
HERON at Destin West Beach and Bay Resort – a condominium

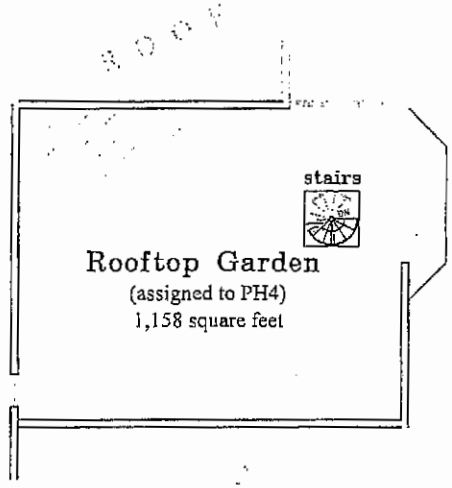
99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA





Graphic Scale

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(IN FEET)

NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Unit: PH4
2 Bedroom Unit Plan

Living Area :	1573 square feet
Patio Area :	217 square feet
Total (7th fl.) :	1,790 square feet
Rooftop Garden :	1,158 square feet
Total :	2,959 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

Prepared by: CHOCTAW ENGINEERING, INC.
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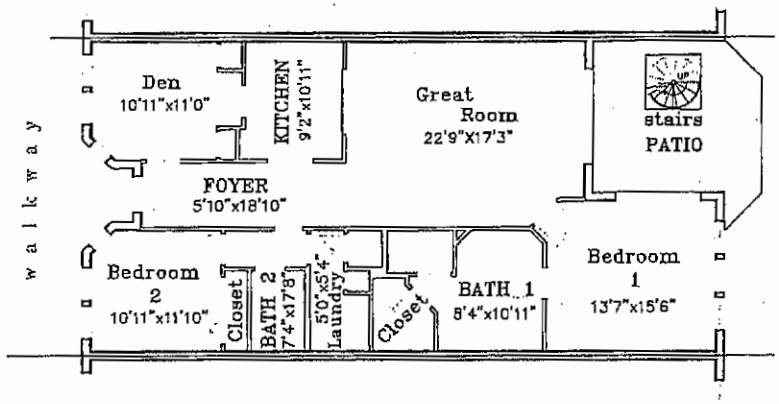
HERON at Destin West Beach and Bay Resort – a condominium

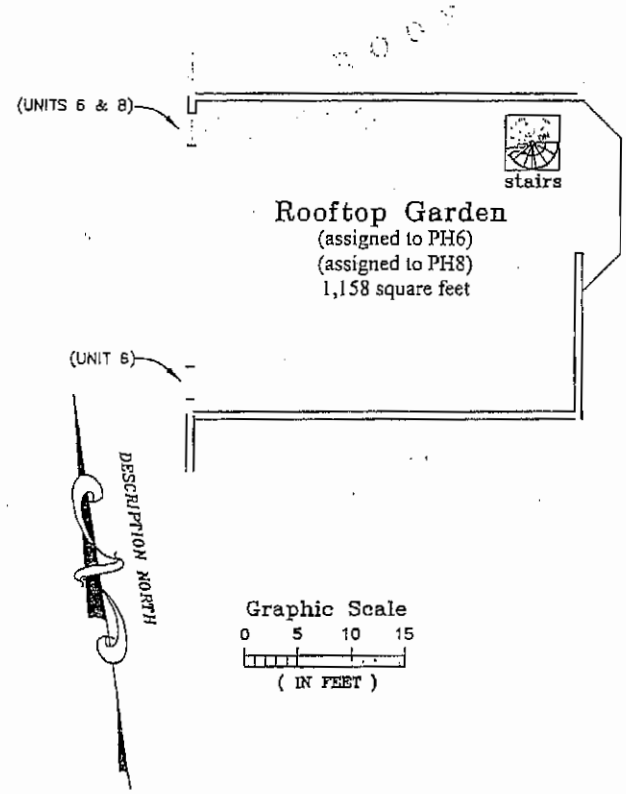
99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA





NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Units: PH6 & PH8
2 Bedroom Unit Plan

Living Area :	1573 square feet
Patio Area :	217 square feet
Total (7th fl.) :	1,790 square feet
Rooftop Garden :	1,158 square feet
Total :	2,959 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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HERON at Destin West Beach and Bay Resort – a condominium

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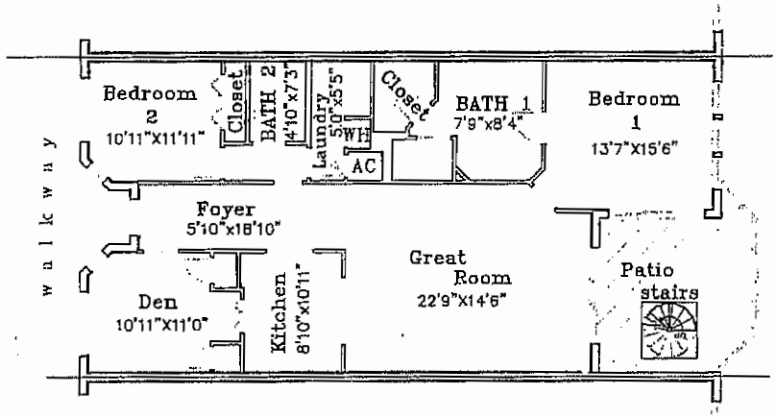
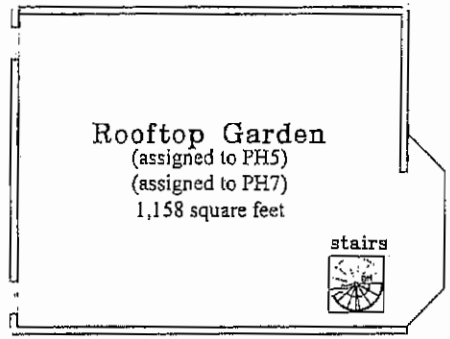
16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA





Graphic Scale
0 5 10 15
(IN FEET)

NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Units: PH5 & PH7
2 Bedroom Unit Plan

Living Area :	1568 square feet
Patio Area :	222 square feet
Total (7th fl.) :	1,790 square feet
Rooftop Garden :	1,158 square feet
Total :	2,948 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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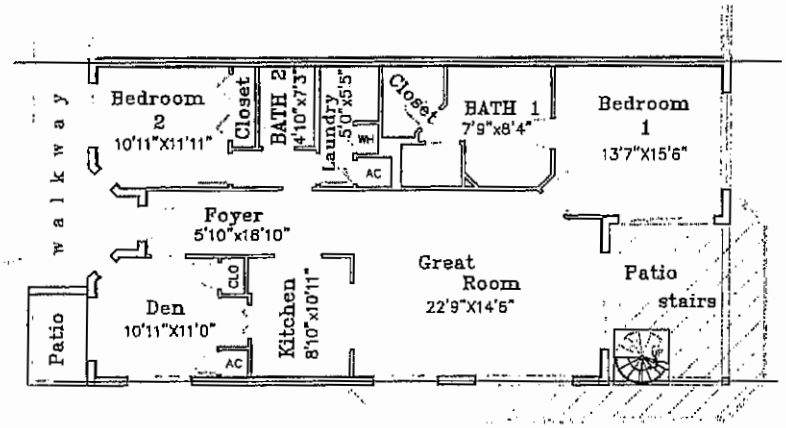
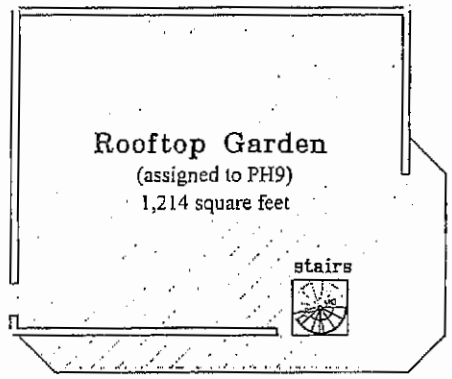
99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

HERON at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA





Graphic Scale

0 5 10 15

(IN FEET)

NOTE

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BALCONIES/LANAIS/PORCHES/PATIOS ARE LIMITED COMMON ELEMENTS.

Unit: PH9
2 Bedroom Unit Plan

Living Area :	1587 square feet
Patio #1 Area:	346 square feet
Patio #2 Area:	55 square feet
Total (7th fl.) :	1,988 square feet
Rooftop Garden :	1,214 square feet
Total :	3,202 square feet

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

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HERON at Destin West Beach and Bay Resort – a condominium

99-183-E

16 AUGUST 2004 [FILE: 99183E-HERCD]

ARTICLES OF INCORPORATION

OF

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

A Corporation Not-For-Profit

In order to form a corporation under the Laws of Florida for the formation of corporations not for profit, we, the undersigned, hereby associate ourselves into a corporation for the purposes and with the powers herein specified; and to that end we do, by these Articles of Incorporation, set forth:

I. Name. The name of the corporation shall be: **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** (the "Association").

II. Purposes. The purposes of the Association shall be to administer the operation, maintenance, and management of **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM** (the "Condominium"), to be established as a condominium in accordance with the Florida Condominium Act (the "Act") upon land situated in Okaloosa County, Florida (the "Land"), and to perform the acts and duties incident to operation and management of the Condominium in accordance with the provisions of these Articles of Incorporation, the By-Laws of the Association (the "By-Laws") and the Declaration of Condominium of the Condominium (the "Declaration"), which will be recorded in the Public Records of Okaloosa County, Florida, when the Land, and the improvements now and to be constructed thereon, are submitted to the condominium form of ownership; and to maintain, operate, encumber, lease, manage, and otherwise deal with the Land, the improvements and such other property, real and/or personal, as may be or become part of the Condominium (the "Condominium Property") to the extent necessary or convenient in the administration of the Condominium, including to operate and manage any recreation facilities or Water Management System which are part of the Condominium Property and created for the use and enjoyment of the Condominium. The Association shall be conducted as a non-profit organization for the benefit of its members.

III. Powers. The Association shall have the following powers:

3.1 All of the powers and privileges granted to corporations not for profit under the law pursuant to which this Corporation is chartered.

3.2 All of the powers conferred on a condominium association by law and which are reasonably necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to:

(a) Make and establish reasonable rules and regulations governing the use of the Units, Common Elements, Limited Common Elements, and Water Management System in and of the Condominium, as such terms are defined in the Declaration.

(b) Levy and collect assessments against members of the Association to defray the Common Expenses of the Condominium, as provided in the Declaration and the By-Laws; including the right to levy and collect assessments for the purpose of acquiring, owning,

holding, operating, leasing, encumbering, selling, conveying, exchanging, managing and otherwise dealing with the Condominium Property, including Units, which may be necessary or convenient in the operation and management of the Condominium and in accomplishing the purposes set forth in the Declaration and the right to levy and collect assessments for the management and operation of any recreation facilities and Water Management System which are created for the use of the members of the Association.

(c) Maintain, repair, replace, operate and manage the Condominium Property, including the right to reconstruct improvements after casualty and further to improve and add to the Condominium Property.

(d) Contract for the management of the Condominium and, in connection therewith, to delegate any and/or all of the powers and duties of the Association to the extent and in the manner permitted by the Declaration, the By-Laws, and the Act.

(e) Enforce the provisions of these Articles of Incorporation, the Declaration, the By-Laws, and all rules and regulations governing use of the Condominium and Condominium Property which may from time to time be established.

(f) Exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association in the Declaration and the Act.

(g) Provide and/or arrange for all services which the law permits to be provided by a condominium association including those services set forth in Florida Statutes, Section 718.111.

(h) Maintain, or by contract provide for the maintenance of, any Water Management System servicing the Land.

IV. **Members**. The qualification of members, the manner of their admission to and the termination of membership, and voting by members shall be as follows:

4.1 The record owners of all Units in the Condominium shall be members of the Association, and no other persons or entities shall be entitled to membership, except as provided in Article 4.5 hereof.

4.2 Membership shall be established by the acquisition of fee title to a Unit in the Condominium, or by acquisition of a fee ownership interest therein, by voluntary conveyance or operation of law, and the membership of any person or entity shall be automatically terminated when such person or entity is divested of all title or his or her entire fee ownership in such Unit; provided, that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two or more Units at any time while such person or entity shall retain fee title to or a fee ownership interest in any Unit.

4.3 The interest 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(s) owned by such member. The funds and assets of the Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the By-Laws.

4.4 On all matters on which the membership shall be entitled to vote, there shall be one, and only one, vote for each Unit in the Condominium (the "Voting Interest"), which Voting Interest may be exercised or cast by the owner(s) of each Unit as provided in the By-Laws. Should any member own more than one Unit, such member shall be entitled to exercise or cast one (1) Voting Interest for each such Unit, in the manner provided by the By-Laws.

4.5 Until such time as the Land, and the improvements now and to be constructed thereon, are submitted to the condominium form of ownership by recordation of the Declaration in the Public Records of Okaloosa County, Florida, the membership of the Association shall be comprised of the subscribers to these Articles, each of whom shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

V. **Duration**. The Association shall have perpetual existence.

VI. **Office**. The principal office of the Association shall be located in Florida, but the Association may maintain offices and transact business in such places, within or without the State of Florida, as may from time to time be designated by the Board of Directors. The initial principal place of business shall be 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548.

VII. **Management**. The affairs of the Association shall be managed by the Board of Directors of the Association ("Board"), directing and acting through the officers of the Association, including the President of the Association assisted by the Vice Presidents, Secretary and Treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, always subject to the direction of the Board of Directors. The Board of Directors, or the President with the approval of the Board of Directors, may employ a managing agent, agency, and/or other managerial and supervisory personnel for the operation and management of the Condominium and the affairs of the Association, and any and all such persons and/or entity or entities may be so employed without regard to whether any such person or entity is a member of the Association or a Director or officer of the Association, as the case may be.

VIII. **Directors**. The number of members of the first Board of Directors shall be three (3). The number of members of succeeding Boards of Directors shall be not less than three (3), or as otherwise provided for from time to time by the By-Laws, and they shall be elected by the members of the Association at the annual meetings of the membership as provided by the By-Laws. At least a majority of the members of all Boards of Directors shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

Tolbert Bayside Development Company, a Florida corporation (the "Declarant"), shall have the right to designate the members of the Board of Directors for so long as the law will permit it to do so. Unit owners, other than the Declarant, shall have the right to elect such Directors at such time and in such manner as the law requires, to wit:

(1) When Unit owners other than the Declarant own 15 percent or more of the Units, the Unit owners other than the Declarant shall be entitled to elect no less than one-third of the members of the Board of Directors.

(2) Unit owners other than the Declarant are entitled to elect not less than a majority of the members of the Board of Directors:

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

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

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

(e) Seven years after recordation of the Declaration of Condominium; whichever first occurs.

The Declarant shall have the right to elect, in the manner provided in the By-Laws, one (1) member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium. Notwithstanding the foregoing, the Declarant shall be entitled at any time to waive in writing its rights hereunder, and to transfer control of the Association to the Unit owners prior to the times required by law. After Unit owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall, within the time required by law and in a manner to be provided in the By-Laws, relinquish control of the Association and shall deliver to the Association possession and control of all Condominium Property of the Unit Owners and of the Association held or controlled by the Declarant.

IX. **Officers**. The Board of Directors shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall deem advisable from time to time. The President shall be elected from the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

X. **Initial Board**. The names and addresses of the members of the first Board of Directors, who, subject to the provisions of the laws of Florida, these Articles of Incorporation and the By-Laws, shall hold office until the annual meeting of the Association in the year following the year this corporation is formed, and thereafter until their successors are selected and have qualified, are as follows:

1. Fred E. Tolbert, III
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

2. William G.P, Kreuser
1500 Miracle Strip Parkway SE
Fort Walton Beach, FL 32548

3. Gail Cluck
1500 Miracle Strip Parkway SE
Fort Walton Beach, FL 32548

XI. **Initial Officers**. The initial officers of the Corporation, who shall hold office until their successors are elected and have qualified pursuant to these Articles of Incorporation and the By-Laws, shall be the following:

President:	Fred E. Tolbert, III 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548
Vice-President:	William G.P, Kreuser 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548
Treasurer/Secretary:	Gail Cluck 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548

XII. **Subscriber**. The Subscriber to these Articles of Incorporation and his address, are set forth below:

Leo J. Salvatori, Esquire
c/o **SALVATORI & WOOD**
4001 Tamiami Trail North, Suite 330
Naples, Florida 34103

XIII. **By-Laws**. The original By-Laws of the Association shall be adopted by a majority vote of the Directors of this Association at a meeting at which a majority of the Directors are present, and, thereafter, the By-Laws may be altered or rescinded only by affirmative vote of two-thirds (2/3) of the votes entitled to be cast by members of the Association.

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

XV. Amendment. An amendment or amendments to these Articles of Incorporation may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by the members of the Association owning a majority of the Units in the Condominium, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles of Incorporation being proposed by the Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days or later than sixty (60) days from the receipt by him or her of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written notice of such meeting stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed or presented personally to each member not less than ten (10) days nor more than thirty (30) days before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at his or her Post Office address as it appears on the records of the Association, with first class postage thereon prepaid. Such notice shall further be posted on the Condominium Property for at least 14 continuous days preceding the meeting. Any member may waive such notice by written waiver of notice signed by such member and such waiver when filed in the records of the Association, whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the members holding Voting Interests of Units in the Condominium to which not less than two-thirds (2/3) of the Common Elements are appurtenant in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of these Articles of Incorporation shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of State of the State of Florida. A certified copy of each such amendment of these Articles of Incorporation shall be recorded in the Public Records of Okaloosa County, Florida, within thirty (30) days from the date on which the same is filed in the office of the Secretary of State. Notwithstanding the foregoing provisions of this Article XV, no amendment to these Articles of Incorporation which shall abridge, amend or alter the right of Declarant to designate and select members of the Board of Directors of the Association, as provided in Article VIII hereof, or otherwise alter or abrogate rights of Declarant, may be adopted or become effective without the prior written consent of Declarant.

IN WITNESS WHEREOF, the Subscriber hereto has hereunto set this hand and seal this _____ day of _____, 200__.

_____

LEO J. SALVATORI

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day personally appeared before me, the undersigned authority, **LEO J. SALVATORI** to me well known and well known to me to be the person who executed the foregoing instrument and acknowledged before me that he executed the same freely and voluntarily for the uses and purposes therein set forth and expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this the _____day of _____, 200__.

_____
NOTARY PUBLIC

_____
TYPED, PRINTED OR STAMPED NAME OF NOTARY
MY COMMISSION EXPIRES:

CERTIFICATE DESIGNATING REGISTERED AGENT AND REGISTERED OFFICE

In compliance with Florida Statutes Sections 48.091, 617.0501 and 607.0501, the following is submitted:

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

desiring to organize as a corporation under the laws of the State of Florida, has designated 4001 Tamiami Trail North, Suite 330, Naples, Florida 34103, as its initial Registered Office, and has named **SALVATORI & WOOD, P.L.**, located at said address, as its initial Registered Agent.

ACCEPTANCE OF REGISTERED AGENT

Having been named Registered Agent for the above stated corporation, at the designated Registered Office, the undersigned hereby accepts said appointment, is familiar with and accepts the obligations thereof, and agrees to comply with the provisions of Florida Statutes Section 48.091 and 617.0501, relative to keeping open said office.

SALVATORI & WOOD, P.L.

By: _____
Leo J. Salvatori, as Manager

BY-LAWS

OF

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

A Corporation Not For Profit

I. THE ASSOCIATION.

1.1 These are the By-Laws of **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** (the "Association"), a Florida corporation not-for-profit, the Articles of Incorporation (the "Articles") of which were filed in the office of the Secretary of State of Florida on _____. The Association has been organized for the purpose of administering the maintenance, operation and management of **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM** (the "Condominium"), established or to be established in accordance with the Florida Condominium Act (the "Act") upon land, situated in Okaloosa County, Florida, described in the Declaration of Condominium.

1.2 The provisions of these By-Laws are applicable to the Condominium and are subject to the provisions of the Articles. A copy of the Articles and a copy of these By-Laws will be annexed, as Exhibits, to the Declaration of Condominium for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium (the "Declaration") which will be recorded in the Public Records of Okaloosa County, Florida. The terms and provisions of the Articles and Declaration shall control wherever the same may conflict herewith.

1.3 All members of the Association and their invitees, including, without limitation, all present or future owners and tenants of units in the Condominium ("Units") and other persons using the Condominium or any of the facilities thereof in any manner, are subject to these By-Laws, the Articles and the Declaration.

1.4 The office of the Association shall be at 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548, or at such other place as may be established by resolution of the Board of Directors.

1.5 The fiscal year of the Association shall be the calendar year.

1.6 The seal of the Association shall bear the name of the Association, the word "Florida"; the words, "Corporation Not For Profit", and the year of incorporation. An impression of the seal is as follows:

(SEAL)

II. MEMBERSHIP, VOTING, QUORUM, AND PROXIES.

2.1 The qualification of members of the Association (the "Members"), the manner of their admission to membership and termination of such membership, and voting by Members,

shall be as set forth in Article IV of the Articles, the provisions of which are incorporated herein by reference.

2.2 A quorum at meetings of Members shall consist of persons entitled to cast one-third (1/3) of the Voting Interests of the entire membership.

2.3 The Voting Interest of the owner(s) of a Unit owned by more than one natural person, as tenants in common, joint tenants (including a husband and wife as tenants by the entirety), a partnership, or any other association of natural persons, or by a corporation, a trust, or any other entity shall be cast or otherwise exercised, at all meetings at which members of the Association are entitled to vote or otherwise act, by one natural person designated by the owner(s) of such Unit as the " Unit Representative" thereof. In each instance where title to a Unit is proposed to be conveyed or is otherwise to become vested in more than one natural person (excluding a husband and wife, a partnership, or any association of natural persons, or a corporation, a trust, or any other entity, the prospective owner(s) shall designate one natural person as the Unit Representative, whose name shall be included in the Registry of Owners under the Declaration. The written instrument designating the Representative shall be filed with the Association, and the person so designated shall be and remain the Unit Representative until such designation has been revoked by written instrument executed by the owner(s) of the Unit or by conveyance of the Unit. The Unit Representative shall be the only person entitled to cast or exercise, in person or by proxy, the Voting Interest of the owner(s) of such Unit at any meeting of members or in connection with any action concerning which members of the Association shall be required or allowed to vote or otherwise act. In the case of a Unit, title to which is held by a husband and wife, each of them shall be the Representative but only one may cast the vote.

2.4 Evidence of the approval or disapproval of the owner(s) of a Unit upon any matter, whether or not the subject of an Association meeting, shall be given to the Association by the same person who would cast the Voting Interest of such owner if in an Association meeting.

2.5 Except where otherwise required under the provisions of the Articles, these By-Laws or the Declaration, or where the same may otherwise be required by law, the affirmative vote of the persons holding a majority of the Voting Interests represented at any meeting of the Members duly called and at which a quorum is present, shall be binding upon the members.

2.6 Voting Interests may be cast in person or by proxy pursuant to terms of the Act. Proxies may be made by the Unit Representative and shall be effective only for the specific meeting for which given and any lawfully 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 by written notice from the Unit Representative.

III. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP.

3.1 The annual meeting of Members shall be held, at the office of the Association or such other place in Okaloosa County, Florida, at such time and on such date in November of each year as may be determined by the Board of Directors and as shall be specified in the notice of the meeting, for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members.

3.2 Special meetings of Members shall be held whenever called by the President or Vice president or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members owning a majority of the Units or as otherwise required herein or by law. If the Board of Directors adopts a budget which requires assessments against unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, upon written request to the Board of Directors by unit owners holding 10 percent or more of the Voting Interests, the Board shall call a special meeting for the enactment of a budget by the unit owners. Subject to the rights of the Declarant to maintain control of the Association pursuant to Florida law, a special meeting of the unit owners to recall a member or members of the Board of Directors may also be called by unit owners holding 10 percent or more of the Voting Interests.

3.3 Notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member (unless waived in writing). Each notice shall be written or printed and shall state the time and place of and purpose for which the meeting is called. The notice of any meeting to consider assessments shall specifically state that fact and the nature of the assessment. Each notice shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed or delivered personally to each Member. If delivered personally, receipt of the notice shall be signed by the Member, indicating the date received. If mailed, such notice shall be mailed via first class United States mail, certified, return receipt requested, addressed to the Member at the Member's Post Office address as it appears on the records of the Association, with postage thereon prepaid. The post office certificate of mailing shall be retained as proof of such mailing; provided, however, that if Florida law is subsequently changed to eliminate the requirement for a post office certificate of mailing, such notice shall be deemed properly given when deposited in the United States Mail, postage prepaid, addressed as hereinabove described, to the Member, and proof of such mailing shall be given by the affidavit of the person giving the notice. Any Member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall be deemed equivalent to the filing of such notice to such Member. Each notice shall in addition be posted in a conspicuous place in the Condominium at least fourteen (14) continuous days prior to said meeting. The Secretary of the Association shall provide an affidavit to be included in the official records of the Association affirming that notices of such Association meeting were mailed or hand-delivered in accordance with the By-Laws of the Association and applicable law, to each member at the address last furnished to the Association. If any meeting of Members cannot be held because a quorum is not present, or because a greater percentage of the membership required to constitute a quorum for particular purposes is not present, whenever the latter percentage of attendance may be required as set forth in the Articles, the By-Laws or the Declaration, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance is present.

3.4 At meetings of Members, the President of the Association, or in his or her absence, the Vice- President, shall preside, or in the absence of both, the Members present shall select a chairman of the meeting.

3.5 The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

(1) Collection of Election Ballots.

(2) Calling the roll and certifying of proxies
(3) Proof of notice of meeting or waiver of notice
(4) Reading or waiver of reading of minutes of previous meeting of Members
(5) Reports of officers
(6) Reports of committees
(7) Appointment by Chairman of Inspectors of Election
(8) (Election of Directors
(9) Unfinished business
(10) New business
(11) Adjournment

IV. BOARD OF DIRECTORS.

4.1 The number of members of the first Board of Directors shall be three (3). The number of members of succeeding Boards of Directors shall be not less than three (3), or as otherwise provided for from time to time by the By-Laws, and they shall be elected by the members of the Association at the annual meetings of the membership as provided by the By-Laws. At least a majority of the members of all Boards of Directors shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

4.2 Directors shall be elected in the following manner:

a. Until such time as Members other than the Declarant own 15% or more of the Units, Declarant shall be entitled to elect all Members of the Board. At such time as Members other than Declarant own 15% or more of the Units, Members other than the Declarant shall be entitled to elect no less than one-third of the members of the Board. Members other than Declarant shall be entitled to elect a majority of the Members of the Board upon the first of the following occur: (i) three years after 50% of the Units have been conveyed to purchasers; (ii) three months after 90% of the Units have been conveyed to purchasers; (iii) when all of the Units have been completed, some of which have been conveyed to purchasers, and none of the others of which are being offered for sale by Declarant in the ordinary course of business; (iv) at such time as some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Declarant in the ordinary course of business; or (v) seven years after recordation of the Declaration of Condominium.

Declarant shall be entitled to elect at least one member of the Board for so long as Declarant holds for sale in the ordinary course of business at least 5% of all Units operated by the Association. At such time as the Declarant fully relinquishes control of the Board, Declarant may exercise the right to vote any Declarant owned Units in the same manner as any other Member, except for purposes of re-acquiring control of the Association or selecting the majority members of the Board.

b. All members of the Board who Declarant shall not be entitled to designate under these By-Laws or under the Florida Condominium Act, shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or inclusion in another Association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of

election. Any unit owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Association not less than forty (40) days before a scheduled election. Together with the written notice and agenda for the meeting, the Association shall mail or deliver a second notice of the election to all Unit Owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of the Candidate, the Association shall include an information sheet, no larger than 8 1/2" by 11", which must be furnished by the Candidate not less than thirty-five (35) days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. However, the Association has no liability for the contents of the information sheets prepared by the candidates. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least twenty (20%) percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. No unit owner shall permit any other person to cast the unit owner's ballot, and any such ballots improperly cast shall be deemed invalid. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions of this Section, election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board. Upon election of the first unit owner other than the Declarant, the Declarant shall forward to the Division of Florida Land Sales, Condominiums and Mobile Homes the name and mailing address of the Unit Owner Director.

c. Vacancies on the Board may be filled, to expire on the date of the next annual meeting, by the remaining Directors; except that (i) should any vacancy in the Board be created in any directorship previously filled by any person designated by Declarant, such vacancy shall be filled by Declarant designating, by written instrument delivered to any officer of the Association, the successor Director and (ii) should any vacancy in the Board be created in any directorship previously filled by any person elected by members other than Declarant, such vacancy shall be filled by the remaining Directors who were elected by such members, and if there are no such remaining Directors, such vacancy shall be filled by a majority vote of the members other than Declarant, present in person at a special meeting called for such purpose. The Board shall call such special meeting when required for filling such vacancy. Directors appointed or elected to fill vacancies shall fill the vacated directorship for the unexpired term thereof.

d. By a vote of the membership at any duly called meeting the members may determine to elect Directors to staggered terms of no more than 3 years. At the same meeting a procedure for implementing the terms may be approved. Directors shall hold office for the terms to which elected or designated, and thereafter until their successors are duly elected, or designated by Declarant, and qualified or until removed in the manner elsewhere herein provided or as provided by law.

e. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected; provided, however, that no member or owner of any Unit may cast more than one vote for any person nominated as a Director; it being the intent hereof that voting for Directors shall be non-cumulative.

f. In the event that Declarant selects any person or persons to serve on any Board, Declarant shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or other persons to serve on the Board. Replacement of any person or persons designated by Declarant to serve on any Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name

or names of the person or persons designated as successor or successors to the persons so removed from the Board. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any officer of the Association. Persons selected by Declarant to serve on the Board need not be members of the Association.

4.3 The organizational meeting of a newly elected or designated Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected.

4.4 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, and shall be open to all members of the Association. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless notice is waived; notice shall also be posted in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. The notice of any Board meeting at which assessments to be made against Unit owners are to be considered shall so state and shall also set forth the nature of the assessment.

4.5 Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of one of the Directors. Not less than three (3) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Such notice shall also be posted in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. In the event that a special meeting of the Board of Directors has been called to discuss non-emergency special assessments, or amendments to rules regarding unit use, notice of said meeting shall be mailed or delivered to Unit Owners, and posted in a conspicuous place in the Condominium, no less than fourteen (14) days prior to the meeting.

4.6 Any Director may waive notice of a meeting before, at or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

4.7 A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles, these By-Laws or the Declaration. If any meeting of the Board cannot be held because a quorum is not present, or because a greater percentage of the Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, these By-Laws or the Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum or the required percentage of attendance if greater than a quorum, is present. Upon adjournment, the Board shall state the time and date the adjourned meeting is to be re-convened, and shall post a notice of such meeting in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. At any re-convened meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.8 The presiding officer at meetings of the Board shall be the President of the Association. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

4.9 All of the powers and duties of the Association shall be exercised by the Board, including those existing under the law of Florida, the Articles, these By-Laws and the Declaration. Such powers and duties shall be exercised in accordance with the Articles, these By-Laws and the Declaration, and shall include, without limitation, the right, power and authority to:

a. Make, levy and collect assessments against Members and Members' residential Units to defray the expenses of the Condominium, and to use the proceeds of assessments in the exercise of the powers and duties of the Association.

b. Maintain, repair, replace, operate and manage the Condominium and Condominium Property as the same is required to be done and accomplished by the Association for the benefit of Members;

c. Repair and reconstruct improvements after casualty;

d. Make and amend regulations governing the use of the Condominium Property, real and personal; provided that such regulations or amendments thereto shall not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles and Declaration;

e. Acquire, own, hold, operate, lease, encumber, convey, exchange, manage, and otherwise trade and deal with property, real and personal, including Units, of and in the Condominium, as may be necessary or convenient in the operation and management of the Condominium, and in accomplishing the purposes set forth in the Declaration, including to grant easements for the benefit of others on, over, or across the Condominium Property and to accept easements for the use and benefit of the Condominium;

f. Contract for the management of the Condominium and in connection therewith to delegate such of the powers and duties of the Association as may be deemed appropriate, except those which may be required by the Declaration to have approval by the Board or Members of the Association, or which may not be delegated by law;

g. Enforce by legal means the provisions of the Articles, these By-Laws, the Declaration and all regulations governing use of property of and in the Condominium hereafter adopted;

h. Pay all taxes and assessments which are liens against any part of the Condominium other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

i. Carry insurance for the protection of the members and the Association against casualty and liability;

j. Pay all costs of power, water, sewer and other utility services rendered to the Condominium and not billed to the owners of the separate Units;

k. Employ personnel for reasonable compensation to perform the services required to properly accomplish the purposes of the Association;

l. Maintain, operate and manage any recreation facilities created for the use of the members of the Association, including to employ personnel and enter into contracts for such management and to assess members for costs associated with such recreation facilities;

m. Make arrangements and enter into contracts to purchase any services for which a budget exists and which the law permits the Association to provide.

n. Accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium units to the applicable fire and life safety code.

4.10 Should any member of the first Board be unable to serve for any reason, the Declarant shall have the right to select and designate a successor to act and serve for the unexpired term of the Director who is unable to serve.

4.11 Directors may be removed from office in the manner provided by applicable Florida law.

V. ADDITIONAL PROVISIONS - MEETINGS OF MEMBERS AND DIRECTORS.

5.1 Notwithstanding anything contained in these By-Laws to the contrary, any meeting of Members or the Board may be held at any place, within Okaloosa County, in the State of Florida, designated in the notice of any such meeting, or notice of which is waived. Board meetings may also be conducted by telephone or other electronic means.

5.2 To the extent now or from time to time hereafter permitted by the laws of Florida, Unit Owners may take any action which they might take at a meeting of the Members of the Association by written consent without a meeting; provided, however, that any approval of Unit Owners to be made only at a meeting, called for by the laws of Florida, as from time to time amended, the Declaration or these By-Laws, shall only be made at a duly noticed meeting of Unit Owners.

5.3 Minutes of all Board and membership meetings shall be retained in a secure place, available for review by the membership, for a period of at least ten (10) years from the date of the meeting.

VI. OFFICERS.

6.1 The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall deem advisable from time to time. The President shall be elected from the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. The Board may from time to time elect such other officers, and designate their powers and duties, as the Board may deem necessary properly to manage the affairs of the Association. Officers may be removed from office by the Board.

6.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees from among the Members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall preside at all meetings of the Board and the Members at which he is present. He shall have such additional powers as the Board may designate.

6.3 The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

6.4 The Secretary shall keep the minutes of all proceedings of the Board and the Members. He shall attend to the giving and serving of all notices to the Members and Board, and such other notices as may be required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a 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 secretary of a corporation not for profit and as may be required by the Board and the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

6.5 The Treasurer shall have custody of all of the monetary properties of the Association, including funds, bank accounts, check books, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the Members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties customarily incident to the office of Treasurer.

6.6 The compensation of all employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Association, nor preclude contracting with a Director for the management of the Condominium.

VII. FISCAL MANAGEMENT.

The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

7.1 The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such account shall designate the name and mailing address of the owner(s) and mortgagee(s) of each Unit, the amount of each assessment against the owner(s) of each Unit, the amount of each assessment and due date thereof, and all amounts paid, and the balance due upon each assessment.

7.2 The Board shall adopt for, and in advance of, each calendar year, a budget showing the estimated costs of performing all of the functions of the Association for the year. Each budget shall show the total estimated expenses of the Association for that year and shall contain an itemized breakdown of the Common Expenses, which shall include, without limitation, the costs of operating and maintaining the Common Elements and Limited Common Elements, wages and salaries of Association employees, management, legal and accounting fees, office supplies, public utility services not metered or charged separately to Units,

premiums for insurance carried by the Association and any reserve accounts and/or funds which may be established from time to time by the Board. The budget shall be prepared in the form and contain categories, including reserves, as required from time to time by the Florida Condominium Act. Each budget shall also show the proportionate share of the total estimated expenses to be assessed against and collected from the owner(s) of each Unit and the due date(s) and amounts of installments thereof. Nothing herein contained shall be construed as a limitation upon any additional assessment in the event that any budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

7.3 A copy of the proposed annual budgets of the Association shall be mailed to the Unit owners 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 the time and place of the meeting. Such meeting of the Board shall be open to Unit owners. If a budget is adopted by the Board which requires aggregate assessments of the Unit owners in any budget year exceeding 115% of such assessments for the preceding budget year, upon written application of persons holding 10% of the Voting Interests, a special meeting of the Unit owners shall be held upon not less than ten (10) days' written notice to each Unit owner, but within thirty (30) days of the delivery of such application of the Board or any member thereof, at which special meeting Unit owners may consider only and enact only a revision of the budget. Any such revision of the budget shall require a vote of persons holding not less than two-thirds (2/3) of the Voting Interests. The Board may in any event first propose a budget to the Unit owners at any such meeting of members or by writing, and if such budget or proposed budget be approved by persons holding a majority of the Voting Interests at such meeting or in writing, such budget may not thereafter be reexamined by the Unit owners in the manner hereinabove set forth. If a meeting of Unit Owners has been called and a quorum is not attained or a substituted budget is not adopted by the Unit Owners, the budget adopted by the Board of Directors shall become effective as scheduled.

7.4 In determining whether assessments exceed 115% of assessments in the prior budget year, there shall be excluded in the computation any provision for reasonable reserves made by the Board in respect of repair and replacement of the Condominium Property, or in respect of anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis; and there shall be excluded from such computation, assessments or betterments to the Condominium Property. Provided, however, that so long as Declarant is in control of the Board of Directors the Board shall not impose an assessment for a budget year greater than 115% of the prior budget year's assessment without approval of persons, other than the Declarant, holding a majority of the Voting Interests.

7.5 Upon adoption of budgets, the Board shall cause a written copy thereof to be delivered to each Unit owner. Assessments shall be made against Unit owners pursuant to procedures established by the Board, and in accordance with terms of the Declaration and the Articles. Assessments shall be levied on an annual basis and installments shall be due and payable not less often than quarterly. Provided, however, that the lien or lien rights of the Association as to assessments shall not be impaired by failure to comply with procedures established pursuant to these By-Laws.

7.6 The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board, in which all monies of the Association shall be

deposited. Withdrawal of monies from such bank(s) shall be only by check signed by such persons as are designated by the Board.

7.7 A review and written report of the accounts of the Association shall be made annually by a Certified Public Accountant, and a copy of the report together with a financial report in the form required by law shall be furnished to each Member not later than sixty (60) days following the year for which the report is made.

7.8 Fidelity bonds shall be required by the Board as to all officers, employees and/or agents of the Association handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least the amount required by law. The premiums on such bonds shall be paid by the Association.

VIII. PARLIAMENTARY RULES.

Roberts' Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles, these By-Laws or the laws of Florida.

IX. AMENDMENTS TO BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner:

9.1 Amendments to these By-Laws may be proposed by the Board, acting upon vote of a majority of the Directors, or by persons holding a majority of the Voting Interests whether meeting as members or by instrument in writing signed by them.

9.2 Upon any amendment or amendments to these By-Laws being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association, or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth; provided, that proposed amendments to the By-Laws may be considered and voted upon at annual meetings of the members.

9.3 In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of the persons holding Voting Interests of Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant and a copy of such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of Okaloosa County, Florida, within fifteen (15) days from the date on which any amendment or amendments have been affirmatively approved by the Members.

9.4 Notwithstanding the foregoing provisions of this Article IX, no amendment to these By-Laws which shall abridge, amend or alter the right of Declarant to designate members of each Board of Directors of the Association, as provided in Article IV hereof, or otherwise abrogate any rights of Declarant, may be adopted or become effective without the prior written consent of Declarant.

X. MANDATORY NON-BINDING ARBITRATION.

In the event of a dispute between one or more Unit owners and/or the Association arising from the operation of the Condominium, the parties shall submit the dispute to mandatory nonbinding arbitration under the rules of the Division of Florida Land Sales and Condominiums.

The foregoing were adopted as the By-Laws of **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.**, A Corporation Not-For-Profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the _____ day of _____, 200__.

Heron at Destin West Beach Bay Resort
Operating Budget
January 1, 2005 to December 31, 2005

		Monthly	Quarterly	Yearly
ADMINISTRATIVE EXPENSES:				
	Fees Payable	18.00	54.00	216.00
	Office Supplies	116.67	350.00	1,400.00
	Phone & Utilities	500.00	1,500.00	6,000.00
	Legal/Accounting bond	100.00	300.00	1,200.00
	Misc.	83.33	250.00	1,000.00
	Postage & freight	100.00	300.00	1,200.00
	Licenses & Feess	100.00	300.00	1,200.00
	Total Administrative	1,018.00	3,054.00	12,216.00
MANAGEMENT FEE		1,416.67	4,250.00	17,000.00
INSURANCE		3,166.67	9,500.00	38,000.00
MAINTENANCE:				
	Maintenance Contracts	1,125.00	3,375.00	13,500.00
	Cleaning Supplies	562.50	1,687.50	6,750.00
	Fire Alarm Service Contracts	166.67	500.00	2,000.00
	Elevators Contracts	450.00	1,350.00	5,400.00
	Cleaning Contracts	1,125.00	3,375.00	13,500.00
	Courtesy Patrol	1,125.00	3,375.00	13,500.00
	Pool Service	500.00	1,500.00	6,000.00
	Pool Supplies	500.00	1,500.00	6,000.00
	Total Repair & Maintenance	5,554.17	16,662.50	66,650.00
HEALTH CLUB FEES:		1,080.00	3,240.00	12,960.00
UTILITIES:				
	Pest Control	90.00	270.00	1,080.00
	Telephone/Elevators	90.00	270.00	1,080.00
	Electricity	450.00	1,350.00	5,400.00
	Cable TV	1,125.00	3,375.00	13,500.00
	Trash Service	333.33	1,000.00	4,000.00
	Water & Sewer	1,666.67	5,000.00	20,000.00
	Gas - pool	300.00	900.00	3,600.00
	Total Utilities	4,055.00	12,165.00	48,660.00
RESERVES:				
	Roof (5)	167.00	501.00	2,004.00
	Painting (5)	500.00	1,500.00	6,000.00
	Pool (30)	167.00	500.00	2,000.00
	Total Reserves	667.00	2,001.00	10,004.00
	Total Expenses with Reserves	16,957.50	50,872.50	205,490.00

HERON AT DESTIN WEST BEACH BAY RESORT
ASSOCIATION FEES
January 1, 2005 - December 31, 2005

UNIT TYPE	SQ. FT.	# OF UNIT TYPE	YEARLY FEES	QTR FEES	ANNUAL FEES
A	2419	6	5,164.57	1,291.14	30,987.39
B	1776	6	3,791.76	947.94	22,750.56
C	2395	6	5,113.33	1,278.33	30,679.95
D	1573	30	3,358.36	839.59	100,750.65
E	1587	6	3,386.98	846.74	20,321.85
		54			$205,490.40

Heron at Destin West Beach Bay Resort
Reserves 2005

Category	Estimated Life	Estimated Remaining Life	Est. Replacement Cost	Amount to Fund Annually
Roof	5	5	10,020	2004
Painting	5	5	30,000	6000
Pool	30	30	60,000	2000
Totals				10004

COMBINED FEES - BAYSIDE
January 1, 2005 - December 31, 2005

Unit Type	Qtrly Fees	Master Fees	Total
HERON:			
A	1291.14	370.80	1,661.94
B	947.94	370.80	1,318.74
C	1278.33	370.80	1,649.13
D	839.59	370.80	1,210.39
E	846.74	370.80	1,217.54

PURCHASE AGREEMENT AND DEPOSIT RECEIPT

HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM

THIS AGREEMENT IS VOIDABLE BY PURCHASER BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT, AND RECEIPT BY PURCHASER OF ALL ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY PURCHASER BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF RECEIPT FROM DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE PURCHASER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. PURCHASER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE PURCHASER HAS RECEIVED ALL OF THE ITEMS REQUIRED. PURCHASER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES TO BE FURNISHED BY A DEVELOPER TO A PURCHASER OR LESSEE.

ANY PAYMENT IN EXCESS OF TEN PERCENT (10%) OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

THIS AGREEMENT, entered into this ___ day of _____, 200___, by and between: TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation hereinafter referred to as "SELLER", and _____ (title to be taken as specified above) hereinafter referred to as "PURCHASER", whose address, telephone number, and social security number(s) are as follows:

_____	_____
(Printed Name)	(Printed Name)
_____	_____
(Social Security Number)	(Social Security Number)
_____	_____
(Address)	(Address)
_____	_____
_____	_____
(Office Telephone Number)	(Office Telephone Number)
_____	_____
(Home Telephone Number)	(Home Telephone Number)

WITNESSETH:

1. PROPERTY. **SELLER** will sell and **PURCHASER** will purchase the following property situated in Okaloosa County, Florida, to-wit:

> Unit No. _____, **HERON AT DESTIN WEST BEACH AND BAY RESORT,** a Condominium, according to the Declaration of Condominium to be recorded in the Public Records of Okaloosa County, Florida.
>
> TOGETHER with all appurtenances thereto.

2. PURCHASE PRICE. The Purchase Price is $_____, payable as follows:

a.	Initial Deposit	$_____
b.	Deposit of 10% with the execution of this Purchase Agreement (less Initial Deposit if previously paid):	$_____
c.	Additional deposit of ten percent (10%) due and payable _____:	$_____
d.	Balance by wire transfer, or cashier's check, due at closing:	$_____
	TOTAL:	$_____

In addition to the Purchase Price, **PURCHASER** shall pay the **PURCHASER'S** Expenses listed in Paragraph 13 below.

3. DEPOSITS. All deposits made hereunder shall be paid to **AmSouth Bank**, Attn: Trust Department, 70 Baylen Street, Pensacola, Florida 32591, **Escrow Agent**, and such Escrow Agent shall provide a receipt for any deposits made. The Escrow Agent will hold the escrowed funds pursuant to this Agreement and the Escrow Agreement entered into by the **SELLER** and Escrow Agent, copy of which has been furnished to the **PURCHASER**. All deposits in excess of the initial ten (10%) percent of the selling price of the Unit may be held and used in the manner permitted by law to pay for construction. All deposits will be invested in an interest bearing account with all interest to be paid or credited to **PURCHASER** at closing or returned to **PURCHASER** at the rate earned on the deposits remaining in escrow. Escrow fees of approximately ONE HUNDRED TWENTY-FIVE ($125.00) DOLLARS will be paid by **PURCHASER** and may be deducted at closing from the interest earned upon disbursement. Upon closing, **SELLER** will be entitled to all deposits made by **PURCHASER**. Upon default by either party hereto, or upon cancellation, of this Agreement, all deposits made by **PURCHASER** shall be paid to the party entitled to receive the deposits, according to the terms of this Agreement.

4. LETTERS OF CREDIT. If a letter of credit is offered by Purchaser in lieu of a cash earnest money deposit (hereafter "Letter of Credit"), such Letter of Credit must be in

form acceptable to Seller. Until Seller has expressly stated in writing that the offered form of the Letter of Credit is acceptable, Purchaser shall have no rights whatever under this Purchase Agreement or to the Unit, notwithstanding that the Seller or representative of Seller may have executed this Purchase Agreement. It is the intention of the parties that Seller's express acceptance in writing of an Letter of Credit shall be a condition precedent to the effectiveness of this Purchase Agreement. Once an offered Letter of Credit has been fully accepted, Purchaser agrees to extend or to arrange for the extension of its expiration date for one or more periods of six (6) months on twenty (20) days' written notice from Seller to Purchaser. If a Letter of Credit is not extended as requested, for whatever reason and notwithstanding any absence of fault on the part of the Purchaser, such circumstances shall constitute a default hereunder and Seller shall have, in addition to any other rights and remedies, an immediate unqualified right to call for payment under the Letter of Credit. Purchaser further acknowledges that Escrow Agent charges an additional fee, presently $175.00, to hold Letters of Credit, for which Purchaser shall be solely responsible.

5. <u>COMPLETION DATE AND CONSTRUCTION</u>.

a. **SELLER** estimates that the Unit will be completed and ready for occupancy by **PURCHASER** on or before October 1, 2006. The expression of an estimated time of delivery on the part of the **SELLER** is made as an accommodation to **PURCHASER** to assist **PURCHASER**, but it shall not be considered as time which is of the essence of this Agreement and it shall be subject to change should **SELLER**'s progress or plans be altered by conditions unforeseen by or outside the control of **SELLER**, and any such change shall not require formal or specific notice by **SELLER** to **PURCHASER**. **SELLER** shall make a reasonable effort to meet or accelerate estimated construction schedules, but **SELLER** shall not be obligated to provide or compensate for any accommodations or other expenses of **PURCHASER** as a result of delayed or accelerated completion. **PURCHASER** recognizes that the building in which **PURCHASER**'s Unit is located may be completed prior to completion of the *"Common Properties"* (as defined in the Declaration and the Prospectus). Notwithstanding any other provision of this Agreement, construction of the Unit shall be completed on or before two (2) years from the date of this Purchase Agreement; provided, however, that **SELLER** shall not be responsible for delays caused by circumstances recognized by Florida law to constitute impossibility of performance.

b. A description of the standard features included in the Unit is attached hereto as Exhibit A and made a part hereof.

c. The dimensions shown on the preliminary survey and floor plans ("Dimensions") are approximate and there may be variations and modifications in the Dimensions. **SELLER** may make changes to the Dimensions if required by governmental authorities, lenders or job conditions; provided such changes do not materially reduce the floor size of **PURCHASER**'s Unit and further provided that **PURCHASER**'s Unit will be of similar quality and value and constructed in substantial conformity with the preliminary survey and applicable floor plan. If **SELLER**, due to shortages, cost increases or discontinuance of materials and

supplies, makes substitutions, such substituted material or supplies shall be of similar or better quality.

d. **PURCHASER** acknowledges and agrees that the Purchase Price is based upon applicable laws and building codes as exist as of the effective date hereof. In the event of any change of law, regulation or building code subsequent to the date hereof, or in the event any applicable governmental authority enacts an impact fee ordinance, or increases any impact fees subsequent to the date hereof, which change results in an increase in **SELLER**'s cost to construct improvements contemplated herein, the parties hereto do hereby agree that the Purchase Price shall forthwith and automatically increase in the Unit's proportionate share of said increase, due and payable to **SELLER** at Closing.

6. **UNIT SPECIFICATIONS.** A description of the standard features included in the unit is attached hereto as Exhibit A and made a part hereof.

7. **INSPECTIONS. PURCHASER** will have a reasonable opportunity to inspect the Unit, accompanied by **SELLER**'s agent, before closing. After inspection and prior to closing, **PURCHASER** and **SELLER** will prepare and sign a list ("punch list") of any defects in the workmanship or materials. Any necessary minor repairs or "touch-ups" will be made, without cost to **PURCHASER**, by the servicing organization maintained by **SELLER** for that purpose or, if they are items that are covered by the warranties of manufacturers, suppliers, contractors or subcontractors which have been assigned or are assignable by **SELLER** to **PURCHASER**, by service providers designated in such warranties. The closing will not be delayed by any un-remedied defects or unperformed repairs or "touch-ups." The contractor's work will be judged against construction standards in Okaloosa County, Florida. **PURCHASER** agrees not to hold back any part of the purchase price or impose any conditions on the closing because of defects or because of minor details of the Unit which are not usually completed until after closing and occupancy.

8. **DAMAGE BEFORE COMPLETION.** If the Unit is damaged by fire or other casualty before closing, and if **SELLER** decides to repair the damage, **SELLER** will have a reasonable time to complete repairs, which will be made without cost to **PURCHASER**. The repair work will be judged by the same standard used to evaluate new construction **PURCHASER** will have no right to any reduction in the purchase price nor any claims against **SELLER** by reason of the damage and will close on the scheduled closing date if the repairs have been completed (to the extent that **PURCHASER** is not prevented from living in the Unit) by that date.

SELLER reserves the right to decide, in it sole discretion, not to repair the damage. If **SELLER** makes this decision, this Agreement will be canceled, in which case **SELLER** will refund all **PURCHASER'S** deposits with any interest earned. This will terminate any rights or responsibilities the parties have to each other and each party will thereafter be released from any and all liability hereunder.

9. **CLOSING. SELLER** or its agent shall schedule the date, time and place for closing of title in Okaloosa County, Florida. However, the closing date will not be before

the date when **SELLER** obtains a certificate of occupancy for the Unit from the proper governmental agency. The Closing shall be effected in the following manner:

a. If **PURCHASER** does not intend to be present for closing, it is **PURCHASER'S** responsibility to give written notice to Escrow Agent at least ten (10) days before the closing date of the address to which the closing documents should be sent. All closing documents will then be delivered to **PURCHASER** by either facsimile (if originals are not necessary to effectuate a closing) or via overnight delivery and **PURCHASER** shall pay all costs of delivery and return of closing documents.

b. This Agreement is not contingent upon **PURCHASER** obtaining financing for purchase of the Unit. If **PURCHASER** obtains such financing, it is **PURCHASER'S** responsibility to ensure that **PURCHASER'S** lender will be ready to close by the date of closing. The fact that **PURCHASER'S** lender is not ready to close may not be cause for a delay in closing. Additionally, it is **PURCHASER'S** responsibility to give written notice to Escrow Agent at least ten (10) days before the closing date of the name of **PURCHASER'S** lender, address, phone number, loan amount, and contact person. It is also **PURCHASER'S** responsibility to notify its lender of the closing date set by **SELLER**.

c. At closing, the balance of the purchase price plus **PURCHASER'S** closing costs must be paid by cashier's check, or wire transfer to Escrow Agent's account completed before noon on the closing date. Cashier's checks are accepted subject to clearance, and are not considered paid until cleared.

d. **SELLER** is not obligated to extend the closing date. However, in the event that Purchaser requests an extension of the closing date and Seller agrees to the same, **PURCHASER** shall be charged an extension fee calculated by multiplying the Purchase Price by fifteen percent (15%) per annum, prorated daily for each day the closing is extended. Furthermore, if closing is extended beyond the closing date, prorations for taxes and condominium charges shall be calculated based on the closing date set forth in Paragraph 7(a) above rather than the actual closing date.

10. <u>TITLE AND CONVEYANCE</u>. Provided the **PURCHASER** returns the Closing Information Sheet to Escrow Agent at least ten (10) days prior to closing, **SELLER** shall deliver to **PURCHASER** an ALTA Title Insurance Commitment at least three (3) days prior to closing. In the event the Closing Information Sheet is not timely returned, the ALTA Title Insurance Commitment will be given to the **PURCHASER** at Closing or sent to the **PURCHASER** after closing if **PURCHASER** does not attend closing. The ALTA Title Insurance Commitment shall show that the title **PURCHASER** will receive at closing will be marketable and insurable, subject only to the permitted exceptions described below:

a. Liability for all current and future ad valorem taxes on the Unit.

b. Any restrictions, covenants, conditions, limitations, agreements, reservations, and easements now recorded in the public records, or hereafter

created by **SELLER** in connection with development of the Condominium, and zoning ordinances or other restrictions imposed by governmental authority.

c. The restrictions, covenants, conditions, easements, terms and other provisions imposed by the documents contained or referred to in the Offering Circular.

d. The standard exceptions contained in the ALTA Owner's Title Insurance Policy issued in Okaloosa County, Florida for condominium units.

e. Statutory rights of access to the Unit in favor of the Condominium Association by virtue of Florida Statutes.

f. Easements, and other encumbrances created by the Seller in connection with the development of the Condominium and the Master Association for **DESTIN WEST BEACH AND BAY RESORT - BAYSIDE**, and any adjoining condominiums, marinas, garages, or other improvements.

g. Any liens or encumbrances created by or against **PURCHASER.**

h. Personal property will not be insured; and

i. Riparian and littoral rights will not be insured.

None of the foregoing will, however, prevent use of the Unit for the purposes permitted in the Declaration.

If **SELLER** cannot convey title in the condition required, **SELLER** will have a reasonable time to correct any defects in title, but **SELLER** is not obligated to do so. If **SELLER** cannot or will not correct the title defects, **PURCHASER** will have two options:

(i) **PURCHASER** may accept the title in the condition it exists and pay the full purchase price waiving any claims against **SELLER** because of the defects; or

(ii) **PURCHASER** may cancel this Agreement, in full settlement, and receive a full refund on all deposits with such interest as may have been earned and would have been paid had **PURCHASER** closed as planned.

At the time of closing **SELLER** will deliver a special warranty deed conveying title to the Unit and **PURCHASER** will pay the balance of the purchase price and any additional amounts owed under this Agreement. After the recordation of the closing instruments, the **SELLER** shall cause a title insurance policy consistent with the terms of the aforesaid binder to be issued to the **PURCHASER.** The cost of such policy shall be paid by the **SELLER.**

11. <u>POSSESSION/WARRANTY</u>. No **PURCHASER** may take possession of or make improvements to the Unit until all amounts due **SELLER** have been paid and title to

the property has been conveyed to **PURCHASER.** It is clearly understood between the parties to this Agreement that any "punch list" or "touch up" items required to be completed by the **SELLER** will not constitute grounds for delaying a closing. Delivery and acceptance of such possession shall not limit or waive the warranties of the **SELLER** or those of the manufacturer of items within the Unit as imposed by the Condominium Act; however, there shall be no warranties which go beyond those imposed by said Condominium Act. **SELLER** shall assume risk of loss from fire or otherwise until closing takes place on the Unit.

12. **LIENS PRIOR TO CLOSING**. Any mortgage or lien now or hereafter encumbering the real estate or said Unit will be discharged or released at or prior to closing, but until such discharge or release, **PURCHASER** acknowledges and agrees that his rights hereunder are subordinate to the lien of any construction loan mortgage which now or shall hereafter encumber said property prior to closing.

13. **SELLER'S EXPENSES**. At closing, **SELLER** shall pay all costs and expenses of the Title Insurance Commitment delivered prior to closing, and expenses of issuance of the title insurance policy to **PURCHASER**, as well as furnishing the special warranty deed and related closing documents.

14. **PURCHASER'S EXPENSES**. **PURCHASER** shall pay for and/or furnish:

a. Any Note and Mortgage, together with the Florida documentary stamp tax and intangible tax thereon, and all costs incident to the obtaining of such mortgage, including Lender's Title Insurance.

b. Florida documentary stamp taxes payable on the special warranty deed.

c. Fees for any attorney retained by the **PURCHASER.**

d. Fees of Escrow Agent under this Agreement, estimated to be in the amount of ONE HUNDRED TWENTY-FIVE ($125.00) DOLLARS, together with an additional and estimated $175.00 if a Letter of Credit is utilized as part of the Deposit.

e. Pro rata share of assessments by **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** and **DESTIN WEST BEACH AND BAY RESORT - BAYSIDE PROPERTY OWNERS ASSOCIATION, INC.** for the period from date of closing to the first day of the next succeeding assessment period, together with any initial working capital contributions owed said associations, which initial working capital contribution shall not exceed a sum equal to one quarter's maintenance assessment for each of the respective associations.

f. Pro rata share of real estate taxes and any other municipal or county assessments for the year in which the transaction closes.

g. Any impact fees, or increase in impact fees, enacted by any governmental agency or utility provider subsequent to the effective date hereof.

15. REAL ESTATE BROKER. **PURCHASER** warrants that the sale was made by _____ and _____, and **PURCHASER** covenants to defend and indemnify the **SELLER** against claims of any other broker claiming under **PURCHASER.**

16. NO RECREATIONAL LEASE. The Unit that is the subject of this Agreement is not subject to any land or recreational lease or sublease.

17. DEFAULT.

a. Should the **PURCHASER** fail to close or to pay the deposits within the time period set forth in this Agreement, such non-performance shall constitute a default under this Agreement. Upon default by the **PURCHASER**, the **SELLER'S** sole remedy shall be to retain all deposits made by the **PURCHASER** to the date of such default, together with any interest accrued thereon, as full and liquidated damages and not as a penalty. This provision has been specifically agreed upon by the parties because the amount of actual damages is incapable of ascertainment, and default on the part of the **PURCHASER** would have serious adverse financial effects upon the **SELLER**, as a result of increased costs, expenses and fees having been incurred by **SELLER**, and by its having lost the opportunity to sell the Unit to other prospective purchasers.

b. If for any reason consummation of this transaction is prevented after acceptance of this Agreement by **SELLER'S** act, neglect or inability to deliver as per this Agreement, the **PURCHASER** shall be entitled to the refund of his deposit, plus any interest accrued thereon; or **PURCHASER** can pursue any of **PURCHASER'S** lawful remedies.

18. WARRANTIES. **SELLER** grants to **PURCHASER** those warranties specifically set forth in Section 718.203, Florida Statutes, as such section exists as of the date of this Agreement (said warranties being hereinafter referred to as the "Sole Warranties"). The sole warranties are expressly in lieu of any other warranties, expressed or implied.

Maximum liability of the **SELLER** under the Sole Warranties shall be the replacement cost of the defective portion of the Unit, Common Elements, fixtures, items of personal property or other real or personal property. **SELLER** shall have the right to determine whether a defect shall be corrected by repair or replacement. In no event shall the **SELLER** be liable to the **PURCHASER** or the Condominium Association for consequential damages arising from any breach of the Sole Warranties.

The **SELLER** warrants that the Unit that is the subject of this Agreement has never been occupied as a residence or living unit.

19. PLANS AND SPECIFICATIONS. The **PURCHASER** acknowledges that the **SELLER** has advised the **PURCHASER** that the **PURCHASER** may inspect a copy of the complete Plans and Specifications for the construction of the Unit offered to him and of the improvements to the common elements appurtenant to the Unit. Such inspection may

be made during regular business hours at the information center or such other location as may be agreed.

20. **INSULATION DISCLOSURE**. The parties acknowledge that the insulation to be installed in the building containing this Unit is as follows:

a. INTERIOR WALLS (PER PLANS - NOT ALL WALLS):

Type: Metal Stud w/½" Gypsum
Thickness: 3⅝" Metal Stud – Total Thickness 4⅝"
R-Value: N/A

b. EXTERIOR WALLS ALL FLOORS:

Balcony and Walkway	*End Walls of Building*
Type: Concrete Masonry Unit	Cast In Place Concrete
Thickness: 8"	8"
R-Value: R-11	R-11

c. CEILINGS IN ALL AREAS (TOP FLOOR UNITS ONLY)

Type: *Drywall*
Thickness: 8" slab/4" insulation and drywall
R-Value: R-19

21. **RIGHT OF AMENDMENT**. Prior to recordation of the Declaration of Condominium and prior to closing, **SELLER** reserves the right to change or amend the condominium documents. If **SELLER** does so, **SELLER** shall furnish the **PURCHASER** a copy of the revised proposed documents. If any amendment materially alters or modifies the documentation in a manner that is adverse to **PURCHASER**, **PURCHASER** shall have 15 days after receipt within which to approve the proposed documents. If **PURCHASER** does not approve the modified documents that materially alter or modify the documentation in a manner adverse to **PURCHASER**, **PURCHASER** shall have the immediate right of cancellation on notice furnished to **SELLER** within the 15-day period and the right to return of any deposit money paid to **SELLER** or Escrow Agent under this Agreement. Failure to so notify of cancellation within the time provided shall be deemed a waiver of that right. Such right shall be **PURCHASER'S** exclusive remedy relative to any such amendments.

22. **ATTORNEY'S FEES**. In the event litigation should arise with respect to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including those incident to any appeal.

23. **ASSIGNMENT**. The **PURCHASER'S** rights and obligations under this Agreement are not assignable or transferable by the **PURCHASER** without the prior written consent of the **SELLER**, which may be withheld by the **SELLER** at its sole discretion.

24. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties hereto. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by either party. Each party has relied on its own examination of this Agreement and the provisions hereof, and the counsel of its own advisors, and the warranties, representations, and covenants expressly contained in this Agreement itself. The failure or refusal of either party to inspect the Agreement or other documents, or the failure to obtain legal or other advice relevant to this transaction, constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection or advice. No modification or amendment to this Agreement shall be of any force or effect unless in writing and executed by the **PURCHASER** and by the **SELLER**.

25. NOTICES AND TIME. Whenever any notice to **PURCHASER** is required, the same may be delivered either personally or by mail, addressed to the **PURCHASER** at the address set forth in this Agreement. Whenever notice to **SELLER** is required, the same must be mailed by certified mail to **SELLER** at its address set forth in this Agreement, with a copy to SALVATORI & WOOD, 4001 Tamiami Trail North, Suite 330, Naples, Florida 34103.

All notices sent by United States Mail shall be conclusively presumed to have been received within five (5) days from the date such notice was deposited with the United States Postal Service.

26. RECORDING OF THIS AGREEMENT. **SELLER** and **PURCHASER** agree that neither this Agreement nor any short form summary hereof shall be recorded in the Public Records of Okaloosa County, Florida.

27. GOVERNING LAW. This Agreement shall be governed by the Laws of the State of Florida.

28. ITEMS NOT INCLUDED IN THE PROPERTY.

a. The model condominium units and common elements which may be shown in sales brochures and other advertising materials may contain certain items for demonstration purposes that are not included in the Condominium Unit, including, but not limited to, furniture, accessories, and equipment.

b. Any sales brochures or other documents which may be received by **PURCHASER** may show certain fixtures, finished hardware, and equipment. **SELLER** reserves the right to substitute items of equal or better quality for those items or any component of the building.

c. The purchase price of the Unit includes the appliances and equipment listed in the attached Exhibit "A". Any other appliances, furnishings or decorations contained in any model apartments are for display purposes only.

d. The tile or other flooring, and installation thereof, that Purchaser is obligated to install on all lanais, the exclusive use of which has been reserved to Purchaser's Unit.

29. RADON GAS. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to person who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

30. ENERGY PERFORMANCE LEVEL DISPLAY CARD. When this Unit is completed and ready for occupancy, an energy performance level display card will be signed by the builder of the building in which this Unit is located and shall thereupon become an Addendum to this Agreement. This disclosure statement is provided in compliance with Sections 553.9805 and 553.996, *Florida Statutes*. This disclosure statement is intended for the sole use of Purchaser for this transaction only and Seller shall not be liable or responsible to any third party who has relied upon the information contained herein.

31. WAIVER OF COASTAL CONSTRUCTION CONTROL LINE SURVEY. **Exhibit 1** to the Prospectus for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium is a proposed survey of the overall site plan of the Condominium project. The proposed survey depicts the location of existing structures, the proposed location of HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium and the location of the coastal construction control line. The **PURCHASER** by executing this Agreement, waives the requirement in Section 163.57, Florida Statutes, that the **PURCHASER** be provided an affidavit or survey meeting the technical requirements of Chapter 472, Florida Statutes, at or prior to closing.

32. TIME IS OF THE ESSENCE. The performance of all obligations on the precise times stated in this Agreement is of absolute importance and failure to perform any of them on time is a default, time being of the essence.

33. MISCELLANEOUS. This Agreement may be executed in any number of counterparts, which together shall constitute the understanding of the parties. The paragraph headings herein are for purposes of identification only and shall not be considered in construing this Agreement. Whenever used, the singular shall include the plural, and the plural the singular, and the use of any gender shall include all genders as appropriate.

FLORIDA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST A CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR AND ANY SUBCONTRACTORS, SUPPLIER, OR DESIGN PROFESSIONALS THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND MAKE AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR OR ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER FLORIDA LAW.

34. SPECIAL CLAUSES.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

THIS AGREEMENT IS VOIDABLE BY PURCHASER BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT, AND RECEIPT BY PURCHASER OF ALL ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE SELLER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY PURCHASER BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF RECEIPT FROM SELLER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE PURCHASER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. PURCHASER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE PURCHASER HAS RECEIVED ALL OF THE ITEMS REQUIRED. PURCHASER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE SELLER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES TO BE FURNISHED BY A SELLER TO A PURCHASER OR LESSEE.

ANY PAYMENT IN EXCESS OF TEN PERCENT (10%) OF THE PURCHASE PRICE MADE TO SELLER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE SELLER.

Signed, sealed and delivered in the presence of:

PURCHASER:

_____
Witness #1

_____
PURCHASER

_____
Witness #2

_____
Witness #1

_____
PURCHASER

_____
Witness #2

SELLER:
(Corporate Seal)
TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation

_____
Witness #1

_____
Witness #2

By:_____
_____, as
Authorized Agent

DEPOSIT RECEIPT

Subject to clearance of funds, receipt of **PURCHASER'S** deposit in the sum of $_____ is hereby acknowledged by _____ for transmittal to **AMSOUTH BANK**, as Escrow Agent. The deposit will be held in escrow by Escrow Agent as per the above stated terms and conditions. The Realtor below is executing this Deposit Receipt for the sole purpose of acknowledging the receipt of **PURCHASER'S** deposit. The execution of this Deposit Receipt by Realtor does not constitute acceptance or execution of this Agreement or any Addendum thereto by **SELLER.**

REALTOR

_____

By: _____

FL Lic. No: _____

Dated: _____

REAL ESTATE AGENT(S)

_____	of	_____
Salesperson		Firm Name
_____		_____
Address		Telephone

_____	of	_____
Salesperson		Firm Name
_____		_____
Address		Telephone

EXHIBIT A

This Unit will be furnished with the following items or equal which will be conveyed to Purchaser at closing: one (1) build-in microwave, one (1) dishwasher, one (1) refrigerator with ice maker, one (1) garbage disposal, and one (1) oven/range, one (1) ceiling fan in master bedroom and one (1) ceiling fan in living room, ceilings to be textured finishes, kitchen, balcony, foyer and baths to be tile and bedrooms and closets to be carpet.

DBPR Form CO 6000-6
Effective: 12/23/02

RECEIPT FOR CONDOMINIUM DOCUMENTS

The undersigned acknowledges that the documents checked below have been received or, as to plans and specifications, made available for inspection.

Name of Condominium: Heron at Destin West Beach and Bay Resort, A Condominium

Address of Condominium: xxxx Miracle Strip SE Parkway, Destin, Florida 32548

Place a check in the column by each document received or, for the plans and specifications, made available for inspection. If an item does not apply, place "N/A" in the column.

DOCUMENT	RECEIVED	BY ALTERNATIVE MEDIA
Frequently Asked Questions and Answer Sheet		
Prospectus Text		
Declaration of Condominium		
Articles of Incorporation		
Bylaws		
Form of Agreement for Sale or Lease		
Affidavit of Developer as to Ownership		
Rules or Regulation		
Covenants and Restrictions		
Ground Lease	N/A	
Management and Maintenance Contracts for More than One Year		
Renewable Management Contracts		
Lease or Recreational and Other Facilities to be Used Exclusively by Unit Owners of Subject Condominiums (See s. 718.503(1)(b) 7, F.S. and S. 718.504, F.S.)		
Form of Unit Lease if a Leasehold		
Declaration of Servitude		
Sales Brochures		
Lease or Recreational and Other Facilities to be Used by Unit Owners with Other Condominiums (See s. 718.503(1)(b) 8, F.S. and S. 718.504, F.S.)		
Description of Management for Single Management of Multiple		

DOCUMENT	RECEIVED	BY ALTERNATIVE MEDIA
Condominiums (See s. 718.503(1)(b) 5, F.S. and S. 718.504, F.S.)		
Conversion Inspection Report	N/A	
Conversion Termite Inspection Report	N/A	
Plot Plan		
Floor plan		
Survey of Land and Graphic Description of Improvements		
Executed Escrow Agreement		
Alternative Media Disclosure Statement (See Rule 61B-17.0111, F.A.C.)	N/A	

DOCUMENT	RECEIVED	OR	MADE AVAILABLE	BY ALTERNATIVE MEDIA
Plans and Specifications				

THE PURCHASE AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THE PURCHASE AGREEMENT BY THE BUYER, AND RECEIPT BY THE BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER. THE AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE DOCUMENTS REQUIRED. BUYER'S RIGHT TO VOID THE PURCHASE AGREEMENT SHALL TERMINATE AT CLOSING.

Executed this _____ day of _____, 200___.

_____ Purchaser

_____ Purchaser

HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM
CONTRACT ESCROW AGREEMENT

This Agreement is made this 8 day of September, 2004, by and between **AMSOUTH BANK** (hereinafter called "Escrow Agent"), whose address is AmSouth Bank Trust Department, Post Office Box 12790, Pensacola, Florida 32591, and **TOLBERT BAYSIDE DEVELOPMENT COMPANY**, a Florida corporation (hereinafter called "Developer"), whose address is 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548, whereby the parties hereto, for and in consideration of the mutual covenants and agreements hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, do agree as follows:

1. Developer is in the process of developing a condominium known as "HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium" (hereinafter called the "Condominium") and desires to establish an escrow account as required by Chapter 718, Florida Statutes, with Escrow Agent in which to deposit funds to be received from various purchasers of units in the Condominium.

2. The escrow account required by Section 718.202, Florida Statutes, to be established by Developer is hereby so established with Escrow Agent, and Developer agrees that Developer, or its agents, shall cause all earnest money deposits made by purchasers of condominium units in the Condominium to be forwarded to Escrow Agent. Escrow Agent agrees to deposit all such sums received by Escrow Agent which are not in excess of ten percent (10%) of the sales price described in the corresponding Purchase Agreement in an escrow account designated as HERON AT DESTIN WEST BEACH AND BAY RESORT Regular Escrow Account (the "Regular Escrow Account") and to deposit all such sums received by Escrow Agent which are in excess of ten percent (10%) of the sales price described in the corresponding Purchase Agreement in a special escrow account designated as HERON AT DESTIN WEST BEACH AND BAY RESORT Special Escrow Account (the "Special Escrow Account").

3. All funds forwarded to the Escrow Agent shall be accompanied by a copy of the Purchase Agreement properly executed by the Purchaser and by Developer with their signatures witnessed, and a complete signed W-8 or W-9 form for each Purchaser. Unless Developer, Purchaser and Escrow Agent agree otherwise, all funds delivered to Escrow Agent shall be in cash or in check made payable to "AmSouth Bank, Escrow Agent". The parties expressly agree that the Escrow Agent shall be under no duty to enforce the collection of any checks delivered to it. In the event that a Purchaser provides a letter of credit acceptable to Developer and Escrow Agent as a portion of the earnest money deposit required by the Purchase Agreement, such letter of credit shall be in an amount not less than ten percent (10%) of the sales price under the Purchases Agreement and shall be deemed to represent that portion of the earnest money deposit which otherwise would have been deposited in the Regular Escrow Account. As a condition to allowing a Purchaser to provide a letter of credit as hereinabove provided, Developer and Escrow Agent may require the Purchaser to execute a written statement acknowledging that the letter of credit is deemed to represent that portion of the earnest money deposit which otherwise would have been deposited in the Regular Escrow Account and agreeing to the payment of the letter of credit fee provided in paragraph 7 below.

4. Escrowed funds may be deposited in separate accounts or in a common escrow or trust account or commingled with other escrow or trust accounts handled or received by

09/09/2004 THU 01:03 FAX 850 337 0005 DESTIN WEST REALTY LLC 002/011

Escrow Agent, except as otherwise described herein. The Escrow Agent shall invest deposits in an interest bearing account, or at the direction of Developer in securities of the United States or any agency thereof or in accounts in institutions, the deposits of which are in each case insured by an agency of the United States or as shall be permitted under Florida Statutes, Section 718.202. The escrowed funds shall at all reasonable times be available for withdrawal in full by the Escrow Agent.

5. The Escrow Agent shall distribute funds deposited pursuant to this Agreement as follows:

   A. If a Purchaser properly terminates a Purchase Agreement pursuant to its terms or pursuant to Chapter 718, Florida Statutes, as a matter of right, the funds held in both the Regular Escrow Account and the Special Escrow Account shall be paid to the Purchaser, together with any interest earned thereon.

   B. If a Purchaser defaults in the performance of the Purchaser's obligations under the Purchase Agreement, the funds held in both the Regular Escrow Account and the Special Escrow Account shall be paid to the Developer, together with any interest earned thereon, but less escrow fees described in Paragraph 7 below, within a reasonable time period after the receipt of the Developer's written certification that such Purchase Agreement has been terminated by reason of the Purchaser's failure to cure such default in performance.

   C. If a Purchase Agreement so provides, the Developer may withdraw the corresponding escrow funds in excess of ten percent (10%) of the purchase price from the Special Escrow Account as provided in Paragraph 6 of this Agreement.

   D. In the event that Developer and Purchaser voluntarily terminate a Purchase Agreement by mutual consent, the funds held in both the Regular Escrow Account and the Special Escrow Account, together with any interest earned thereon shall be disbursed in accordance with written instructions to Escrow Agent signed by both Developer and Purchaser certifying that the Purchase Agreement has been voluntarily terminated by mutual consent and specifying the party or parties to whom such funds shall be disbursed.

   E. If any funds in either the Regular Escrow Account or the Special Escrow Account have not been previously disbursed in accordance with the preceding subparagraphs, such funds, together with interest earned, will be disbursed to the closing agent by the Escrow Agent at, or not more than thirty days prior to, the anticipated closing date of the purchase contemplated by the corresponding Purchase Agreement (with the Purchaser receiving credit for the same against the purchase price unless prior to the disbursement the Escrow Agent receives from the Purchaser written notice of a dispute between the Purchaser and the Developer. The interest shall be paid or credited to Purchaser at the closing of the transaction.

6. All escrow deposits which are deposited into the Special Escrow Account under paragraph 2 above may, provided the corresponding Purchase Agreement so provides, be disbursed by the Escrow Agent to Developer, for the actual construction and development of the condominium property in which the unit described in such Purchase Agreement is located. Developer hereby represents and warrants to, and covenants

08/08/2004 THU 01:04 FAX 850 337 0005 Destin West Realty LLC 003/011

with, Escrow Agent that all funds hereafter disbursed to Developer out of the Special Escrow Account shall be used only in the actual construction and development of the condominium property as permitted by Chapter 718, Florida Statutes, and that no part of such funds shall be used for salaries, commissions or expenses of salesmen or for advertising purposes. Developer shall indemnify, defend and hold Escrow Agent harmless from and against any and all loss, liability, damage, cost and expense, including without limitation, reasonable attorneys' fees, suffered or incurred by Escrow Agent by reason of or resulting from or arising out of Developer's failure to use or apply funds disbursed to Developer or Developer's general contractor. In order to withdraw funds from the Special Escrow Account, the Developer shall provide an affidavit to the Escrow Agent that the funds will be used only in the actual construction and development of the Condominium and not for salaries, commissions or expenses of salesmen or for advertising purposes. Disbursements out of the Special Escrow Account shall be treated as draws against the entire Special Escrow Account and will effectively reduce the interest earned daily by each Purchaser on a pro rata basis in the same proportion as the such Purchaser's portion of the Special Escrow Account bears to the total amount held in the Special Escrow Account.

7. No fees or expenses shall be payable to the Escrow Agent for its services as escrow agent hereunder except (a) an escrow fee of $125.00 per unit for which a Purchase Agreement and escrow deposit are delivered to the Escrow Agent, which fee shall be deducted from the interest earned on each Purchaser's deposit to the Regular and Special Escrow Accounts if and to the extent provided in paragraph 5 above, or shall either be deducted from such interest earned at the time funds in the Regular and Special Escrow Account are forwarded to the Closing Agent for the closing, or shall be paid at the closing; (b) an additional escrow fee of $175.00 per letter of credit accepted by Seller as all or a portion of any deposit money; (c) reasonable administrative fees, attorney's fees and court costs incurred by Escrow Agent arising out of litigation or threatened litigation which results in a judgment or settlement in which the Escrow Agent is determined not to be in violation of the terms of this Agreement; and (d) other extraordinary or unforeseen expenses reasonably incurred by Escrow Agent in connection with this Escrow Agreement.

8. The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent acts hereunder merely as a depository and shall not be liable in any manner for the sufficiency and correctness as to form, manner and execution, genuineness or validity of any instrument deposited hereunder or under which it does act, or the identity or authority of any person executing or depositing the same. The Escrow Agent's duties hereunder shall be limited to the safekeeping of such certificates, monies, instruments or other documents received by it in its capacity as Escrow Agent hereunder, and for the disposition of the same in accordance with this Escrow Agreement and the written instruments accepted by it as Escrow Agent hereunder. In the event of any disagreement between the Developer, the Escrow Agent or any other person, including Purchasers having an interest in or claiming an interest in, the certificates, monies, instruments or other documents deposited pursuant hereto, resulting in adverse claims or demands being made with reference to such certificates, monies, instruments or other documents, the Escrow Agent may, at its option, continue to hold the same without liability until the rights of all adverse claimants have been adjusted and settled between the parties and the Escrow

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Agent has been so advised by all such interested parties in writing or may file an interpleader action in a court of competent jurisdiction.

9. The Escrow Agent may consult with legal counsel of its own choice and shall have full and complete authorization and protection for any action taken or suffered by it in good faith and in accordance with the opinion of its legal counsel. The Escrow Agent shall otherwise not be liable for any act or omission in connection herewith in the absence of gross negligence or willful misconduct on its part.

10. The Escrow Agent may resign upon thirty (30) days' written notice to the Developer. If a successor Escrow Agent is not appointed by Developer within this thirty day period, the Escrow Agent may petition the court of the appropriate jurisdiction to name a successor Escrow Agent.

11. All notice and communications hereunder between the Developer and the Escrow Agent shall be in writing and shall be deemed to be duly given if sent by registered or certified mail, return receipt requested, to the respective addresses set forth herein.

12. The rights created by this Agreement shall inure to the benefit of and the obligations created hereby shall be binding upon the parties hereto, their successors and assigns.

13. This Agreement shall be construed and enforced according to the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the year and date first above written.

Signed, sealed and delivered in the presence of :

Name: _____

Name: _____

ESCROW AGENT:

(Corporate Seal)
AMSOUTH BANK

By: _____

Its: Vice President

DEVELOPER:

(Corporate Seal)
By: TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation

Name: PAT JOBES

Name: Amy Willey

By: _____
Fred E. Tolbert III, as President

Prolaw:4565.3:

monies, instruments or other documents received by it in its capacity as Escrow Agent hereunder, and for the disposition of the same in accordance with this Escrow Agreement and the written instruments accepted by it as Escrow Agent hereunder. In the event of any disagreement between the Developer, the Escrow Agent or any other person, including Purchasers having an interest in or claiming an interest in, the certificates, monies, instruments or other documents deposited pursuant hereto, resulting in adverse claims or demands being made with reference to such certificates, monies, instruments or other documents, the Escrow Agent may, at its option, continue to hold the same without liability until the rights of all adverse claimants have been adjusted and settled between the parties and the Escrow Agent has been so advised by all such interested parties in writing or may file an interpleader action in a court of competent jurisdiction.

The Escrow Agent may consult with legal counsel of its own choice and shall have full and complete authorization and protection for any action taken or suffered by it in good faith and in accordance with the opinion of its legal counsel. The Escrow Agent shall otherwise not be liable for any act or omission in connection herewith in the absence of gross negligence or willful misconduct on its part.

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All notice and communications hereunder between the Developer and the Escrow Agent shall be in writing and shall be deemed to be duly given if sent by registered or certified mail, return receipt requested, to the respective addresses set forth herein.

The rights created by this Agreement shall inure to the benefit of and the obligations created hereby shall be binding upon the parties hereto, their successors and assigns.

This Agreement shall be construed and enforced according to the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the year and date first above written.

Signed, sealed and delivered
in the presence of :

Tina M. Barth
Name: Anna M. Barth

Lorrie A. Surtz
Name: Lorrie A. Surtz

Name:

Name:

ESCROW AGENT:
(Corporate Seal)
AMSOUTH BANK
By:
STEPHEN TIMBERLAKE
Its: Vice President

DEVELOPER:
(Corporate Seal)
By: TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation
By:
Fred E. Tolbert III, as President

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing was acknowledged before me this 08 day of ~~June~~ September, 2004, by STEPHEN TIMBERLAKE, as Vice-President of AmSouth Bank. Such person is personally known to me or presented his/her current Florida driver's license as identification.

ANNA MARIE WALLACE
MY COMMISSION # DD 013621
EXPIRES: May 27, 2005

Anna Marie Wallace
NOTARY PUBLIC [NOTARY SEAL]
ANNA MARIE WALLACE
PLEASE PRINT OR TYPE NAME OF NOTARY
My Commission Expires:

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing was acknowledged before me this _____ day of September, 2004, by _____, as Vice-President of AmSouth Bank. Such person is personally known to me or presented his/her current Florida driver's license as identification.

_____
NOTARY PUBLIC [NOTARY SEAL]

_____
PLEASE PRINT OR TYPE NAME OF NOTARY
My Commission Expires:

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 8 day of September, 2004, by **FRED E. TOLBERT III**, as President of TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation, on behalf of the company. He is personally known to me.

AMY K. WILLEY
MY COMMISSION # DD 129065
EXPIRES: June 25, 2006
Bonded Thru Notary Public Underwriters

_____
NOTARY PUBLIC [NOTARY SEAL]
Amy K. Willey
PLEASE PRINT OR TYPE NAME OF NOTARY
My Commission Expires: 6/25/06

09/09/2004 THU 01:04 FAX 850 337 0005 Destin Best Realty LLC 008/011

AFFIDAVIT OF DEVELOPER

(Great Heron)

STATE OF FLORIDA
COUNTY OF OKALOOSA

BEFORE ME, the undersigned authority, personally appeared **FRED E. TOLBERT, III**, as President of Tolbert Bayside Development Company, a Florida corporation, (hereinafter referred to as the "Affiant"), who being by me first duly sworn, did depose and say:

1. That Affiant's name is Fred E. Tolbert, III.

2. That Affiant is over the age of eighteen (18) years and has personal knowledge of the facts contained herein.

3. That Affiant is the President of Tolbert Bayside Development Company, a Florida corporation (hereinafter referred to as "Developer").

4. That Developer intends to develop a condominium project to be located on certain real property in Fort Walton Beach, Okaloosa County, Florida, to be referred to as GREAT HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium.

5. That Developer owns and holds fee simple title to the property upon which the proposed condominium is to be constructed.

FURTHER AFFIANT SAITH NOT.

(Corporate Seal)
TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation

By _____
Fred E. Tolbert, III, as President

SWORN TO AND SUBSCRIBED before me this 14 day of May, 2003, by **FRED E. TOLBERT, III**, as President of Tolbert Bayside Development Company, a Florida corporation, who is personally known to me.

Tammara D. McDaniel
NOTARY PUBLIC

Tammara D. McDaniel
TYPED, PRINTED OR STAMPED NAME OF NOTARY

MY COMMISSION EXPIRES:
May 7, 2004

Tammara D. McDaniel
MY COMMISSION # CC933840 EXPIRES
May 7, 2004
BONDED THRU TROY FAIN INSURANCE, INC.

QBNAP\356101.3

FREQUENTLY ASKED QUESTIONS AND ANSWERS

HERON AT DESTIN WEST BEACH AND BAY RESORT
CONDOMINIUM ASSOCIATION, INC.

As of August 27, 2004

Q.1. What are my voting rights in the condominium association?
A. Each Unit shall be entitled to one vote.

Q.2. What restrictions exist in the condominium documents on my right to use my Unit?
A. There are restrictions on use of Units in the Condominium. For example, residential Units may be occupied for residential purposes only, domestic pets are limited by size and may be kept in Units by Unit owners only, and other similar restrictions. The details of such restrictions are more particularly set forth at Section 16 of the Declaration of Condominium, beginning on Page 15.

Q.3. What restrictions exist in the condominium documents on the leasing of my Unit?
A. There are no restrictions on the leasing of the Units in this Condominium, except for the obligation to notify the Association 24 hours in advance of the arrival of the tenant.

Q.4. How much are my assessments to the condominium association for my Unit type and when are they due?
A. The Association will charge each Unit Owner a quarterly assessment for the maintenance and operation of the Condominium. The estimated operating budget for calendar year 2005 for the Association is attached to this Prospectus at Tab 6., and that for the Master Association at Tab 15.

Q.5. Do I have to be a member in any other association? If so, what is the name of the association and what are my voting rights in this association? Also, how much are my assessments?
The Association will be a member of Destin West Beach and Bay Resort- Bayside Property Owners Association, Inc. ("Master Association") which Master Association will be the fee owner of certain recreational facilities and other commonly used facilities and amenities available to all Unit Owners at the Condominium, as well as other condominiums constructed, or to be constructed, on adjoining properties. The Association as Member of the Master Association will vote on behalf of all Unit Owners it represents, and Unit Owners will not vote individually. The Master Association will charge each Condominium Association at the Condominium, which in turn will assess Unit Owners therein for the maintenance and operation of these facilities. The budget for the Master Association is attached to this Prospectus at Tab 15. Membership and voting rights of the Master Association are more particularly set forth at Article 3 of the Master Association Declaration found at Tab 12 of this Prospectus.

Q.6. Am I required to pay rent or land use fees for recreational or other commonly used facilities? If so, how much am I obligated to pay annually?
A. No.

Q.7. Is the Condominium association or other mandatory membership association involved in any court cases in which it may face liability in excess of $100,000? If so, identify each such case.
A. No.

NOTE: THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, EXHIBITS HERETO, THE SALES CONTRACT, AND THE CONDOMINIUM DOCUMENTS.

DBPR 33-032

This instrument prepared by and after recording return to:

Leo J. Salvatori, Esq.
Salvatori & Wood, P.L.
4001 Tamiami Trail North, Suite 330
Naples, Florida 34103

DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS FOR DESTIN WEST BEACH AND BAY RESORT-BAYSIDE

THIS DECLARATION is made this _____ day of _____, 2004, by TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation (hereinafter called "Developer").

RECITALS

A. Developer is the owner of a parcel of land located in Okaloosa County, Florida, legally described on Exhibit A hereto (the "Properties" or the "Property") on which Developer is developing a community together with certain facilities for the common use and enjoyment of the owners of Units ("Units"), and others, located and constructed by Developer within the Properties pursuant to a general plan of development, such development on the Properties to be known as "**DESTIN WEST BEACH AND BAY RESORT-BAYSIDE**"; and

B. In order to (i) ensure that a general plan of development is adhered to; (ii) establish certain continuing relationships in the form of mutual rights and obligations between Developer and the persons who acquire ownership of Units developed in DESTIN WEST BEACH AND BAY RESORT-BAYSIDE by Developer, and their respective successors, with respect to use, enjoyment and maintenance of certain areas and facilities (hereafter described) within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE and (iii) protect, preserve, and enhance the value of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, Developer has determined that this Declaration, establishing certain easements, servitudes, restrictions, and conditions in the form of covenants running with the land shall be binding upon, enforceable against and inure to the benefit of all such present and future owners of the Property developed within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE and shall run with title to the land hereby and hereafter subjected to it; and

C. As a part of its general development plan, Developer may, but is not obligated to, develop and construct certain improvements, facilities and amenities upon and as a part of the Properties for the common use, benefit and enjoyment of the Owners and Occupants of the Units, as set forth hereinafter.

NOW, THEREFORE, Developer hereby declares that title to the Property described in Exhibit A, together with such other properties as Developer may hereafter subject to this Declaration, and all Units (as hereafter defined) now and hereafter existing thereon shall be held, sold, conveyed, encumbered, used and occupied subject to the terms and conditions of this Declaration as covenants running with the land enforceable as aforesaid.

ARTICLE 1

DEFINITIONS

The following terms when used in this Declaration shall have the following meanings:

(a) **"Articles"** means the Articles of Incorporation of the Master Association.

(b) **"Board"** means the Board of Directors of the Master Association.

(c) **"By-Laws"** means the By-Laws of the Master Association.

(d) **"Common Assessment"** shall mean the annual charge against each Owner and his Unit, representing a portion of the total costs to the Master Association of maintaining, improving, repairing, replacing, managing and operating the Common Properties pursuant to this Declaration.

(e) **"Common Expenses"** means the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Properties (including unpaid Special Assessments) and the various amenities and facilities thereon including those costs not paid by the Owners responsible for payment; the costs of any and all commonly metered utilities, cable or master television charges, and other commonly metered charges for the Common Properties; the Water Management System; costs of management and administration of the Master Association, including, but not limited to, legal and accounting and similar services, compensation paid by the Master Association to managers, contractors, utilities, landscaping and other services benefiting the Common Properties, and all facilities thereon; the cost of equipment, materials, labor, services, and management and supervision thereof; the costs of fire, casualty and liability insurance, workmen's compensation insurance, and other insurance covering the Common Properties; the costs of bonding of the members of the management body; taxes paid by the Master Association, including any real property taxes for the Common Properties; amounts paid by the Master Association to discharge any lien or encumbrance levied against the Common Properties, or portions thereof; membership dues payable to the Health Club, as later described herein; and the costs of any other expenses incurred by the Master Association for any reason whatsoever in connection with the Common Properties for the benefit of Owners.

(f) **"Common Properties"** means the lands described on Exhibit C, less those lands described on Exhibit C-1, and improvements thereon and thereto, and such additional lands as may be so designated by Supplemental Declarations hereto, and which are intended to be devoted to the common use and enjoyment of the Owners of Units within the Property. "Common Properties" includes lands, systems, facilities, rights and easements which may be deeded, leased, conveyed, granted, reserved or assigned to the Master Association and/or designated by Developer as Common Property, together with all improvements thereon and equipment, facilities and rights associated therewith that are so designated by Developer. Common Property includes personal property acquired by the Master Association, and property which the Master Association owns and for which it has maintenance responsibilities, such as Roads, roadways, driveways, parking garages and spaces, sidewalks, boardwalks, pedestrian walkways, beach cross-overs, outdoor swimming pools and decks, any shuttle service, and various recreational and athletic facilities, lawns, landscaping, and utility lines and easements and such other facilities within the Property that are designated as the responsibility of the

Master Association to maintain. Common Property may also include property not located within the Property but made subject to this Declaration, such as easements, leases or other rights in other property.

(g) "**Condominium Association**" means any corporation, so identified in a Declaration of Condominium filed by Developer with respect to any portion of the Properties, which Condominium Association exists for purposes of administering and maintaining such portion of the Properties.

(h) "**DESTIN WEST BEACH AND BAY RESORT-BAYSIDE**" means and refers to the entire project being developed by Developer upon the Properties, including all improvements and amenities, the Condominium Associations, and other components thereof unless the context otherwise requires.

(i) "**Developer**" means TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation, as aforesaid, and its successors and assigns who acquire any portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE for the purpose of development so long as TOLBERT BAYSIDE DEVELOPMENT COMPANY assigns its rights hereunder to such persons by express assignment or by operation of law.

(j) "**First Mortgagee**" means an Institutional Lender, as hereafter defined, which holds a first mortgage encumbering a Unit, as hereafter defined. The purchaser at a foreclosure sale of property included in a mortgage from Developer and the successors in title to that purchaser may, but shall not be obligated to, include all or a portion of the property so purchased at the sale as a part of the Properties affected by this Declaration.

(k) "**Health Club**" means Tolbert Fitness Company, a health and exercise club owned, operated and administered by Tolbert Fitness Company, LLC, an affiliate of Developer. All Owners of Units at Destin West Beach and Bay Resort – Bayside, shall have an automatic and mandatory non-equity membership in the Health Club by virtue of Unit ownership. The Health Club and dues payable by Unit Owner members, are as later set forth herein.

(l) "**Improved Unit**" means a residential Unit within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE on which construction has been completed, as evidenced by a Certificate of Occupancy for such residential Unit or the building in which it is located, but specifically excludes any Commercial Unit and boat dock units.

(m) "**Institutional Lender**" means a governmental agency, commercial or savings bank, savings and loan association, mortgage company, life insurance company, licensed mortgage company, pension fund, or business trust including, but not limited to, a real estate investment trust, or any assignee of a loan made by any such lender including, but not limited to GNMA, FNMA, VA, FHA or FHLMC, or any private or governmental institution which has insured the loan of a lender or any combination of the foregoing entities.

(n) "**Master Association**" means Destin West Beach and Bay Resort-Bayside Property Owners Association, Inc., a non-profit Florida corporation, whose purpose is to administer the Common Properties, as hereafter defined, in accordance with the provisions of this Declaration and the governing documents of the Master Association.

(o) "**Member**" means a Condominium Association, as hereafter defined, or the Developer. The Master Association has Class "A" Members and a Class "B" Member as defined in its Articles of Incorporation.

(p) "**Notice**" means:

(i) Written notice delivered personally or mailed to the last known address of the intended recipient, in the manner set forth herein; or

(ii) Notice given in any other manner provided in the By-Laws of the Master Association.

(q) "**Occupant**" means the occupant of any Unit on the Properties other than the Owner or the immediate family (children) of the Owner; Occupant shall include guests, tenants, invitees, lessees, and any other person occupying a Unit for any length of time.

(r) "**Owner**" means the record owner, whether one or more persons or entities, of the fee simple title to any residential Unit developed by Developer or its assigns upon any portion of the Properties subject hereto, but shall not include Developer and, notwithstanding any applicable theory of mortgage, shall not mean any holder of a mortgage encumbering a Unit unless and until such holder has acquired title thereto pursuant to foreclosure or any proceeding or conveyance in lieu of foreclosure.

(s) "**Property**" or "**Properties**" means all real property which has become subject to this Declaration together with such other real property as may from time to time be annexed thereto.

(i) "**Restricted Common Properties**" means any portion of the Common Properties such as but not limited to automobile parking spaces, designed for the exclusive use of particular Units, as may, from time to time, be constructed and existing and designated as Restricted Common Properties. Developer reserves the right to allocate automobile parking spaces and any and all other Restricted Common Properties as Developer elects in Developer's sole discretion; or Developer may, in Developer's sole discretion, assign Restricted Common Properties to Developer or Developer's affiliates for their use.

(t) "**Roads**" means those private streets, roads, terraces, drives, cul-de-sacs, courts and avenues, including contiguous parking areas, as from time to time are improved and exist within the Common Properties.

(u). "**Special Assessments**" means a charge or assessment in addition to Common Assessments as described in Section 5.4 herein, including an assessment against only a particular Owner or Owners, pursuant to this Declaration.

(v) "**Turnover**" means that time at which the Members (other than Developer) are given control of the Master Association, and title to the Common Properties is conveyed to the Master Association.

(w) "**Unimproved Living Unit**" means a Unit within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE for which a certificate of occupancy has not been issued by the appropriate governmental authority.

(x) **"Unit"** means any portion of a completed building situated upon the Property designed and intended for separate use and occupancy for residential, commercial or boat dockage purposes pursuant to a declaration of condominium.

(y) **"Water Management System"** shall mean and refer to lakes, ditches, culverts, lines, and constructed surface and/or underground systems and facilities for the drainage and/or storage of surface water. Said Water Management System may be entirely located upon the Property, but may also be comprised of public and private easements located outside of the Property, if those facilities service all or some portion of the Property on an exclusive or non-exclusive basis. The Water Management System shall be for the use and benefit of all lands that are now or hereafter a part of the Property. The Water Management System may, if Developer so elects, service other lands that do not form a part of the Property; or, at Developer's election, may need the service of other lands outside of the Property, for which the Master Association may pay a fee. Each Owner, the Master Association and Developer shall have a perpetual, non-exclusive easement, right, license and servitude to use the Water Management System. Developer, (with the consent of the owner of the fee underlying any part of the Water Management System), or Master Association may reconfigure such parts of the Water Management System with the consent of the Developer, provided same is then in accordance with sound engineering practices and governmental approvals. In such event, the perpetual non-exclusive drainage easement rights of Developer, Master Association and all Owners shall, without necessity of additional written documentation, be transferred from the previously existing Water Management System to the revised system. Developer may dedicate to any applicable governmental agency or authority, all or any part of the drainage lines, structures and facilities which are part of the Water Management System. Developer, or others with consent of Developer, may execute such instruments as may be necessary or desirable to effect such dedication without the joinder or consent of the Master Association, any Owner, or the holder of any mortgage or other lien on any Parcel.

ARTICLE 2

OWNER' S PROPERTY RIGHTS

2.1 Owners' Easements of Enjoyment. Every Owner shall have the right and an easement of ingress and egress and of use and enjoyment in, to and over the Common Properties which shall be appurtenant to and shall pass with title to every Unit, subject to the following provisions:

(a) The right of the Master Association to reasonably limit the number of guests of Owners using the Common Properties.

(b) The right of the Master Association to establish uniform rules and regulations pertaining to the use of the Common Properties, and to establish uniform fees for violation of rules and regulations, and fees for usage of portions or facilities of the Common Properties by Owners and Occupants in situations and under circumstances where the Master Association deems such fees for usage to be appropriate.

(c) The right of the Master Association in accordance with its Articles of Incorporation and By-Laws and this Declaration, with the vote or written assent of at least two-thirds (2/3) of the Membership vote entitled to be cast (excluding therefrom the voting powers of Developer) to borrow money for the purpose of improving the Common Properties and, subject

to the provisions elsewhere set forth in this Declaration, to mortgage, pledge, or hypothecate any or all of the real or personal property owned by the Master Association as security for money borrowed or debts incurred, provided that the Developer consents to same so long as it remains a Member. Provided further that the rights of any such mortgagee shall be subordinated to the use and enjoyment rights of the Owners herein.

(d) The right of the Master Association or a Condominium Association to suspend the rights to use the Common Properties (except to the extent needed as a means of ingress and egress) of an Owner for any period during which any assessment or dues against or due from his Unit to the Master Association remains unpaid and delinquent; and for a period not to exceed ninety (90) days for any single infraction of the published rules and regulations of the Master Association; provided that any suspension of such rights to use the Common Properties shall be made only by the Board of Directors of the Master Association, as provided in the By-Laws of the Master Association.

(e) Subject to the provisions elsewhere set forth in this Declaration, the right of the Master Association to dedicate, release, alienate or transfer all or any part of the Common Properties including the Water Management System to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board. No such dedication, release, alienation or transfer shall be effective except with the consent thereto of the Developer so long as it remains a Member.

(f) The right of the Developer (and its sales and leasing agents, customers and representatives) to the non-exclusive use of the Common Properties and facilities without charge, for sales, leasing, marketing, signage, display, access, ingress, egress and exhibit purposes.

(g) The restrictions, limitations and easements for drainage and other purposes reserved or granted in prior recorded covenants and instruments which encumber the Common Properties.

(h) The right of the Developer and/or Master Association to grant easements to Developer, Developer's affiliates, to utility providers or adjoining property owners for ingress and egress, or for the installation, maintenance, and repair of utility facilities, for the benefit of the Property and/or third parties owning property adjacent to, or in close proximity to, the Property.

2.2 Delegation of Use. Any Owner may extend or delegate, as the case may be, in accordance with the By-Laws, his right of enjoyment to the Common Properties and facilities to the members of his family, or to his Occupants, tenants, guests, invitees and contract purchasers, who reside in or use his Unit, subject to reasonable regulation by the Board.

2.3 Easements for Parking. Temporary guest or recreational parking shall be permitted within the Common Properties only within spaces and areas clearly marked for such purposes. The Master Association, through its officers, committees and agents, is hereby empowered to establish parking regulations and to enforce these parking regulations by all means lawful for such enforcement on Roads, including the removal of any violating vehicle by those so empowered, recourse to civil authorities, and monetary fines per violation to be charged and assessed by the Master Association uniformly against Owners and Occupants who violate such rules and regulations. Such fines shall be charged and assessed against the

subject Unit and may be enforced and collected as a Special Assessment, including the foreclosure of a lien therefor.

2.4 Easement for Pedestrian and Vehicular Traffic. In addition to the general easements for use of the Common Properties reserved herein, the Developer hereby reserves and covenants with respect to all portions of the Properties, that Developer and each and every Owner shall have a non-exclusive easement appurtenant to such property as each owns, for pedestrian and vehicular traffic over all Roads within the Common Properties, subject to the parking provisions set forth in Section 2.3 herein.

2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Properties, there shall be and Developer hereby reserves and covenants for itself and all future Owners within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, easements and the right to grant same for public services, including, but not limited to, the Water Management System, entertainment or communication cable systems, lines, ducts and wiring, all public utilities and the right of the police to enter upon any part of the Common Properties for the purpose of enforcing the law.

2.6 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Master Association through his Condominium Association or obtain release of the Unit owned by him from the liens and charges thereof, by waiver of the use and enjoyment of the Common Properties and the facilities thereon or by abandonment of his Unit.

2.7 Common Properties. As a part of the Common Properties of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, Developer may, but is not obligated to, develop and construct certain improvements upon the lands within the Common Properties for the use, benefit, and enjoyment of the Condominium Associations and the Owners of Units. Such improvements shall be conveyed and transferred to the Master Association as a part of the Common Properties as set forth below. Such improvements may, but need not necessarily, include recreational amenities and facilities such as swimming pools, tennis courts, basketball, volleyball, shuffleboard, horseshoes, pedestrian walkways, boardwalks, and such related improvements, amenities and facilities as Developer in its discretion may determine. The specific plans and commitments of Developer for construction and placement of such facilities and amenities shall be contained in the prospectus materials prepared by Developer and delivered to Owners.

Some of such improvements, facilities and amenities may be intended and appropriately restricted for use by the Owners and Occupants of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE rather than the general public, although Developer retains the right at its discretion to admit the general public to such Common Properties.

2.8 Title to the Common Properties. At such time as required by law, or sooner at the option of the Developer, the Developer shall convey to the Master Association the fee simple title to the Common Properties and the Master Association shall accept such conveyance. The Developer, and thereafter the Master Association, shall hold title to the Common Properties for the benefit of those persons entitled to use same under the provisions hereof. Developer may mortgage the Common Properties to finance the original development and construction thereof, provided that (i) the lender recognizes the right of the Owners hereunder, (ii) except as hereafter provided the Common Properties shall be free of mortgages

at the time of conveyance to the Master Association, and (iii) except as hereafter provided the Master Association shall not be personally liable for payment of same. The Developer also reserves the right to grant easements to third parties for the benefit of the Property: or to benefit properties owned by Developer, its affiliates or unrelated third parties, for so long as Developer holds title to the Common Property.

THE MASTER ASSOCIATION SHALL ACCEPT "WHERE IS, AS IS" THE CONVEYANCE OF ANY SUCH COMMON PROPERTIES WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OR MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATIONS TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS OR FURNITURE WHICH HAS BEEN OR WILL BE USED IN SUCH COMMON PROPERTIES, EXCEPT AS SET FORTH HEREIN. BY ACCEPTANCE OF AN INTEREST IN ANY COMMON PROPERTIES OR DEED THERETO, THE MASTER ASSOCIATION AND ALL OWNERS RELEASE DEVELOPER FROM ANY CLAIMS AND WARRANTIES. NO CLAIM SHALL BE MADE BY THE MASTER ASSOCIATION OR ANY OWNER RELATING TO THE CONDITION, OR COMPLETENESS OF COMMON PROPERTIES OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM. ALL COSTS AND EXPENSES OF ANY CONVEYANCE OF ANY PROPERTY BY DEVELOPER TO THE MASTER ASSOCIATION SHALL BE PAID FOR BY THE MASTER ASSOCIATION.

2.9 Health Club.

(a) Health Club. Each Owner of a residential Unit at Destin West Beach and Bay Resort-Bayside upon acquiring title to the Unit shall automatically become a non-equity member of Tolbert Fitness Company and shall remain a member until such time as his ownership of such Unit ceases for any reason, at which time his membership in the Health Club shall automatically cease. Each Owner's membership in the Health Club shall be appurtenant to the Unit upon which it is based, and shall be transferred and assigned automatically upon conveyance of such Unit. Membership in the Health Club may not be transferred or assigned, except in connection with conveyance of the Unit. Upon conveyance of a Unit, and as soon as possible thereafter, the Health Club shall be given written notice of the conveyance, including the name and address of the new Owner, identification of the Unit, date of transfer, and other information about the transfer which the Health Club may deem pertinent.

(b) Term of Health Club Membership. No Owner of a residential Unit within Destin West Beach and Bay Resort-Bayside may terminate their membership in Tolbert Fitness Company while an Owner of a residential Unit. However, Tolbert Fitness Company, LLC (or its successors or assigns) may terminate an Owner's membership at any time after five (5) years have elapsed since the date of recordation of a certificate of substantial completion for the Condominium within which the Unit is located. No Unit Owner, nor any Condominium Association nor the Master Association need be consulted by Tolbert Fitness Company, LLC incident to said termination. Said termination may be effected by providing written notice to the Master Association, no later than ninety (90) days prior to the effective date of termination.

(c) Health Club Property. Tolbert Fitness Company, LLC has developed and constructed the Health Club, for the use, benefit, and enjoyment of the Owners and Occupants of Units, their tenants, members of the public and owners and guests of units within Destin West Beach and Bay Resort-Gulfside and Destin West Beach and Bay Resort-Bayside (the "Health Club Property"). The Health Club Property is presently located within the Destin West Beach and Bay Resort-Gulfside condominium, However, Tolbert Fitness Company, LLC reserves the right to relocate the Health Club Property anywhere within, or in close proximity to, the Property. The Health Club Property and improvements thereon and thereto shall not be subject to this Declaration, and shall not be conveyed to the Master Association or the Owners at the time of Turnover, as Tolbert Fitness Company, LLC presently intends to maintain ownership of the Health Club Property. The Health Club Property and the Health Club are intended primarily for the benefit of the Owners and Occupants of Units in Destin West Beach and Bay Resort-Gulfside and Destin West Beach and Bay Resort-Bayside, who shall be entitled to patronize and have access to the Health Club Property and facilities thereon, by virtue of automatic and mandatory non-equity membership in the Health Club by all owners of Units at Destin West Beach and Bay Resort-Gulfside and Destin West Beach and Bay Resort-Bayside; provided, however, nothing herein shall preclude Tolbert Fitness Company, LLC making the Health Club facilities available to members of the general public. Tolbert Fitness Company, LLC has no obligation to convey the Health Club Property and improvements thereon to the Master Association as a part of the Common Properties described herein, nor any obligation to convey to the Health Club Property to any other third party.

The Health Club Property and the facilities associated therewith shall not be subject to this Declaration, nor assessments of the Master Association.

(d) Health Club Dues. Dues and fees payable by members of the Health Club shall be collected by the Master Association pursuant to fee schedules to be prepared. It is anticipated, but not guaranteed, that the monthly dues of residential Units in Destin West Beach and Bay Resort-Bayside to the Health Club shall not exceed Twenty ($20.00) Dollars per residential Unit per month for calendar year 2004, with a surcharge or supplemental fee payable by tenants, lessees, or Occupants of units other than the residential Unit owner. The dues and fees payable to the Health Club are subject to change without prior notice, at the discretion of the Health Club.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1 **Membership**. Every Condominium Association in DESTIN WEST BEACH AND BAY RESORT-BAYSIDE (and every Owner of a Unit in DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, but only by virtue of his membership in his respective Condominium Association) and the Developer shall be members of the Master Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit which is subject to Common Assessment by the Master Association. Members' rights, powers, duties and privileges shall be as set forth in the Articles, By-Laws, this Declaration and any supplement thereto.

The Master Association shall have two classes of membership: (a) Class "A" Members, and (b) Class "B" Members, as follows:

(a) Class "A". Class "A" Members shall be all of those Condominium Associations created within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE as described in this Declaration.

(b) Class "B". The Class "B" Member shall be the Developer. Unless the Developer earlier terminates this membership, the Class "B" Membership shall terminate upon Turnover of the Master Association.

3.2 Voting. The voting rights of the two classes of membership are as follows:

(a) Class "A". Class "A" Members shall be entitled to one (1) vote for each Unit (excluding Cabana Units) the Class "A" member represents in the Master Association.

(b) Class "B". The rights of the Class "B" Member, including the right to approve action taken under this Declaration and the By-Laws, are specified throughout this Declaration, the Articles, and the By-Laws. The Class "B" Member shall be entitled to appoint all members of the Board prior to Turnover. The Class "B" Member shall have two (2) times the number of votes held collectively by all Class "A" Members, plus one (1) vote. In the event of a Turnover by the Developer prior to the date specified herein, the Developer shall have the right to disapprove actions of the Board and any committee established by the Master Association, as well as those committees which may be established pursuant to the By-Laws, until the Developer no longer owns or holds for sale in the usual course of business any Units within the Properties.

(c) Turnover. The Developer shall determine, in its sole and absolute discretion, the time of Turnover, provided, however, that if Turnover has not sooner occurred, it shall occur at the earlier of ninety (90) days after the conveyance by the Developer of all Units owned by Developer and to be located within the Property, or twenty (20) years from the date of recordation of this Declaration; or when so required by law. The Master Association shall give notice to all Members of a Turnover meeting, which meeting shall be held not more sixty (60) days after giving such notice. The purpose of the Turnover meeting shall be to install a new Board of Directors, as well as such other business as shall properly come before the meeting.

3.3 Article 3 Amendment. This Article 3 may not be amended without the express written consent of the Developer, as long as the Developer is a Member of the Master Association.

3.4 Condominium Association Representative. Each Class A Member shall have the power to vote at Master Association meetings only as described herein. Each Class A Member shall appoint its President or his designee as the representative of the Condominium Association (a "Director"), who shall be a Director of the Master Association and shall attend meetings of the Master Association Board and cast the votes of the Class A Member on Master Association matters. The Director shall cast the Class A Member's votes as a block in the manner as the Director may, in his sole and reasonable discretion, deem appropriate, acting on behalf of the Class A Member. However, in the event that at least fifty-one percent (51%) of the voting power in attendance at any duly constituted meeting of the Unit owners of his Condominium Association shall instruct the Director as to the manner in which such Director is to vote on any issue, then such Director shall cast all of the voting power of the Member in the same proportion, as nearly as possible without counting fractional votes, as the Unit Owners shall have voted, in person or by proxy, in favor of or in opposition to such issue. The Director

shall have the authority, but not the obligation, in his sole discretion, to call a special meeting of the Class A Member's Unit owners in the manner provided in the Member's By-Laws for the purpose of obtaining instructions as to the manner in which such Director is to vote on any issue to be voted on by the Members of the Master Association. It shall be conclusively presumed for all purposes of Master Association business that the actions of the Director are within the authority and consent of the Member's Unit owners.

The Third Director (as that term is defined in the Articles) shall have the power and authority to vote on matters as the third member deems reasonable and appropriate, without regard to, or being bound by, how the Unit Owners of the Condominium Association for the Third Director's residence may vote or direct.

ARTICLE 4

DUTIES AND POWERS OF ASSOCIATION

The Master Association, acting through its Board of Directors, shall have such powers and duties with respect to the Common Properties as are provided for in the Articles and By-Laws.

ARTICLE 5

COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Developer, for each Condominium Association and residential Unit now or hereafter owned within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE and subject to this Declaration, hereby covenants, and each successor Owner of any residential Unit by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association (i) annual Common Assessments for Common Expenses, and (ii) Special Assessments, as provided in this Declaration. Such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge and secured by a continuing lien upon the residential Unit with respect to which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such residential Unit at the time when the assessment became due. Subject to provisions of this Declaration protecting First Mortgagees, the personal obligation for delinquent assessments shall pass to and be assumed by the successors-in-title of such Owner. No Lobby Unit shall be liable for any regular, special or any other assessment of any nature whatsoever in excess of $1.00 per year.

5.2 Date of Commencement of "Common Assessments"; Due Dates; Assessment Period. The Common Assessment shall accrue in respect to each Improved Unit subject to this Declaration, on the date of conveyance of such Unit by the Developer to the first Owner thereof (hereafter called the "Commencement Date") and shall thereafter be due on the first day of every "Assessment Period" as such term is defined in the By-Laws of the Master Association. No Common Assessments shall be due and payable on Unimproved Units, or before initial conveyance of an Improved Unit by Developer.

5.3 Basis and Maximum Amount of Common Assessments. From the Commencement Date of Common Assessments until the Developer ceases to be in control of

the Master Association, the Common Assessments for all Class "A" Members of the Master Association, as defined in the Articles and By-Laws, shall be established by the Developer. Except as hereinafter provided, no assessment of any nature whatsoever shall be payable by Developer.

With regard to Improved Units owned by the Developer, until the time Developer ceases to be in control of the Master Association, as provided in Article 6 of the Articles, the Developer shall not pay any Common Assessments or Special Assessments, nor shall any Improved Units or other Property owned by Developer be assessed for the same. In lieu of such payment the Developer shall during each year of operation, based on the Master Association's budget, pay the difference in cost between the sum of Common Assessments collected from Class "A" Members and the actual cost of operation of the Master Association. In the event of an increase in the annual Master Association budget for the actual cost of operation of the Master Association, the Developer may increase the Common Assessments prior to the time it ceases to control the Board, so that thereafter the Developer shall not be obligated to pay a Common or Special Assessment on any Unit owned by it except as provided herein. Notwithstanding any provision that may be contained to the contrary in this Declaration, the Developer may at any time commence paying assessments as to Units that it owns and thereby automatically terminate its obligation to fund deficits, but at any time thereafter the Developer may again elect to follow the procedures specified in this Section.

The Board, in accordance with the requirements for a change of Common Assessments, as provided in this Article 5 and the By-Laws, may change the budget and level of Common Assessments at any annual meeting of the Board. For each 12 month period (hereinafter called the "Assessment Year"), the Common assessments may be adjusted by vote of the Board as set forth later herein.

5.4 Special Assessments. In addition to the Common Assessments authorized by Section 5.1, the Board may levy in any Assessment Year one or more Special Assessments, for the purpose of defraying, in whole or in part, the cost of any unexpected construction or reconstruction, repair or replacement of a capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, shortfalls in the annual budget projection, or for other purposes deemed appropriate by the Master Association. The due date of any Special Assessment under this Article shall be fixed in a resolution authorizing such assessment. Except as otherwise provided herein, the Developer shall not be obligated to pay Special Assessments levied on any Unit owned by it.

5.5 Damage to Common Properties by Owners. Any of the foregoing maintenance, repairs or replacements within the Common Properties which arises out of or is caused by the willful or negligent act of an Owner, his family, guests or invitees shall be done at said Owner's expense and a Special Assessment therefor may be made against his Unit. A Special Assessment may also be made against an Owner for violations of the rules and regulations of the Master Association as set forth herein, including in each case the foreclosure of a lien therefor.

5.6 Rate of Assessment. Common Assessments and Special Assessments provided for in this Declaration (other than Special Assessments directed against individual Owners for damage, violations, or similar purposes) shall be allocated and assessed among the Condominium Associations contained within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE (Class A Members) on the basis of the total number of residential Units and boat dock

units within each Condominium Association as compared to the aggregate number of residential Units and boat dock units within all Condominium Associations. The assessments shall be apportioned among and collected from all Owners of residential Units and boat dock units within the Condominium Association administered by each respective Class A Member.

The Master Association also may levy Special Assessments against the governing Condominium Association or individual residential and/or boat dock Unit Owners who have caused the Master Association to incur special expenses due to willful or negligent acts of said Owners, their guests, tenants, lessees, invitees or agents, as well as uniform monetary fines for violation of this Declaration and the Rules and Regulations of the Master Association. Such Special Assessments shall be charged and assessed against the subject residential Unit and/or boat dock unit, and may be enforced and collected as an assessment for Common Expenses, including the foreclosure of a lien therefor.

The rate of Master Association assessments shall also include membership dues and fees payable by Owners of residential Units in connection with membership in the Health Club and with regard to the Health Club Property. Such dues shall be payable to the Health Club by the Master Association.

5.7 Payment of Common Assessments, Due Date. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year as set forth in the By-Laws. The Board of Directors shall fix the amount of the annual Common Assessment against each Class A Member subject to assessment in accordance with procedures for adopting a budget contained in the By-Laws. Written notice of any change in the amount of the annual Common Assessment shall be sent to every Member and Owner subject thereto, in accordance with the By-Laws. The due dates shall be established by the Board of Directors. A Condominium Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Condominium Association, setting forth whether the assessments with respect to a specified Unit have been paid. A properly executed certificate of the Condominium Association as to the status of the assessments against a Unit shall be binding upon the Condominium Association as of the date of its issuance.

The Board of Directors shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Master Association for each fiscal year, and shall cause a copy of each such statement to be distributed to each Member, in the manner provided in the By-Laws.

All Condominium Associations within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE shall collect from residential Units and boat dock units they respectively administer the assessments and charges levied hereunder, and to remit the entire amount due from all residential Units and boat dock units in the Condominium Association to the Master Association before delinquency.

At the end of any fiscal year of the Master Association, the Members may determine that all excess funds remaining in the Master Association's operating account may be returned to the Members proportionately, or may be retained by the Master Association and used to reduce the following year's Common Assessments. Upon the dissolution of the Master Association, any amount remaining in any reserve fund shall be distributed to or for the benefit of the Members in a proportion equal to their individual respective contributions.

ARTICLE 6

EFFECT OF NON-PAYMENT OF ASSESSMENTS REMEDIES OF THE CONDOMINIUM ASSOCIATION

6.1 Effect of Non-Payment of Assessments: Remedies of the Condominium Association. The Condominium Association Members of the Master Association shall be responsible for collection of all assessments due the Master Association hereunder. However, upon any delinquency in payment, the Master Association may assert its remedies against either the Condominium Association Member or the individual Unit Owner. Any installment of a Common Assessment or Special Assessment not paid within ten (10) days after the due date shall bear interest from the due date of such installment at the rate of eighteen (18%) percent per annum. The Master Association may bring an action at law against the Member or Owner personally obligated to pay the same, or foreclose the lien against the Unit. The Condominium Association Member shall have all assessment and lien rights as provided in its Declaration of Condominium for payments due to the Master Association. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties, Health Club, or by abandonment of his Unit. If any installment of any assessment is not paid within thirty (30) days after its due date, the Member may mail an acceleration notice to the Owner and to each First Mortgagee of such Unit which has requested a copy of the notice. The notice shall specify (i) the fact that the installment is delinquent, (ii) the action required to cure the default, (iii) a date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (iv) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the particular assessment for the then current fiscal year and sale of the Unit pursuant to foreclosure of the lien securing the unpaid assessment. If the delinquent installments of Common Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Member at its option may declare due all of the unpaid balance of the annual Common Assessment and all other assessments and charges thereon in any manner authorized by this Declaration.

6.2 Notice of Claim of Lien. No action shall be brought to enforce any assessment lien herein, unless at least thirty (30) days has expired following the date a Notice of Claim of Lien is either hand-delivered to the Owner, or is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Unit, and a copy thereof has been recorded by the respective Condominium Association in the office of the Clerk of the Circuit Court of Okaloosa County, Florida. Said Notice of Claim of Lien must recite a good and sufficient legal description of any such Unit, the record Owner or reputed Owner thereof, the amount claimed (including interest on the unpaid assessment at eighteen (18%) percent per annum, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant. The lien shall continue until fully paid or otherwise satisfied, and shall secure all other Common Assessments, Special Assessments, and all other sums of any nature whatsoever which are due or thereafter accrue hereunder but remain unpaid by Owner.

6.3 Foreclosure Sale. The assessment lien set forth herein may be foreclosed in the same manner as mortgages are foreclosed under Florida law. The Condominium Association, through duly authorized agents, shall have the power to bid on any Unit at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

6.4 Curing of Default. Upon the timely curing of any default for which a Notice of Claim of Lien was filed by the Condominium Association, the officers thereof shall record an appropriate release of lien, upon payment by the defaulting Owner of a fee, to be determined by the Condominium Association, to cover the cost of preparing and recording such release. A certificate executed and acknowledged by any two (2) members of the Board or by the President of the Condominium Association stating the indebtedness secured by the liens upon any Unit created hereunder shall be conclusive upon the Condominium Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee.

6.5 Cumulative Remedies. The assessment liens and the right to foreclose and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Master Association and individual Condominium Associations and their assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

6.6 Subordination of the Lien to Mortgages. The lien securing the assessments provided for herein shall be subordinate as provided herein to the lien of any First Mortgage (meaning any recorded mortgage with first priority or seniority over all other mortgages) made in good faith and for value, and recorded prior to the date on which a Notice of Claim of Lien, pursuant to such lien, is recorded. The sale or transfer of any Unit shall not affect the assessment lien. However, upon the sale or transfer of any Unit pursuant to foreclosure or deed in lieu thereof of a First Mortgage, the liability of the First Mortgagee for the unpaid assessments represented by such lien shall be limited pursuant to terms of the Florida Condominium Act, subject to the provisions of Section 11.2 herein. However, no sale or transfer shall relieve such Unit from liability for any installments of assessments thereafter becoming due or from the lien thereof. Liens securing all assessments under this Declaration shall be of equal dignity.

ARTICLE 7

MAINTENANCE AND REPAIR OBLIGATIONS

7.1 Maintenance Obligations of Owners. Subject to the duty of the Master Association to provide for maintenance as provided in this Article, it shall be the duty of the Owners of Units, with regard to the Units, and the Condominium Association(s) with regard to common areas or common elements of the Condominium(s), at their sole cost and expense, subject to the provisions of this Declaration, to maintain, repair, replace and restore areas subject to their control, in a neat, orderly, sanitary and attractive condition. In the event that any such Owners or Condominium Associations shall permit any improvement, which it is their responsibility to maintain, to fall into disrepair or not to be so maintained so as to create a dangerous, unsafe, unsightly or unattractive condition, or to otherwise violate this Declaration, the Master Association shall have the right, but not the duty, upon fifteen (15) days prior written notice to the appropriate Owner or Condominium Association (except in cases of emergency, in which case no such notice be given), to correct such condition and to enter upon such property to make such repairs or to perform such maintenance, and the cost thereof shall be charged to the Owner or such Condominium Association. Said cost shall be a Special Assessment and shall create a lien upon all the Units in said Condominium, or particular affected Units, enforceable in the same manner as other assessments as set forth in this Declaration. Such

Condominium Association, or such Owners, shall pay promptly all amounts due for such work, and the costs and expenses of collection may be added, at the option of the Board of Directors, to the amounts payable by each Unit Owner in the affected Condominium Association or payable by the Unit Owner as Common Assessments.

7.2 Maintenance Obligations of Master Association. Subject to the provisions of Section 7.1, the Master Association shall maintain, or by contract provide for the maintenance of all of the Common Properties and all improvements thereon, in good order and repair, including but not limited to the swimming pool(s) and recreational facilities, the interior and exterior of any recreational buildings, Roads, roadways, pedestrian walkways, boardwalks, recreational improvements, the Water Management System, and any and all utility facilities, and other equipment, improvements, and buildings on or a part of the Common Properties. In addition to improvement maintenance, the Master Association shall provide all necessary landscaping and gardening to properly maintain and periodically replace when necessary the trees, plants, grass and other vegetation which is on the Common Properties. The Master Association shall further maintain, reconstruct, replace and refinish any Roads, roadways, walkways, parking areas, and any paved surface in the Common Properties. All of the foregoing obligations of the Master Association shall be discharged when and in such manner as the Board of Directors of the Master Association shall determine in their judgment to be appropriate.

7.3 Exterior Appearance and Design. The Owners of Units in any building which has suffered damage, through the Class A Member representing such Owners, may apply for approval for reconstruction, rebuilding or repair of the improvements therein to the Board of the Master Association. Application for such approval shall be made in writing together with drawings and elevations showing the proposed reconstruction and the end result thereof. The Board shall grant such approval only if upon completion of the work the exterior appearance and design will be substantially the same as that which existed prior to the date of the casualty. Failure of the Board to act within thirty (30) days after receipt of such request in writing coupled with the drawings and plot plan showing the full and complete nature of the proposed change shall constitute approval thereof.

7.4 Time Limitation. The Owner or Owners of Units located in any damaged building, and the affected Condominium Association shall be obligated to proceed with all due diligence hereunder, and, assuming the availability of funds, the responsible party shall commence reconstruction within six (6) months after the damage occurs and diligently pursue completion of reconstruction of said building thereafter.

7.5 Management Company. The Master Association shall have the right to retain a management company or companies or contractors (any of which management companies or contractors may be, but are not required to be, a subsidiary, affiliate, or an otherwise related entity of Developer) to assist in the operation and maintenance of the Properties. The costs for management fees shall be assessed as part of the Common Expenses.

ARTICLE 8

USE RESTRICTIONS

All real property and improvements comprising DESTIN WEST BEACH AND BAY RESORT-BAYSIDE and additional lands which may become subject to this Declaration by

Supplemental Declaration, shall be held, used and enjoyed subject to the following limitations and restrictions, and further subject to the exemption of Developer provided for herein:

8.1 Signs. No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Properties without the prior written consent of the Board, except signs, regardless of size, used by Developer, its successors or assigns, for advertising the marketing, sale and/or rental of Units in DESTIN WEST BEACH AND BAY RESORT-BAYSIDE.

8.2 Driveways. All Roads, driveways, parking areas and pedestrian walkways shall be maintained in the style originally established by the Developer.

8.3 Common Properties and Restricted Common Property. The Common Properties and any Restricted Common Property and the improvements thereon and thereto, including the Water Management System, shall be used only for the purposes for which they are intended to be used in the furnishing of services and facilities for the enjoyment of the Unit Owners.

8.4 Trash Containers. All trash and trash containers and contents thereof shall be stored in a screened-in or protected area and as approved by the Master Association.

8.5 Exterior Antennae. No exterior radio, television or other electronic device antennae shall be permitted on the exterior of any Unit or condominium building without the prior written approval of the Master Association.

8.6 Parking. Automobile parking spaces may be used only for parking automobiles that are in operating condition and for no other purposes. Trucks, commercial vehicles, campers, recreational vehicles, boats, trailers, or any vehicle not susceptible to registration by the State of Florida as an "automobile" may not be parked in parking spaces and may not be kept on the Common Property, except in areas (if any) specifically designated for the same. Truck, as used herein, is defined as a commercial vehicle, and does not include small pickups, customized vans, minivans and other such vehicles customarily used for personal transportation and not business use. Automobile parking spaces that are designated in the Declaration as Restricted Common Property may initially be assigned by Developer. No vehicular or boat repair or maintenance shall be performed on the Property, except for emergency repairs sufficient to either start or tow a vehicle therefrom. Each Condominium Association shall be entitled to designate areas within the parking lots used exclusively by such Condominium Association for storage of bicycles.

8.7 Additional Temporary or Permanent Structures. No structure of a temporary or permanent character, including but not limited to, tents, sheds, garages, barns, or other out buildings shall be used or erected on any of the Common Properties without the prior written approval of the Master Association as to its location, design, architecture and appearance.

8.8 Pets. Unit Owners shall be permitted to keep small pets, including birds, such as canaries or parakeets; fish, such as gold fish and tropical varieties; cats; and dogs. Said dogs shall not be allowed in the lobby or in any corridor except for ingress and egress. No guest, lessee or invitee shall bring any animal whatsoever upon the Condominium Property. No pets shall be raised for commercial purposes. No cat or dog shall be permitted outside the Owner's Unit except when leashed and accompanied by the Owner. Each Owner shall be responsible for the actions of each pet and for cleaning up after it. In the event that any pet, including a dog,

should constitute a nuisance in the opinion of a majority of the Board of Directors, then the Owner, when so notified in writing, shall be required to immediately remove said pet or dog from the Property.

8.9 Alteration and Improvement of Units. The prior, express written consent of the Board of Directors of the Master Association is required in order to enclose, paint or otherwise decorate or materially change the appearance of any portions of the exterior of any of the buildings that may be constructed on the Properties.

8.10 Developer. Until the Developer has sold and conveyed title to all of the Units within the Properties which it plans to develop, the Developer may use any Units it owns or leases and the Common Properties to facilitate sales and leases of Units, including, but not limited to, the maintenance of a sales/development office, rental office and models and the display of signs, and the location of sales and leasing agents and facilities on site.

8.11 Additional Rules and Regulations. The Developer, until it conveys the Common Properties, and thereafter the Board of Directors of the Master Association, may establish such additional rules and regulations as may be deemed for the best interests of the Master Association and its Members for purposes of enforcing the provisions and purposes of this Declaration.

8.12 Exterior Improvements: Landscaping. No Owner or Occupant of a Unit shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors or windows of any buildings (including awnings, antennae, signs, storm shutters, screens, furniture, fixtures and equipment), or to structures of any parking areas without the prior written consent of the Board of Directors of the Master Association. Storm shutters specifically approved by a Condominium Association for use and installation by respective Owners in such Condominium Association shall be exempted from this provision.

8.13 Nuisances. No nuisances shall be allowed upon the Properties, nor any use or practice which is the source of annoyance to Owners or Occupants or which interferes with the peaceful possession and proper use of the Common Properties by Owners or Occupants. All parts of the Properties shall be kept in clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Properties which would increase the rate of insurance upon the Property.

8.14 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Property shall be the same as is elsewhere herein specified with respect to other maintenance, repair and replacement.

8.15 Sales and Rental Office. For the benefit and convenience of all Unit Owners, Developer shall have the right, but not the obligation, to establish a sales and rental office and appropriate signage on the Property. Said on-site sales and/or rental office shall be the only sales and/or rental office allowed on the Property for the thirty (30) year time period commencing with the date of recordation of this Declaration. No other sales and/or rental office may be located anywhere within the Property; provided, however, nothing herein shall restrict

the ability of any off site sales and/or rental agent from performing business on the Property. Each Unit Owner does hereby acknowledge that said on-site rental office may be owned and/or controlled by Developer. Provisions of this Section 8.15 shall not be amended or deleted during the 30-year term referenced herein without the specific written consent of Developer, which consent may not be withheld for any reason.

8.16 Developer Exemption. Developer or its successors or assigns will undertake the work of constructing Units and improvements, including the Common Properties. The completion of that work and the sale, rental and other disposal of Units is essential to the establishment and welfare of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE as a community. In order that said work may be completed, no Owner nor the Master Association or a Condominium Association shall do anything to interfere with, and nothing in this Declaration shall be understood or construed to:

(a) Prevent Developer from performing any work it, or its contractors or subcontractors, determines to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration of such construction plans and designs as Developer deems advisable in the course of development. All models or sketches showing plans for future development of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE may be modified or abandoned by the Developer at any time and from time to time, without notice to, or the consent of, any Unit Owner or any other third party.

(b) Prevent Developer from erecting, constructing and maintaining on any property owned or controlled by Developer, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business or of completing said work and establishing DESTIN WEST BEACH AND BAY RESORT-BAYSIDE as a resort community and conveyance of the same by sale, lease or otherwise.

(c) Prevent Developer from conducting its business of developing, grading, constructing, and marketing improvements in DESTIN WEST BEACH AND BAY RESORT-BAYSIDE as a resort community and conveyance of Units therein by sale, lease or otherwise.

(d) Prevent Developer from determining the nature of any type of improvements to be constructed as part of the Common Properties, and thereafter constructing the same.

ARTICLE 9

DAMAGE OR DESTRUCTION TO COMMON PROPERTIES

Damage or destruction of all or any portion of the Common Properties shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

9.1 If in the event of damage or destruction to the Common Properties or any portion thereof, the insurance proceeds are sufficient to effect total restoration, then the Master Association shall cause such Common Properties to be repaired and reconstructed substantially as they previously existed.

9.2 If the insurance proceeds are no less than 75% of the cost of repairs that would provide total restoration of the Common Properties, then the Master Association shall cause the

Common Properties to be repaired and reconstructed, and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment against the Members.

9.3 If the insurance proceeds are less than seventy-five percent (75%) of the cost of repairs needed to effect total restoration to the Common Properties, then by written consent or vote of a majority of the votes entitled to be cast by Members, they shall determine whether: (i) to build and restore in substantially the same manner as the improvements existed prior to damage and to raise the necessary funds over the insurance proceeds by levying Special Assessments; (ii) to rebuild and restore in a way which utilizes all available insurance proceeds and an additional amount not in excess of 25% of the cost, and which is assessable as Special Assessments, replacing those improvements in substantially the same manner as they existed prior to being damaged; (iii) to not rebuild and to distribute the available insurance proceeds to the Members and the respective Owners and Mortgagees of the Units as their interests may appear; or (iv) to use the available insurance proceeds to remove the destroyed or damaged improvements, and to replace the same with other improvements.

9.4 Each Owner shall be liable to the Master Association for any damage to the Common Properties not fully covered by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family and guests, or Occupants of the Owner's Unit, both minor and adult. Notwithstanding the foregoing, the Master Association reserves the right to levy a Special Assessment against any such Owner, equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Unit, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Special Assessment against the Unit and may be collected as provided herein for the collection of Common Assessments, including the foreclosure of a lien therefor.

ARTICLE 10

INSURANCE

10.1 Common Properties. The Master Association shall keep all buildings, improvements, equipment and fixtures of the Common Properties insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Master Association may deem desirable. The Master Association may also insure any other property whether real or personal, owned by the Master Association, against loss or damage by fire and such other hazards as the Master Association may deem desirable, with the Master Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Properties shall be written in the name of, and the proceeds thereof shall be payable to the Master Association. Insurance proceeds shall be used by the Master Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Master Association are Common Expenses included in the Common Assessments made by the Master Association.

10.2 Waiver of Subrogation. As to each policy of insurance maintained by the Master Association, which will not be voided or impaired thereby, the Master Association hereby waives and releases all claims against the Board, the Condominium Associations, the Owners, any management company, Developer and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or

breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

10.3 Liability and Other Insurance. The Master Association shall have the power to and may obtain comprehensive public liability insurance, including medical payments, liquor liability insurance and malicious mischief, in such limits as it shall deem desirable, insuring against liability for bodily injury, death and property damage arising from the activities of the Master Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Unit Owner, the Master Association and the Condominium Associations and their respective officers, directors, agents and employees and any management company from liability in connection with the Common Properties, the premiums for which are Common Expenses included in the Common Assessments made against the Unit owners. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board and any management company thereof against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or on any committee thereof.

10.4 Waiver by Insurer. Whenever obtainable, insurance policies maintained by the Master Association shall provide for the following: (a) that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Master Association and to each First Mortgagee as that term is herein defined who has registered pursuant to Section 11.1 herein; (b) waive the insurer's right of subrogation against the Master Association, the Condominium Associations and against Members and Owners individually and as a group; (c) the insurance is not prejudiced and the insurer may not avoid liability for a loss that is caused by an act of the Board of Directors of the Master Association or by a Member of the Board of Directors of a Condominium Association or by one or more Owners, or by any act or neglect of individual Members or Owners which is not in the control of such Members or Owners Collectively; and (d) the policy is primary in the event that Members or Owners have other insurance covering the same loss.

ARTICLE 11

MORTGAGEE PROTECTION CLAUSE

The following provisions are for the benefit of First Mortgagees and to the extent these provisions conflict with any other provisions of the Declaration, these provisions shall control:

11.1 All such mortgagees who have registered their names with the Master Association shall be given (i) thirty (30) days written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or By-Laws of the Master Association and prior to the effective date of any termination of any agreement for professional management of the Common Properties following a decision of the Owners to assume self-management of the Common Properties; (ii) immediate notice following any damage to the Common Properties whenever the cost of reconstruction exceeds Fifty Thousand Dollars ($50,000.00), and as soon as the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Common Properties; and (iii) thirty (30) days written notice prior to any proposed action which requires the consent of any percentage of mortgage holders.

11.2 Only if and to the extent that the Master Association is deemed to be a Condominium Association subject to Chapter 718 of the Florida Statutes, any holder of a mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage or by deed in lieu of foreclosure, shall take title to such Unit free and clear of any claims of unpaid assessments or charges due to the Master Association against such Unit to the extent provided in Chapter 718 of the Florida Statutes, as amended.

ARTICLE 12

ENCROACHMENTS - EASEMENTS

12.1 Encroachments. If (a) any portion of the Common Properties encroaches upon any other portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE; (b) any other portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE encroaches upon the Common Properties; or (c) any encroachment shall hereafter occur as the result of (i) construction of any building or other improvements; (ii) any alteration or repair to the Common Properties or any other portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE; or (iii) any repair or restoration of any building or other improvements or any of the Common Properties after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings or all or any portion of any building improvements or Common Properties, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the structure causing said encroachment shall stand.

12.2 Pipes, Wires, Ducts, Cables, Conduits, Public Utility Lines, etc. Each portion of the Common Properties shall have an easement in common with all other portions thereof to use, maintain, repair, alter and replace all pipes, wires, ducts vents, cables, conduits, public utility lines, and similar related facilities located in DESTIN WEST BEACH AND BAY RESORT-BAYSIDE and serving such portion thereof, including the Water Management System. Each portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE shall be subject to an easement in favor of all other portions thereof to use, maintain, repair, alter and replace the pipes, wires, ducts, vents, cables, conduits, Water Management System, public utility lines and other similar or related facilities located in such portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE and serving other portion thereof.

12.3 Easements of Support. Whenever any structure included in the Common Properties adjoins any structure included in another portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, each said structure shall have and be subject to an easement of support and necessity in favor of the other structure.

12.4 Construction and Sales. The Developer (and its agents, employees, contractors, subcontractors and suppliers) shall have an easement of ingress and egress over and across the Common Properties for construction, development, and sales purposes, including use of and access to Roads and roadways, utilities, drainage, and other amenities and facilities within the Common Properties as necessary. The Developer (and its agents, employees and designees) shall have an easement to erect, maintain, repair and replace, from time to time, one or more signs on the Common Properties for the purpose of advertising the sale or lease of Units.

12.5 Reservation. Developer reserves to itself the right and easement of ingress and egress and to use such portions of the Properties as are necessary for roads, access, utilities,

cable television, drainage and other purposes necessary to serve and support and provide access to any additional property or neighboring property which is not subject to the terms hereof.

12.6 Binding Effect. The easements and other rights arising from this Article 12 shall be continuing covenants running with the land comprising the Common Properties and all other lands subject to this Declaration, and shall be binding upon and constitute benefit and burdens to all parties and their successors and assigns hereafter having any interest in any of such properties.

ARTICLE 13

GENERAL PROVISIONS

13.1 Enforcement. This Declaration, the Articles of Incorporation, and the By-Laws and rules and regulations promulgated under any of the foregoing, may be enforced by the Master Association, as follows:

(a) Breach of any of the covenants contained in the Declaration, Articles or By-Laws or of the rules and regulations promulgated thereunder, and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by any Member, Owner, the Developer, or the Master Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interests thereon, costs of collection and court costs.

(b) The remedies herein provided for breach of the covenants contained in this Declaration, the Articles or By-Laws or Rules and Regulations shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(c) The failure of the Master Association to enforce any of the covenants contained in this Declaration the Articles or By-Laws or Rules and Regulations shall not constitute a waiver of the right to enforce the same thereafter.

(d) A breach of the covenants, conditions or restrictions contained in this Declaration, the Articles or By-Laws, shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Unit, provided, however, that any subsequent Owner of such Unit shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

(e) The covenants, conditions and restrictions contained in this Declaration, the Articles, and By-Laws, and rules and regulations promulgated under any of the foregoing and hereafter adopted as provided herein, shall be enforced by such means as the Master Association deems necessary and appropriate, including recourse to civil authorities, court action if necessary, and monetary fines in accordance with a schedule to be prepared by the Master Association from time to time, and to be charged and assessed by the Master Association uniformly against Owners of Units who violate or whose guests or Unit Occupants violate such rules and regulations. Such fines shall be charged and assessed against the subject Unit and may be enforced and collected as a Special Assessment in the same manner as an assessment for Common Expenses, including the foreclosure of a lien therefor.

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

13.3 Term and Binding Effect. The covenants and restrictions of this Declaration shall run with the land and title and bind the property hereby encumbered, and shall inure to the benefit of and be enforceable by the Master Association, the Developer, the Members and the Owners of Units subject to this Declaration, their respective legal representatives, heirs, successors and assigns, and all persons or entities who have any interest in the Properties, for a term of twenty-one (21) years from the date this Declaration is recorded, after which time said covenants, conditions, reservation of easements, equitable servitude and restrictions shall automatically extended for successive periods of ten (10) years unless an instrument, approved by the Members by a vote of two-thirds (2/3) of the Membership votes entitled to be cast, has been recorded, terminating the same.

13.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE as a resort community. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

13.5 Amendments. This Declaration may be amended by (i) the affirmative vote or written consent of the Members holding not less than two-thirds (2/3) of the voting power of the Class "A" Membership of the Master Association together with the affirmative vote of the Class "B" Member (so long as the Class "B" Membership exists) or (ii) solely by the unilateral affirmative action of the Class "B" Member; provided, however that no amendment adopted solely by the Class "B" Member shall be permitted which has a material adverse effect upon substantial rights of an Owner or First Mortgagee or the value of any part the Properties subject hereto. Nothing contained herein shall affect the right of the Developer to make such amendments or Supplemental Declarations as may otherwise be permitted herein. No amendments shall alter or abrogate the rights of Developer as set forth in the Declaration, the Articles, or the By-Laws without the prior written consent of Developer.

13.6 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Properties to the public, or for any public use.

13.7 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property.

13.8 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the

address given by such person to the Master Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Master Association. Such address may be changed from time to time by notice in writing to the Master Association.

13.9 No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Developer or its agents or employees in connection with any portion of the Common Properties, their physical condition, zoning, compliance with applicable laws, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration and except as may be contained in documents filed by Developer from time to time with the Florida Division of Land Sales and Condominiums.

13.10 Withdrawal and Modification. Anything herein to the contrary notwithstanding, the Developer reserves the absolute right to amend this Declaration at any time prior to Turnover, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Properties from the provisions of this Declaration. Developer may unilaterally modify and amend this Declaration for the purpose of altering the boundaries of the Common Properties so as to enlarge or reduce the size of and/or change the location of the same.

13.11 Litigation. No judicial or administrative proceedings shall be commenced by the Master Association unless approved by a vote of seventy-five percent (75%) of the Member votes eligible to be cast. This section shall not apply however, to:

(a) Actions brought by the Master Association to enforce the provisions of this Declaration, including, without limitation, the foreclosure of liens;

(b) The imposition and collection of assessments hereunder, including Common Assessments and Special Assessments;

(c) Proceedings involving challenges to ad valorem taxation;

(d) Counterclaims brought by the Master Association in proceedings instituted against it.

In the event any claim is made against Developer or any litigation is instituted against Developer, then Master Association shall assess all Members other than Developer, for costs of the claim or litigation, including without limitation, attorney fees incurred. The prevailing party shall be entitled to recover as part of the award all such costs and reasonable attorneys fees or expenses of such claim of litigation. In the event the Developer is the prevailing party, the Master Association shall levy a Special Assessment against all Members, other than Developer, for the Developer's cost for any such claim for litigation. This provision shall not be amended unless such amendment is made by the Developer, or consented thereto by Developer.

13.12 Developer's Activities. Nothing herein shall be construed to restrict, prohibit or in anyway inhibit or interfere with Developer's efforts to promote, develop, market and sell Units within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, or any portion thereof. In particular and without limitation, Developer shall be entitled to operate sales trailers, construction trailers, rental offices, model units, erect and maintain signage, store and/or

assemble construction materials, sponsor promotional events, and make such other use of the Property as Developer deems appropriate to promote the development, use, sale, and/or rental of Units within the Property. This provision may not be modified nor deleted without the express written consent of Developer, which consent may be withheld for any reason.

13.13 Security. Neither Developer nor Master Association makes any representations whatsoever as to the security of the Property, or the effectiveness of any monitoring system, guardhouse, entry gate, or security service. All Class A Members agree to hold Developer and Master Association harmless from any loss or claim arising from the occurrence of any crime or act on or within the Property. Neither the Master Association nor Developer shall in any way be considered insurers or guarantors of security within the Property. Neither the Master Association nor Developer shall be held liable for any loss or damage by reason or failure to provide adequate security or in effecting the security measures undertaken, if any. All Owners and Occupants of any Units acknowledge that the Master Association and Developer do not represent or warrant that any fire protection system, burglar alarm system, gatehouse, or other security systems, if any, designated by or installed by them may not be compromised or circumvented; nor that any fire protection system, burglar alarm system, gatehouse, or other security systems, will prevent loss by fire, smoke, burglary, theft, hold up or otherwise; nor that fire protection system, burglar alarm system, gatehouse, or other security systems will in all cases provide the protection for which the system is designed or intended. Each Unit Owner and Occupant of any Unit acknowledge and understand that each Unit Owner and/or Occupant assumes all risks for loss or damage to persons or structures, and consents thereto. Each Unit Owner and Occupant further acknowledges that neither Developer nor Master Association has made any warranty, representation, expressed or implied, including any warranty of merchantability or fitness for a particular purpose, relative to any fire and/or burglar alarm system or other security systems recommended or installed, if any.

13.14 Cable and Telecommunication Systems. Developer does hereby reserve unto itself, the power and authority, but not the obligation, to construct or install over, through, under, across and upon any portion of the Property for the use of the Owners, one or more cable and/or telecommunication receiving and distributions systems and electronics surveillance systems, emergency, medical or surveillance monitoring or alarm systems (all or any part of which shall be referred to herein as the "System"), the exact description, location and nature which may not have been yet fixed nor determined. Developer shall have and hereby reserves to itself a perpetual and exclusive right, privilege, easement and right of way for the installation, construction and maintenance of the System, together with perpetual and exclusive right and privilege of:

(a) Unlimited ingress and egress thereto for installing, constructing, and inspecting, repairing, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System;

(b) Transmitting, the facilities and equipment of which shall be owned and exclusively controlled by Developer, or its successors. Developer shall have the right to enter contracts for the exclusive provision of the System, as Developer and/or Master Association shall deem, in their sole respective discretion, to be in the best interest of the Property. Should the Developer enter into a contract or contracts pursuant to this paragraph, the Master Association shall to the extent the Developer assigns its rights and obligations under such contract or contracts, accept such assignment, and agrees to be bound by all terms and provisions thereof. Every Unit Owner subscribing to the services provided by the System

agrees that such Unit Owner shall be subject to the charge therefor, which maybe included within the Common Assessments, Special Assessments, or an individual assessment to said Unit Owner. Developer and/or Master Association may use portions of the Property for the services to be provided by the System in their sole discretion; and

(c) Declaring all conduit and facilities serving the System as Restricted Common Property, appurtenant to any Lobby Unit within any or both Condominiums within DESTIN WEST BEACH AND BAY RESORT-BAYSIDE.

13.15 Pedestrian Walkway. As a condition for the development of Destin West Beach and Bay Resort-Bayside, governing authorities require that Declarant reserve a ten foot strip of property along the shores of Choctawhatchee Bay for use as a future pedestrian walkway for the use of the public. Declarant shall construct a sidewalk in this area for use of the public if so directed by governing authorities. It is the intent of the governing authorities to cause a number adjoining of property owners to construct similar sidewalks in the future, so as to provide Unit owners and the public with a scenic walkway along the shores of Choctawhatchee Bay. Declarant gives no assurances that such a walkway shall ever be built. If such a walkway is constructed on the Property, Master Association shall be responsible for its maintenance and the cost thereof, without contribution from the governing authorities.

IN WITNESS WHEREOF, Developer has executed this Declaration on the date first above written.

Signed, sealed and delivered
in the presence of:

(Corporate Seal)
TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation

_____
Signature

_____
Print Name

_____
Signature

_____
Print Name

By: _____
Fred E. Tolbert III, as
President

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing was acknowledged before me this _____ day of _____, 2004, by Fred E. Tolbert III, as President of TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation, who is personally known to me.

_____
NOTARY PUBLIC

_____
TYPED, PRINTED OR STAMPED NAME OF NOTARY
MY COMMISSION EXPIRES:

JOINDER AND CONSENT TO
DECLARATION OF RESTRICTIVE COVENANTS
AND EASEMENTS FOR DESTIN WEST BEACH AND BAY RESORT-BAYSIDE

The undersigned, being the owner and holder of a Mortgage and Security Agreements recorded in Official Records Book _____, Page _____, together with loan documents ancillary thereto, of the Public Records of Okaloosa County, Florida, which mortgage encumbers the land described in the foregoing Declaration of Restrictive Covenants and Easements for DESTIN WEST BEACH AND BAY RESORT-BAYSIDE, hereby joins in and consents to the said Declaration. This joinder shall not be construed in a manner which affects the priority of the lien of the undersigned's mortgage or the terms thereof.

Executed this _____ day of _____, 2004.

Signed, sealed and delivered in the presence of:

(Corporate Seal)
AMSOUTH BANK, an Alabama banking corporation

_____
Witness #1 (Print name below)
_____

By:_____
Name:_____
Its:_____

_____
Witness #2 (Print name below)
_____

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing was acknowledged before me this _____ day of _____, 2004, by _____ as _____ - President of AmSouth Bank. Such person is personally known to me or presented his/her current Florida driver's license as identification.

_____
NOTARY PUBLIC

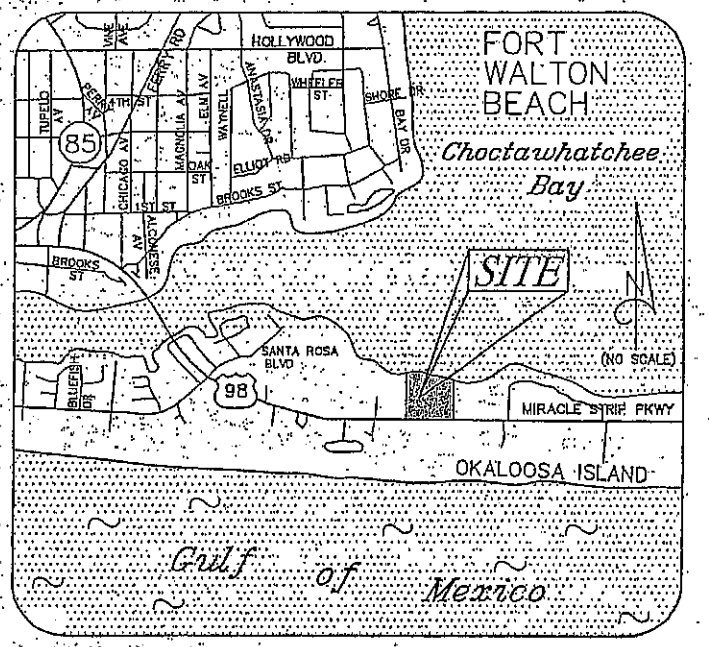
_____
TYPED, PRINTED OR STAMPED NAME OF NOTARY
MY COMMISSION EXPIRES:

EXHIBIT A

The Properties

OSPREY at Destin West Beach and Bay Resort
a condominium

IN UNSECTIONED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



LOCATION MAP

OVERALL LEGAL DESCRIPTION:

Destin West Beach and Bay Resort, a condominium

[INCLUDES "CONDOMINIUM", FUTURE DEVELOPMENT" AND "COMMUNITY PROPERTY"]

A PORTION OF LOT 23–A AND LOT 23–B, SANTA ROSA ISLAND; SUBDIVISION OF BLOCK 13, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 84F, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 23–A; THENCE RUN NORTH 04°08'00" EAST ALONG THE EASTERLY BOUNDARY OF LOT 23–A PER SAID PLAT, BORDERING NINTH BEACH FREEWAY, 82.00 FEET TO A CONCRETE MONUMENT (NO #), ON THE NORTH RIGHT–OF–WAY LINE OF U. S. HIGHWAY 98 (AS IT EXISTS IN 2003), FOR A POINT OF BEGINNING; THENCE NORTH 85°52'00" WEST (REFERENCE BEARING) ALONG SAID RIGHT–OF–WAY LINE, 613.45 FEET TO AN IRON PIN (# 2032); THENCE DEPARTING SAID RIGHT–OF–WAY LINE, NORTH 08°14'18" EAST, 555.73 FEET TO A CONCRETE MONUMENT (#3027) WHICH IS SOUTH 08°14'18" WEST, 13 FEET, MORE OF LESS, FROM THE WATER'S EDGE OF CHOCTAWHATCHEE BAY; THENCE TRAVERSE SOUTH 76°32'16" EAST, 581.36 FEET, TO A POINT ON THE EASTERLY BOUNDARY OF LOT 23–B; THENCE SOUTH 04°08'03" WEST ALONG SAID EASTERLY BOUNDARY, 460.08 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. CONTAINING 7.32 ACRES, MORE OR LESS, ALL IN UNDIVIDED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA.

SURVEYOR'S CERTIFICATE

THE UNDERSIGNED, A REGISTERED LAND SURVEYOR DULY AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA, HEREBY CERTIFIES THAT THIS IS A TRUE AND CORRECT SURVEY OF THE PROPERTY DESCRIBED HEREON, AND THAT THE CONSTRUCTION OF THE IMPROVEMENTS DEPICTED AND DESCRIBED IN THIS EXHIBIT OF OSPREY AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM, IS NOT SUBSTANTIALLY COMPLETE; SUCH MATERIALS WHICH COMPRISE THIS EXHIBIT, TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM DESCRIBING THE CONDOMINIUM PROPERTY, ARE AN ACCURATE REPRESENTATION OF THE LOCATION AND APPROXIMATE DIMENSIONS OF THE PROPOSED IMPROVEMENTS, AND THE IDENTIFICATION, LOCATION AND APPROXIMATE DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM SAID MATERIALS.

FLORIDA REGISTERED SURVEYOR

JON A. PROHASKA, CERTIFICATE NO. 4450

CHOCTAW ENGINEERING, INC. LB #1532
112 TRUXTON AVENUE
FORT WALTON BEACH, FLORIDA 32547

DATE 21 MAY 2004

ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

OSPREY at Destin West Beach and Bay Resort – a condominium

Prepared by: CHOCTAW ENGINEERING, INC.
CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE LB #1532 E-MAIL: cei@choctaweng.com

MAY 2004 [FILE: 99183E–OSPCD]

EXHIBIT C

Common Properties

The property described on Exhibit A, LESS and EXCEPTING those lands described on Exhibit C-1.

EXHIBIT C-1

1. Those properties comprising Sandpiper at Destin West Beach and Bay Resort.

2. Those properties now or hereafter dedicated to the condominium form of ownership, regardless of the use made of the units.

3. Any commercial office building now or hereafter constructed on the Property, even if not dedicated to the condominium form of ownership, unless Developer directs otherwise.

4. Such other properties now or hereafter selected by Developer.

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation, filed on March 28, 2003, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H03000085441. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N03000002710.

Authentication Code: 803A00019177-033103-N03000002710-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Thirty-first day of March, 2003

Glenda E. Hood

Glenda E. Hood
Secretary of State

ARTICLES OF INCORPORATION

OF

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

A Corporation Not-For-Profit

In order to form a corporation under the Laws of Florida for the formation of corporations not for profit, we, the undersigned, hereby associate ourselves into a corporation for the purposes and with the powers herein specified; and to that end we do, by these Articles of Incorporation, set forth:

I. Name. The name of the corporation shall be: **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** (the "Association").

II. Purposes. The purposes of the Association shall be to administer the operation, maintenance, and management of **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM** (the "Condominium"), to be established as a condominium in accordance with the Florida Condominium Act (the "Act") upon land situated in Okaloosa County, Florida (the "Land"), and to perform the acts and duties incident to operation and management of the Condominium in accordance with the provisions of these Articles of Incorporation, the By-Laws of the Association (the "By-Laws") and the Declaration of Condominium of the Condominium (the "Declaration"), which will be recorded in the Public Records of Okaloosa County, Florida, when the Land, and the improvements now and to be constructed thereon, are submitted to the condominium form of ownership; and to maintain, operate, encumber, lease, manage, and otherwise deal with the Land, the improvements and such other property, real and/or personal, as may be or become part of the Condominium (the "Condominium Property") to the extent necessary or convenient in the administration of the Condominium, including to operate and manage any recreation facilities or Water Management System which are part of the Condominium Property and created for the use and enjoyment of the Condominium. The Association shall be conducted as a non-profit organization for the benefit of its members.

III. Powers. The Association shall have the following powers:

3.1 All of the powers and privileges granted to corporations not for profit under the law pursuant to which this Corporation is chartered.

3.2 All of the powers conferred on a condominium association by law and which are reasonably necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to:

(a) Make and establish reasonable rules and regulations governing the use of the Units, Common Elements, Limited Common Elements, and Water Management System in and of the Condominium, as such terms are defined in the Declaration.

(b) Levy and collect assessments against members of the Association to defray the Common Expenses of the Condominium, as provided in the Declaration and the By-Laws; including the right to levy and collect assessments for the purpose of acquiring, owning, holding, operating, leasing, encumbering, selling, conveying, exchanging, managing and otherwise dealing with the Condominium Property, including Units, which may be necessary or convenient in the operation and management of the Condominium and in accomplishing the purposes set forth in the Declaration and the right to levy and collect assessments for the management and operation of any recreation facilities and Water Management System which are created for the use of the members of the Association.

(c) Maintain, repair, replace, operate and manage the Condominium Property, including the right to reconstruct improvements after casualty and further to improve and add to the Condominium Property.

(d) Contract for the management of the Condominium and, in connection therewith, to delegate any and/or all of the powers and duties of the Association to the extent and in the manner permitted by the Declaration, the By-Laws, and the Act.

(e) Enforce the provisions of these Articles of Incorporation, the Declaration, the By-Laws, and all rules and regulations governing use of the Condominium and Condominium Property which may from time to time be established.

(f) Exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association in the Declaration and the Act.

(g) Provide and/or arrange for all services which the law permits to be provided by a condominium association including those services set forth in Florida Statutes, Section 718.111.

(h) Maintain, or by contract provide for the maintenance of, any Water Management System servicing the Land.

IV. **Members**. The qualification of members, the manner of their admission to and the termination of membership, and voting by members shall be as follows:

4.1 The record owners of all Units in the Condominium shall be members of the Association, and no other persons or entities shall be entitled to membership, except as provided in Article 4.5 hereof.

4.2 Membership shall be established by the acquisition of fee title to a Unit in the Condominium, or by acquisition of a fee ownership interest therein, by voluntary conveyance or operation of law, and the membership of any person or entity shall be automatically terminated when such person or entity is divested of all title or his or her entire fee ownership in such Unit; provided, that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two or more Units at any time while such person or entity shall retain fee title to or a fee ownership interest in any Unit.

4.3 The interest 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(s) owned by such member. The funds and assets of the Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the By-Laws.

4.4 On all matters on which the membership shall be entitled to vote, there shall be one, and only one, vote for each Unit in the Condominium (the "Voting Interest"), which Voting Interest may be exercised or cast by the owner(s) of each Unit as provided in the By-Laws. Should any member own more than one Unit, such member shall be entitled to exercise or cast one (1) Voting Interest for each such Unit, in the manner provided by the By-Laws.

4.5 Until such time as the Land, and the improvements now and to be constructed thereon, are submitted to the condominium form of ownership by recordation of the Declaration in the Public Records of Okaloosa County, Florida, the membership of the Association shall be comprised of the subscribers to these Articles, each of whom shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

V. **Duration**. The Association shall have perpetual existence.

VI. **Office**. The principal office of the Association shall be located in Florida, but the Association may maintain offices and transact business in such places, within or without the State of Florida, as may from time to time be designated by the Board of Directors. The initial principal place of business shall be 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548.

VII. **Management**. The affairs of the Association shall be managed by the Board of Directors of the Association ("Board"), directing and acting through the officers of the Association, including the President of the Association assisted by the Vice Presidents, Secretary and Treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, always subject to the direction of the Board of Directors. The Board of Directors, or the President with the approval of the Board of Directors, may employ a managing agent, agency, and/or other managerial and supervisory personnel for the operation and management of the Condominium and the affairs of the Association, and any and all such persons and/or entity or entities may be so employed without regard to whether any such person or entity is a member of the Association or a Director or officer of the Association, as the case may be.

VIII. **Directors**. The number of members of the first Board of Directors shall be three (3). The number of members of succeeding Boards of Directors shall be not less than three (3), or as otherwise provided for from time to time by the By-Laws, and they shall be elected by the members of the Association at the annual meetings of the membership as provided by the By-Laws. At least a majority of the members of all Boards of Directors shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

Tolbert Bayside Development Company, a Florida corporation (the "Declarant"), shall have the right to designate the members of the Board of Directors for so long as the law will permit it to do so. Unit owners, other than the Declarant, shall have the right to elect such Directors at such time and in such manner as the law requires, to wit:

(1) When Unit owners other than the Declarant own 15 percent or more of the Units, the Unit owners other than the Declarant shall be entitled to elect no less than one-third of the members of the Board of Directors.

(2) Unit owners other than the Declarant are entitled to elect not less than a majority of the members of the Board of Directors:

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

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

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

(e) Seven years after recordation of the Declaration of Condominium; whichever first occurs.

The Declarant shall have the right to elect, in the manner provided in the By-Laws, one (1) member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium. Notwithstanding the foregoing, the Declarant shall be entitled at any time to waive in writing its rights hereunder, and to transfer control of the Association to the Unit owners prior to the times required by law. After Unit owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall, within the time required by law and in a manner to be provided in the By-Laws, relinquish control of the Association and shall deliver to the Association possession and control of all Condominium Property of the Unit Owners and of the Association held or controlled by the Declarant.

IX. <u>Officers</u>. The Board of Directors shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall deem advisable from time to time. The President shall be elected from the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided,

however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

X. **Initial Board**. The names and addresses of the members of the first Board of Directors, who, subject to the provisions of the laws of Florida, these Articles of Incorporation and the By-Laws, shall hold office until the annual meeting of the Association in the year following the year this corporation is formed, and thereafter until their successors are selected and have qualified, are as follows:

1. Fred E. Tolbert, III
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

2. William G.P, Kreuser
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

3. Gail Cluck
   1500 Miracle Strip Parkway SE
   Fort Walton Beach, FL 32548

XI. **Initial Officers**. The initial officers of the Corporation, who shall hold office until their successors are elected and have qualified pursuant to these Articles of Incorporation and the By-Laws, shall be the following:

President:	Fred E. Tolbert, III 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548
Vice-President:	William G.P, Kreuser 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548
Treasurer/Secretary:	Gail Cluck 1500 Miracle Strip Parkway SE Fort Walton Beach, FL 32548

XII. **Subscriber**. The Subscriber to these Articles of Incorporation and his address, are set forth below:

Leo J. Salvatori, Esquire
c/o **SALVATORI & WOOD**
4001 Tamiami Trail North, Suite 330
Naples, Florida 34103

XIII. **By-Laws**. The original By-Laws of the Association shall be adopted by a majority vote of the Directors of this Association at a meeting at which a majority of the Directors are present, and, thereafter, the By-Laws may be altered or rescinded only by

affirmative vote of two-thirds (2/3) of the votes entitled to be cast by members of the Association.

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

XV. Amendment. An amendment or amendments to these Articles of Incorporation may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors; or by the members of the Association owning a majority of the Units in the Condominium, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles of Incorporation being proposed by the Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days or later than sixty (60) days from the receipt by him or her of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written notice of such meeting stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed or presented personally to each member not less than ten (10) days nor more than thirty (30) days before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at his or her Post Office address as it appears on the records of the Association, with first class postage thereon prepaid. Such notice shall further be posted on the Condominium Property for at least 14 continuous days preceding the meeting. Any member may waive such notice by written waiver of notice signed by such member and such waiver when filed in the records of the Association, whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the members holding Voting Interests of Units in the Condominium to which not less than two-thirds (2/3) of the Common Elements are appurtenant in order for such amendment or amendments to become effective. Only a limited proxy may be utilized if voted upon by proxy. Thereupon, such amendment or amendments of these Articles of Incorporation shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of State of the State of Florida. A certified copy of each such amendment of these Articles of Incorporation shall be recorded in the Public Records of Okaloosa County, Florida, within thirty (30) days from the date on

which the same is filed in the office of the Secretary of State. Notwithstanding the foregoing provisions of this Article XV, no amendment to these Articles of Incorporation which shall abridge, amend or alter the right of Declarant to designate and select members of the Board of Directors of the Association, as provided in Article VIII hereof, or otherwise alter or abrogate rights of Declarant, may be adopted or become effective without the prior written consent of Declarant.

IN WITNESS WHEREOF, the Subscriber hereto has hereunto set this hand and seal this _____ day of _____, 200__.

_____
LEO J. SALVATORI

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day personally appeared before me, the undersigned authority, **LEO J. SALVATORI** to me well known and well known to me to be the person who executed the foregoing instrument and acknowledged before me that he executed the same freely and voluntarily for the uses and purposes therein set forth and expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this the _____day of _____, 200__.

_____
NOTARY PUBLIC

_____
TYPED, PRINTED OR STAMPED NAME OF NOTARY
MY COMMISSION EXPIRES:

CERTIFICATE DESIGNATING REGISTERED AGENT AND REGISTERED OFFICE

In compliance with Florida Statutes Sections 48.091, 617.0501 and 607.0501, the following is submitted:

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

desiring to organize as a corporation under the laws of the State of Florida, has designated 4001 Tamiami Trail North, Suite 330, Naples, Florida 34103, as its initial Registered Office, and has named **SALVATORI & WOOD, P.L.**, located at said address, as its initial Registered Agent.

ACCEPTANCE OF REGISTERED AGENT

Having been named Registered Agent for the above stated corporation, at the designated Registered Office, the undersigned hereby accepts said appointment, is familiar with and accepts the obligations thereof, and agrees to comply with the provisions of Florida Statutes Section 48.091 and 617.0501, relative to keeping open said office.

SALVATORI & WOOD, P.L.

By: _____
Leo J. Salvatori, as Manager

BY-LAWS

OF

HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.

A Corporation Not For Profit

I. THE ASSOCIATION.

1.1 These are the By-Laws of **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.** (the "Association"), a Florida corporation not-for-profit, the Articles of Incorporation (the "Articles") of which were filed in the office of the Secretary of State of Florida on _____. The Association has been organized for the purpose of administering the maintenance, operation and management of **HERON AT DESTIN WEST BEACH AND BAY RESORT, A CONDOMINIUM** (the "Condominium"), established or to be established in accordance with the Florida Condominium Act (the "Act") upon land, situated in Okaloosa County, Florida, described in the Declaration of Condominium.

1.2 The provisions of these By-Laws are applicable to the Condominium and are subject to the provisions of the Articles. A copy of the Articles and a copy of these By-Laws will be annexed, as Exhibits, to the Declaration of Condominium for HERON AT DESTIN WEST BEACH AND BAY RESORT, a Condominium (the "Declaration") which will be recorded in the Public Records of Okaloosa County, Florida. The terms and provisions of the Articles and Declaration shall control wherever the same may conflict herewith.

1.3 All members of the Association and their invitees, including, without limitation, all present or future owners and tenants of units in the Condominium ("Units") and other persons using the Condominium or any of the facilities thereof in any manner, are subject to these By-Laws, the Articles and the Declaration.

1.4 The office of the Association shall be at 1500 Miracle Strip Parkway SE, Fort Walton Beach, Florida 32548, or at such other place as may be established by resolution of the Board of Directors.

1.5 The fiscal year of the Association shall be the calendar year.

1.6 The seal of the Association shall bear the name of the Association, the word "Florida", the words, "Corporation Not For Profit", and the year of incorporation. An impression of the seal is as follows:

(SEAL)

II. MEMBERSHIP, VOTING, QUORUM, AND PROXIES.

2.1 The qualification of members of the Association (the "Members"), the manner of their admission to membership and termination of such membership, and voting by Members, shall be as set forth in Article IV of the Articles, the provisions of which are incorporated herein by reference.

2.2 A quorum at meetings of Members shall consist of persons entitled to cast one-third (1/3) of the Voting Interests of the entire membership.

2.3 The Voting Interest of the owner(s) of a Unit owned by more than one natural person, as tenants in common, joint tenants (including a husband and wife as tenants by the entirety), a partnership, or any other association of natural persons, or by a corporation, a trust, or any other entity shall be cast or otherwise exercised, at all meetings at which members of the Association are entitled to vote or otherwise act, by one natural person designated by the owner(s) of such Unit as the " Unit Representative" thereof. In each instance where title to a Unit is proposed to be conveyed or is otherwise to become vested in more than one natural person (excluding a husband and wife, a partnership, or any association of natural persons, or a corporation, a trust, or any other entity, the prospective owner(s) shall designate one natural person as the Unit Representative, whose name shall be included in the Registry of Owners under the Declaration. The written instrument designating the Representative shall be filed with the Association, and the person so designated shall be and remain the Unit Representative until such designation has been revoked by written instrument executed by the owner(s) of the Unit or by conveyance of the Unit. The Unit Representative shall be the only person entitled to cast or exercise, in person or by proxy, the Voting Interest of the owner(s) of such Unit at any meeting of members or in connection with any action concerning which members of the Association shall be required or allowed to vote or otherwise act. In the case of a Unit, title to which is held by a husband and wife, each of them shall be the Representative but only one may cast the vote.

2.4 Evidence of the approval or disapproval of the owner(s) of a Unit upon any matter, whether or not the subject of an Association meeting, shall be given to the Association by the same person who would cast the Voting Interest of such owner if in an Association meeting.

2.5 Except where otherwise required under the provisions of the Articles, these By-Laws or the Declaration, or where the same may otherwise be required by law, the affirmative vote of the persons holding a majority of the Voting Interests represented at any meeting of the Members duly called and at which a quorum is present, shall be binding upon the members.

2.6 Voting Interests may be cast in person or by proxy pursuant to terms of the Act. Proxies may be made by the Unit Representative and shall be effective only for the specific meeting for which given and any lawfully 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 by written notice from the Unit Representative.

III. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP.

3.1 The annual meeting of Members shall be held, at the office of the Association or such other place in Okaloosa County, Florida, at such time and on such date in November of each year as may be determined by the Board of Directors and as shall be specified in the notice of the meeting, for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members.

3.2 Special meetings of Members shall be held whenever called by the President or Vice president or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members owning a majority of the Units or as otherwise required herein or by law. If the Board of Directors adopts a budget which requires assessments against unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, upon written request to the Board of Directors by unit owners holding 10 percent or more of the Voting Interests, the Board shall call a special meeting for the enactment of a budget by the unit owners. Subject to the rights of the Declarant to maintain control of the Association pursuant to Florida law, a special meeting of the unit owners to recall a member or members of the Board of Directors may also be called by unit owners holding 10 percent or more of the Voting Interests.

3.3 Notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member (unless waived in writing). Each notice shall be written or printed and shall state the time and place of and purpose for which the meeting is called. The notice of any meeting to consider assessments shall specifically state that fact and the nature of the assessment. Each notice shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed or delivered personally to each Member. If delivered personally, receipt of the notice shall be signed by the Member, indicating the date received. If mailed, such notice shall be mailed via first class United States mail, certified, return receipt requested, addressed to the Member at the Member's Post Office address as it appears on the records of the Association, with postage thereon prepaid. The post office certificate of mailing shall be retained as proof of such mailing; provided, however, that if Florida law is subsequently changed to eliminate the requirement for a post office certificate of mailing, such notice shall be deemed properly given when deposited in the United States Mail, postage prepaid, addressed as hereinabove described, to the Member, and proof of such mailing shall be given by the affidavit of the person giving the notice. Any Member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall be deemed equivalent to the filing of such notice to such Member. Each notice shall in addition be posted in a conspicuous place in the Condominium at least fourteen (14) continuous days prior to said meeting. The Secretary of the Association shall provide an affidavit to be included in the official records of the Association affirming that notices of such Association meeting were mailed or hand-delivered in accordance with the By-Laws of the Association and applicable law, to each member at the address last furnished to the Association. If any meeting of Members cannot be held because a quorum is not present, or because a greater percentage of the membership required to constitute a quorum for particular purposes is not present,

whenever the latter percentage of attendance may be required as set forth in the Articles, the By-Laws or the Declaration, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance is present.

3.4 At meetings of Members, the President of the Association, or in his or her absence, the Vice- President, shall preside, or in the absence of both, the Members present shall select a chairman of the meeting.

3.5 The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

(1) Collection of Election Ballots.
(2) Calling the roll and certifying of proxies
(3) Proof of notice of meeting or waiver of notice
(4) Reading or waiver of reading of minutes of previous meeting of Members
(5) Reports of officers
(6) Reports of committees
(7) Appointment by Chairman of Inspectors of Election
(8) (Election of Directors
(9) Unfinished business
(10) New business
(11) Adjournment

IV. BOARD OF DIRECTORS.

4.1 The number of members of the first Board of Directors shall be three (3). The number of members of succeeding Boards of Directors shall be not less than three (3), or as otherwise provided for from time to time by the By-Laws, and they shall be elected by the members of the Association at the annual meetings of the membership as provided by the By-Laws. At least a majority of the members of all Boards of Directors shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of the Association, except during the period of Declarant control specified herein.

4.2 Directors shall be elected in the following manner:

a. Until such time as Members other than the Declarant own 15% or more of the Units, Declarant shall be entitled to elect all Members of the Board. At such time as Members other than Declarant own 15% or more of the Units, Members other than the Declarant shall be entitled to elect no less than one-third of the members of the Board. Members other than Declarant shall be entitled to elect a majority of the Members of the Board upon the first of the following occur: (i) three years after 50% of the Units have been conveyed to purchasers; (ii) three months after 90% of the Units have been conveyed to purchasers; (iii) when all of the Units have been completed, some of which have been conveyed to purchasers, and none of the others of which are being offered for sale by Declarant in the ordinary course of business; (iv) at such time as some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Declarant in the ordinary course of business; or (v) seven years after recordation of the Declaration of Condominium.

Declarant shall be entitled to elect at least one member of the Board for so long as Declarant holds for sale in the ordinary course of business at least 5% of all Units operated by the Association. At such time as the Declarant fully relinquishes control of the Board, Declarant may exercise the right to vote any Declarant owned Units in the same manner as any other Member, except for purposes of re-acquiring control of the Association or selecting the majority members of the Board.

b. All members of the Board who Declarant shall not be entitled to designate under these By-Laws or under the Florida Condominium Act, shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or inclusion in another Association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of election. Any unit owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Association not less than forty (40) days before a scheduled election. Together with the written notice and agenda for the meeting, the Association shall mail or deliver a second notice of the election to all Unit Owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of the Candidate, the Association shall include an information sheet, no larger than 8 1/2" by 11", which must be furnished by the Candidate not less than thirty-five (35) days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. However, the Association has no liability for the contents of the information sheets prepared by the candidates. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least twenty (20%) percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. No unit owner shall permit any other person to cast the unit owner's ballot, and any such ballots improperly cast shall be deemed invalid. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions of this Section, election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board. Upon election of the first unit owner other than the Declarant, the Declarant shall forward to the Division of Florida Land Sales, Condominiums and Mobile Homes the name and mailing address of the Unit Owner Director.

c. Vacancies on the Board may be filled, to expire on the date of the next annual meeting, by the remaining Directors; except that (i) should any vacancy in the Board be created in any directorship previously filled by any person designated by Declarant, such vacancy shall be filled by Declarant designating, by written instrument delivered to any officer of the Association, the successor Director and (ii) should any vacancy in the Board be created in any directorship previously filled by any person elected by members other than Declarant, such vacancy shall be filled by the remaining Directors who were elected by such members, and if there are no such remaining Directors, such vacancy shall be filled by a majority vote of the members other than Declarant, present in person at a special meeting called for such purpose. The Board shall call such special meeting when required for filling such vacancy. Directors appointed or elected to fill vacancies shall fill the vacated directorship for the unexpired term thereof.

d. By a vote of the membership at any duly called meeting the members may determine to elect Directors to staggered terms of no more than 3 years. At the same meeting a procedure for implementing the terms may be approved. Directors shall hold office for the terms

to which elected or designated, and thereafter until their successors are duly elected, or designated by Declarant, and qualified or until removed in the manner elsewhere herein provided or as provided by law.

e. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected; provided, however, that no member or owner of any Unit may cast more than one vote for any person nominated as a Director; it being the intent hereof that voting for Directors shall be non-cumulative.

f. In the event that Declarant selects any person or persons to serve on any Board, Declarant shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or other persons to serve on the Board. Replacement of any person or persons designated by Declarant to serve on any Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the persons so removed from the Board. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any officer of the Association. Persons selected by Declarant to serve on the Board need not be members of the Association.

4.3 The organizational meeting of a newly elected or designated Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected. Notice of the same shall be posted in a conspicuous place in the Condominium (if then built) at least forty-eight (48) continuous hours prior to said meeting.

4.4 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, and shall be open to all members of the Association. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless notice is waived; notice shall also be posted in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. The notice of any Board meeting at which assessments to be made against Unit owners are to be considered shall so state and shall also set forth the nature of the assessment.

4.5 Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of one of the Directors. Not less than three (3) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Such notice shall also be posted in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. In the event that a special meeting of the Board of Directors has been called to discuss non-emergency special assessments, or amendments to rules regarding unit use, notice of said meeting shall be mailed or delivered to Unit Owners, and posted in a conspicuous place in the Condominium, no less than fourteen (14) days prior to the meeting.

4.6 Any Director may waive notice of a meeting before, at or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

4.7 A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles, these By-Laws or the Declaration. If any meeting of the Board cannot be held because a quorum is not present, or because a greater percentage of the Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, these By-Laws or the Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum or the required percentage of attendance if greater than a quorum, is present. Upon adjournment, the Board shall state the time and date the adjourned meeting is to be re-convened, and shall post a notice of such meeting in a conspicuous place in the Condominium at least forty-eight (48) continuous hours prior to said meeting. At any re-convened meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.8 The presiding officer at meetings of the Board shall be the President of the Association. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

4.9 All of the powers and duties of the Association shall be exercised by the Board, including those existing under the law of Florida, the Articles, these By-Laws and the Declaration. Such powers and duties shall be exercised in accordance with the Articles, these By-Laws and the Declaration, and shall include, without limitation, the right, power and authority to:

a. Make, levy and collect assessments against Members and Members' residential Units to defray the expenses of the Condominium, and to use the proceeds of assessments in the exercise of the powers and duties of the Association.

b. Maintain, repair, replace, operate and manage the Condominium and Condominium Property as the same is required to be done and accomplished by the Association for the benefit of Members;

c. Repair and reconstruct improvements after casualty;

d. Make and amend regulations governing the use of the Condominium Property, real and personal; provided that such regulations or amendments thereto shall not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles and Declaration;

e. Acquire, own, hold, operate, lease, encumber, convey, exchange, manage, and otherwise trade and deal with property, real and personal, including Units, of and in the Condominium, as may be necessary or convenient in the operation and management of the Condominium, and in accomplishing the purposes set forth in the Declaration, including to grant easements for the benefit of others on, over, or across the Condominium Property and to accept easements for the use and benefit of the Condominium;

f. Contract for the management of the Condominium and in connection therewith to delegate such of the powers and duties of the Association as may be deemed appropriate, except those which may be required by the Declaration to have approval by the Board or Members of the Association, or which may not be delegated by law;

g. Enforce by legal means the provisions of the Articles, these By-Laws, the Declaration and all regulations governing use of property of and in the Condominium hereafter adopted;

h. Pay all taxes and assessments which are liens against any part of the Condominium other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

i. Carry insurance for the protection of the members and the Association against casualty and liability;

j. Pay all costs of power, water, sewer and other utility services rendered to the Condominium and not billed to the owners of the separate Units;

k. Employ personnel for reasonable compensation to perform the services required to properly accomplish the purposes of the Association;

l. Maintain, operate and manage any recreation facilities created for the use of the members of the Association, including to employ personnel and enter into contracts for such management and to assess members for costs associated with such recreation facilities;

m. Make arrangements and enter into contracts to purchase any services for which a budget exists and which the law permits the Association to provide.

n. Accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium units to the applicable fire and life safety code.

4.10 Should any member of the first Board be unable to serve for any reason, the Declarant shall have the right to select and designate a successor to act and serve for the unexpired term of the Director who is unable to serve.

4.11 Directors may be removed from office in the manner provided by applicable Florida law.

V. ADDITIONAL PROVISIONS - MEETINGS OF MEMBERS AND DIRECTORS.

5.1 Notwithstanding anything contained in these By-Laws to the contrary, any meeting of Members or the Board may be held at any place, within Okaloosa County, in the State of Florida, designated in the notice of any such meeting, or notice of which is waived. Board meetings may also be conducted by telephone or other electronic means in accordance with Chapter 718, Florida Statutes (2003).

5.2 To the extent now or from time to time hereafter permitted by the laws of Florida, Unit Owners may take any action which they might take at a meeting of the

Members of the Association by written consent without a meeting; provided, however, that any approval of Unit Owners to be made only at a meeting, called for by the laws of Florida, as from time to time amended, the Declaration or these By-Laws, shall only be made at a duly noticed meeting of Unit Owners.

5.3 Minutes of all Board and membership meetings shall be retained in a secure place, available for review by the membership, for a period of at least ten (10) years from the date of the meeting.

VI. OFFICERS.

6.1 The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall deem advisable from time to time. The President shall be elected from the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. The Board may from time to time elect such other officers, and designate their powers and duties, as the Board may deem necessary properly to manage the affairs of the Association. Officers may be removed from office by the Board.

6.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees from among the Members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall preside at all meetings of the Board and the Members at which he is present. He shall have such additional powers as the Board may designate.

6.3 The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

6.4 The Secretary shall keep the minutes of all proceedings of the Board and the Members. He shall attend to the giving and serving of all notices to the Members and Board, and such other notices as may be required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a 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 secretary of a corporation not for profit and as may be required by the Board and the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

6.5 The Treasurer shall have custody of all of the monetary properties of the Association, including funds, bank accounts, check books, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the Members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties customarily incident to the office of Treasurer.

6.6 The compensation of all employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Association, nor preclude contracting with a Director for the management of the Condominium.

VII. FISCAL MANAGEMENT.

The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

7.1 The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such account shall designate the name and mailing address of the owner(s) and mortgagee(s) of each Unit, the amount of each assessment against the owner(s) of each Unit, the amount of each assessment and due date thereof, and all amounts paid, and the balance due upon each assessment.

7.2 The Board shall adopt for, and in advance of, each calendar year, a budget showing the estimated costs of performing all of the functions of the Association for the year. Each budget shall show the total estimated expenses of the Association for that year and shall contain an itemized breakdown of the Common Expenses, which shall include, without limitation, the costs of operating and maintaining the Common Elements and Limited Common Elements, wages and salaries of Association employees, management, legal and accounting fees, office supplies, public utility services not metered or charged separately to Units, premiums for insurance carried by the Association and any reserve accounts and/or funds which may be established from time to time by the Board. The budget shall be prepared in the form and contain categories, including reserves, as required from time to time by the Florida Condominium Act. Each budget shall also show the proportionate share of the total estimated expenses to be assessed against and collected from the owner(s) of each Unit and the due date(s) and amounts of installments thereof. Nothing herein contained shall be construed as a limitation upon any additional assessment in the event that any budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

7.3 A copy of the proposed annual budgets of the Association shall be mailed to the Unit owners 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 the time and place of the meeting. Such meeting of the Board shall be open to Unit owners. If a budget is adopted by the Board which requires aggregate assessments of the Unit owners in any budget year exceeding 115% of such assessments for the preceding budget year, upon written application of persons holding 10% of the Voting Interests, a special meeting of the Unit owners shall be held upon not less than fourteen (14) days' written notice to each Unit owner, but within sixty (60) days of adoption of the budget, at which special meeting Unit owners may consider only and enact only a revision of the budget. Any such revision of the budget shall require a vote of persons holding not less than two-thirds (2/3) of the Voting Interests. The Board may in any event first propose a budget to the Unit owners at any such meeting of members or by writing, and if such budget or proposed budget be approved by persons holding a majority of the Voting Interests at such meeting or in writing, such budget may not thereafter be reexamined by the Unit owners in the manner

hereinabove set forth. If a meeting of Unit Owners has been called and a quorum is not attained or a substituted budget is not adopted by the Unit Owners, the budget adopted by the Board of Directors shall become effective as scheduled.

7.4 In determining whether assessments exceed 115% of assessments in the prior budget year, there shall be excluded in the computation any provision for reasonable reserves made by the Board in respect of repair and replacement of the Condominium Property, or in respect of anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis; and there shall be excluded from such computation, assessments or betterments to the Condominium Property. Provided, however, that so long as Declarant is in control of the Board of Directors the Board shall not impose an assessment for a budget year greater than 115% of the prior budget year's assessment without approval of persons, other than the Declarant, holding a majority of the Voting Interests.

7.5 Upon adoption of budgets, the Board shall cause a written copy thereof to be delivered to each Unit owner. Assessments shall be made against Unit owners pursuant to procedures established by the Board, and in accordance with terms of the Declaration and the Articles. Assessments shall be levied on an annual basis and installments shall be due and payable not less often than quarterly. Provided, however, that the lien or lien rights of the Association as to assessments shall not be impaired by failure to comply with procedures established pursuant to these By-Laws.

7.6 The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board, in which all monies of the Association shall be deposited. Withdrawal of monies from such bank(s) shall be only by check signed by such persons as are designated by the Board.

7.7 A review and written report of the accounts of the Association shall be made annually by a Certified Public Accountant, and a copy of the report together with a financial report in the form required by law shall be furnished to each Member not later than sixty (60) days following the year for which the report is made.

7.8 Fidelity bonds shall be required by the Board as to all officers, employees and/or agents of the Association handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least the amount required by law. The premiums on such bonds shall be paid by the Association.

VIII. PARLIAMENTARY RULES.

Roberts' Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles, these By-Laws or the laws of Florida.

IX. AMENDMENTS TO BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner:

9.1 Amendments to these By-Laws may be proposed by the Board, acting upon vote of a majority of the Directors, or by persons holding a majority of the Voting Interests whether meeting as members or by instrument in writing signed by them.

9.2 Upon any amendment or amendments to these By-Laws being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association, or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth; provided, that proposed amendments to the By-Laws may be considered and voted upon at annual meetings of the members.

9.3 In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of the persons holding Voting Interests of Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant and a copy of such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of Okaloosa County, Florida, within fifteen (15) days from the date on which any amendment or amendments have been affirmatively approved by the Members.

9.4 Notwithstanding the foregoing provisions of this Article IX, no amendment to these By-Laws which shall abridge, amend or alter the right of Declarant to designate members of each Board of Directors of the Association, as provided in Article IV hereof, or otherwise abrogate any rights of Declarant, may be adopted or become effective without the prior written consent of Declarant.

X. MANDATORY NON-BINDING ARBITRATION.

In the event of a dispute between one or more Unit owners and/or the Association arising from the operation of the Condominium, the parties shall submit the dispute to mandatory nonbinding arbitration under the rules of the Division of Florida Land Sales and Condominiums and Mobile Homes.

MISCELLANEOUS.

All provisions of Sections 718.112(2)(a) through (m), Florida Statutes (2003), are deemed included in these by-laws.

The foregoing were adopted as the By-Laws of **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.**, A Corporation Not-For-Profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the _____ day of _____, 200__.

DESTIN WEST BEACH AND BAY RESORT
BAYSIDE PROPERTY OWNERS ASSOCIATION, INC.
OPERATING BUDGET FOR 186 UNITS
FOR JANUARY 1, 2005 THROUGH DECEMBER 31, 2005

	ITEM	MONTHLY	QUARTERLY	YEARLY
EXPENSES:				
ADMINISTRATIVE:				
	Office Supplies	250.00	750.00	3,000.00
	Lega/Accounting/Bond	916.67	2,750.00	11,000.00
	Licenses and fees	451.67	1,355.00	5,420.00
	Postage & Freight	191.67	575.00	2,300.00
	Misc.	125.00	375.00	1,500.00
	Total Administrative	1,935.00	5,805.00	23,220.00
MANAGEMENT		2,000.00	6,000.00	24,000.00
INSURANCE		2,500.00	7,500.00	30,000.00
	Total Mgt & Ins.	4,500.00	13,500.00	54,000.00
MAINTENANCE				
	Pest Control/Landscape	300.00	900.00	3,600.00
	Custodial Maintenance	2,375.00	7,125.00	28,500.00
	Grounds & Landscaping	3,916.67	11,750.00	47,000.00
	Pool supplies & maintenance	3,916.67	11,750.00	47,000.00
	Total Maintenance	10,508.33	31,525.00	126,100.00
UTILITIES				
	Pool Heat & Utilities	1,937.50	5,812.50	23,250.00
	Common Electricity	1,666.67	5,000.00	20,000.00
	Trash Service	583.33	1,750.00	7,000.00
	Water & Sewer	750.00	2,250.00	9,000.00
	Telephone	208.33	625.00	2,500.00
	Courtesy	2,083.33	6,250.00	25,000.00
	Total Utilities	7,229.17	21,687.50	86,750.00
RESERVES:				
	Pavement (15)	250.00	750.00	3,000.00
	Pool (10)	832.00	2,496.00	9,984.00
	Total Reserves	1,082.00	3,246.00	12,984.00
	Total Expenses With Reserves	25,254.50	75,763.50	303,054.00
	$407.33 Qtr. Assn Dues ea. Unit			

MANAGEMENT AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of _____, 200___, by and between **HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC.**, a Florida not-for-profit corporation (the "Association"), and **DESTIN WEST RESORT MANAGEMENT, INC.**, a Florida corporation, (the "Manager"), with reference to the following facts:

A. WHEREAS the Association is the governing body for Heron at Destin West Beach and Bay Resort, a Condominium.

B. WHEREAS the Board of Directors of the Association (the "Board") wishes to have the Manager act as the Manager for the Association, and the Manager has agreed to act in that capacity.

IT IS THEREFORE AGREED AS FOLLOWS:

1. EXCLUSIVE MANAGER. The Association hereby retains and appoints the Manager, and the Manager hereby accepts such retainer and appointment, on the terms and conditions set forth below, as exclusive manager for the Association.

2. TERM. The term of this Agreement shall be from _____, 200__, but in no event the earlier of the date of recordation of the Declaration of Condominium for Heron at Destin West Beach and Bay Resort, continuing three (3) years thereafter, unless notice of cancellation is given as provided herein. The cost of services rendered hereunder for renewals of this Agreement shall be reviewed and negotiated at the time of budget preparation.

3. MANAGER'S DUTIES. The Manager shall perform the following services as, when and if needed, and as often as may reasonably be required in order to accomplish the purposes of this Agreement or as otherwise specified in this Agreement:

   a. Hiring. Engage, train and supervise all persons (but no less than one), which person or persons, however, may be engaged on a part-time basis, necessary to properly maintain and operate the Association, it being understood that all personnel so engaged shall be employees of the Manager and shall be licensed as required by Chapter 468, Florida Statutes; provided, however, that no person shall be so engaged over the objection of the Association.

      Prepare and timely file all necessary forms for unemployment insurance, withholding and social security taxes and all other taxes and forms relating to all of the Manager's employees and the maintenance and operation of the Association, as and when required by federal, state or local law.

   b. Collections. Collect, on behalf of the Association, all assessments for common expenses, special assessments, reserves, charges, rentals or other payments from Unit Owners and concessionaires, and all other monies and debts which may become due the Association, and in the event of default in such payment, promptly take or cause to be taken all legal or other action in the name of the Association as may be necessary or appropriate to enforce any rights which the

Association may have as a result of the default. The Manager may confer freely with and use the services of Association legal counsel for these purposes.

Deposit all funds collected from Unit Owners or from other sources into accounts at one or more financial institutions established by the Manager as custodian for the Association, so that said funds may be withdrawn therefrom to pay all expenses of operation and maintenance of the Association as contemplated herein. This activity shall also be subject to the requirements of Paragraph 5 below.

c. Care of Property. Protect, maintain, repair and replace the common elements and all Association Property to the same extent that the Association is required to protect, maintain, repair and replace the same, as provided by statute and in the Declaration and attached exhibits.

d. Purchase Services and Supplies. Purchase, on behalf of the Association, all services, equipment, supplies and materials as may be necessary or desirable for the maintenance and upkeep of the property. Such purchases shall be made in the name of the Association. Notwithstanding this authority, it is understood and agreed that the Manager will, if reasonably possible, confer immediately with the Board regarding every such expenditure.

e. Payment of Bills and Costs. Check for accuracy all bills or invoices received by the Association for services, work and supplies in connection with maintaining and operating the Association; provide the day-to-day bookkeeping services and procedures necessary to pay the proper bills and costs of the Association, the payroll of its employees and any other debts incurred by the Association, taking advantage of prompt payment discounts when available. This service shall include, but not be limited to, keeping all accounts payable records for the Association and performing all services in connection with the payments of bills, payrolls and such other items as may be provided for in the budget.

f. Insurance. Cause all required insurance to be carried and maintained in full force and effect; maintain appropriate records of all insurance coverage carried by the Association; and assist the Association in making appropriate adjustments with the insurance companies and causing all of said insurance proceeds to be promptly paid when due.

g. Notices, Meetings. Prepare and send all letters, reports and notices as may be reasonably requested by the Board; attend, if requested, all meetings of Directors and Unit Owners scheduled during normal business hours or quarterly if held during after-business hours; and distribute minutes thereof.

h. Owners' Roster. Maintain a current owners' roster.

i. Financial Records and Reports. Maintain the Association's financial books, records, accounts, and other records as provided by the Association's Bylaws and pursuant to the Condominium Act, if applicable, and other applicable laws, and in accordance with good business practices; and issue estoppel letters regarding a member's account to members, their mortgagees and lienors, without liability for errors unless as a result of gross negligence. The financial

records shall provide information adequate to trace all collections and disbursements of Association funds made by the Manager. Such records shall be available for inspection and photocopying by Unit Owners or their authorized representatives or applicable government agencies at all reasonable times, in accordance with Florida law. The Manager shall perform a continual internal audit of the Association's financial records for the purpose of verifying the same, and arrange for an annual audit or review by an independent Certified Public Accountant, at Association expense, if required by law or by the Board of Directors.

j. Annual Reports. Within 60 days following the end of the fiscal or calendar year (or on the date otherwise provided in the Bylaws of the Association or by Florida Statute) mail or furnish by mail or personal delivery to all members of the Association a complete financial report of actual receipts and expenditures of the Association for the previous fiscal year. The Manager shall also be responsible for the timely filing of annual reports with the Secretary of State and the Division of Florida Land Sales, Condominium, and Mobile Homes, if applicable.

k. Budget. Compile cost estimates and prepare and propose a recommended budget for each fiscal year, setting forth anticipated income and expenses of the Association for the year and each owner's share thereof. The proposed budget shall be submitted to the Board for consideration at least 60 days prior to the beginning of the fiscal/calendar year, and shall be mailed to all owners of units at least 14 days prior to the meeting of the Board or the members at which such budget is to be adopted. The proposed budget shall fully comply with all applicable laws, including without limitation the inclusion of provisions for reserves for capital expenditures and deferred maintenance.

l. Tax Returns. Assist the Association's accountant in preparing all required tax returns for the Association.

m. Official Books and Records. Be responsible for the keeping of the official books and records of the Association, as defined by Florida law, and make such records available for inspection and photocopying by unit owners or their authorized representatives as required by law.

n. Compliance with Laws, Covenants and Rules. Take such action as may be necessary to assist the Association in causing the Association, the Manager, Unit Owners and occupants of units to comply with all laws, statutes, ordinances and rules of all appropriate governmental authorities having jurisdiction, and with the Declaration and the Articles of Incorporation and Bylaws of the Association, and the applicable rules and regulations of the Association, in connection with the operation of the Condominium and the performance of this Agreement. The Manager may, with the consent of the Board of Directors or President of the Association, or their designee, confer with the Association's legal counsel for these purposes.

o. General. Generally do all things deemed reasonably necessary or desirable by the Association to attend to the proper maintenance, operation and management of the Association Property, as required by statute or by the Declaration, the Articles of Incorporation and Bylaws of the Association, applicable rules and

regulations, this Agreement, and all other agreements, declarations, documents and instruments affecting the Association Property or the Unit Owners, except those things which may not be so delegated under the above documents and applicable law.

p. Cooperation. Manager fully accepts that its function is to assist the Board in the operation and administration of the Association. Notwithstanding the express authority given to the Manager in this Agreement, it is understood and agreed that the Manager shall at all times confer fully and freely with the Board in the performance of the services set forth herein, including but not limited to attendance at Board meetings.

4. DEPOSITS. All funds collected by the Manager on account of the Association shall be deposited in on or more banks or savings and loan associations, the deposits of which are insured by an agency of the United States, or in such other accounts as the Board shall direct. Such accounts or other investments will be styled so as to indicate the custodial nature thereof and the funds therein will not be commingled with other funds collected by the Manager as agents for others, nor with Manager's funds. The Manager shall not be liable for any loss resulting from the insolvency of such depository or the loss of such investments if directed to invest by the Association.

5. LIMITATIONS ON EXPENDITURES. Notwithstanding the authority expressed below as to emergency matters, it is understood and agreed that Manager will, if reasonably possible, confer immediately with the Board regarding every such expenditure. Except for the payment of insurance premiums or utility bills, and except as specifically authorized in any approved operating budget or plan of operation approved by the Board, for any one items of repair or replacement, the expenditure incurred shall not exceed the sum of $1,000.00 unless specifically authorized by the Board; provided however that emergency repairs involving manifest danger to life or property or immediately necessary for the preservation and safety of the Association or for the safety of Unit Owners, or required to avoid the suspension of any necessary services to the Association, may be made by the Manager irrespective of the cost limitation imposed by this Paragraph.

6. RESPONSIBILITIES OF ASSOCIATION. In order for the Manager to effectively perform his duties, the Association must assume the following responsibilities:

a. Maintain a fully constituted Board.

b. Appoint one Officer or Director to interface with the Manager on Association business.

c. Initially supply the Manager with an accurate owners' roster.

d. Provide Manager with a current set of the Association's governing documents, including the Association's Rules and Regulations.

e. Neither interfere, nor permit or cause any of the Officers, Directors, or Unit Owners to interfere with the Manager in the performance of its duties or the legitimate exercise of any of its powers hereunder.

f. Assist the Manager as requested in making decisions or in guiding the Manager in the performance of its duties under this Agreement.

7. AUTHORITY. The function of the Association is to maintain and protect the common elements and Association property; and the Manager agrees, notwithstanding the authority given to the Manager in this Agreement, to confer fully and freely with the Board in the performance of its duties as set forth herein. It is further understood and agreed that the authority and duties conferred upon the Manager hereunder are confined to the common elements, as defined in the Declaration, the Association's property, and such portions of the units as may be controlled, inspected, or maintained by the Association, if any. Manager's responsibility will be the implementation of policy decisions and directives of the Board in accordance with Florida law. However, the Board will not unreasonably interfere with the Manager's performance of responsibilities by dealing directly with those persons or organizations performing services under the supervision of Manager, rather than going through Manager.

8. RELATIONSHIP OF PARTIES.

a. Agency. All actions by the manager with respect to management and maintenance under this Agreement shall be as agent for the Association, and all obligations or expenses incurred in the performance of the Manager's duties and obligations shall be for the account of, on behalf of, and at the expense of the Association. The Manager shall not be obligated to make any advances to or for the account of the Association or to pay any obligations of the Association except out of funds provided by the Association, nor shall the Manager be obligated to incur any liability or obligation on behalf of the Association without reasonable assurance that the necessary funds for the discharge thereof will be provided.

b. Independent Contractor. The Manager, its employees and agents, shall be deemed to be independent contractors and not employees of the Association. The Association shall not be responsible to pay for any employee benefits, employee withholding taxes or other taxes, charges or costs, or any other expenses of any nature, except for the fees and costs specifically provided by this Agreement. The Manager shall be free to contract for similar services to be performed for other entities while it is under contract with the Association.

9. EXCULPATION, BOND, INSURANCE.

a. The Manager shall not be liable to the Association or its members for any loss or damage not caused by the Manager's own negligence or willful misconduct, and said Association and its members will, and do hereby, indemnify and save harmless the Manager from any such liability for damages, costs and expenses arising from injury to any person or property in, about and in connection with the Association, its common elements and units, from any cause whatsoever, unless such injury shall be caused by said Manager's own gross negligence or willful misconduct, or that of its employees.

b. The Association shall insure itself against liability arising from negligent acts by Manager or its agents or employees. Because the Manager will be acting at all times for and on behalf of the Association, it is understood and agreed that if possible the public liability insurance carried and maintained by the Association

shall be extended to and shall cover the Manager, its agents and employees, as well as the Association, all at the expense of the Association.

c. The Association shall insure all persons, including the Manager, who control or disburse funds belonging to the Association, in an amount not less than the larger of $50,000.00 or the total amount of the Association's funds of which they have possession or over which they exercise control. Manager agrees to indemnify the Association against the loss of Association's funds through dishonesty of Manager's employees, but such indemnification shall not exceed the limits of coverage provided in the Manager's Employee Dishonesty Insurance policy.

10. FEES AND COSTS.

a. Management Fee. As a fee for its services under this Agreement, Manager shall be paid Fifteen Thousand Dollars ($15,000.00) per year, payable in equal monthly installments on the first day of each month. Manager is authorized to pay said fee, and any applicable sales taxes on said fee, to itself from Association funds as a normal expense.

b. Separate Cost Items. The Association will pay or reimburse Manager separately for the following services or costs:

(i) Payroll and Personnel Service. The Association may elect to have the Manager handle the payroll and personnel services of any current Association employees. The Association would continue to control the pay scale of the employees. The Manager's responsibilities would include supervision, hiring and firing of personnel with Board approval, and payment of all overhead. Payroll costs will be reimbursed to the Manager monthly in addition to a ten percent (10%) carrying cost based on the employees' gross pay.

(ii) Clerical or Secretarial Services. Clerical or secretarial services necessary to prepare, print, and distribute Owners Directories; print, duplicate and distribute Rules and Regulations; type and mail President's Correspondence; and type and distribute Minutes of Association meetings to Board members.

(iii) Postage and Printing. Postage and printing costs for individual assessment statements and delinquent notices.

(iv) Duplication Costs. Duplication costs of governing documents for unit owners and any reports, forms, letters, correspondence, etc., not specifically mentioned herein as being provided by the Manager.

(v) Preparation and Mailing Costs. Preparation and mailing costs for notices, letters, newsletters, etc., approved by the Board to be mailed to members.

(vi) Material, Supplies and Services. All costs expended by the Manager for materials, supplies and services other than the Manager's overhead

expenses of office operations.

(vii) Estoppel Information. Preparation of estoppel information regarding assessments by or on behalf of a unit owner (if the Association's documents so provide, the Manager may charge a unit owner directly for such fee).

(viii) Sales Taxes. All applicable sales taxes.

(ix) Transfer Application Processing Fee. If allowable under the governing documents, and agreed to by the Board of Directors, the Association authorizes the Manager to collect from the lessee or the owner (on a lease or resale of a unit) an application fee payable to the Manager for the processing of the application.

11. TERMINATION.

a. By Either Party. This Agreement may be terminated, at any time, with or without cause, by either party's giving the other written notice, thirty (30) days in advance, of the termination.

b. By Association. This Agreement may be terminated by the Association, at any time, in accordance with applicable provisions found under Chapter 718, Florida Statutes, and regulations promulgated thereunder.

c. Procedure. In the event of termination the Manager shall cooperate fully with the Board and any new manager employed by the Association in causing an orderly transition, and shall turn over all funds, records and property of the Condominium or the Association to the new manager, if any, at the direction of the Board.

12. NON-COMPETE. The Association may not hire, or contract for management services, any current, future and/or former employee of Manager during the term of this Agreement and for a period two (2) years after termination of this Agreement, unless agreed upon in writing by Manager. The Association and the Manager hereby stipulate that, as between them, this provision is important and material, and if breached by the Association will gravely impact upon the business of the Manager and shall entitle the Manager to all remedies available to it in equity and/or at law. This provision shall survive termination of this Agreement for a period of two (2) years.

13. PROMOTIONAL INFORMATION. The Association agrees that Manager may identify the Association as a client for purposes of its promotional presentations, brochures and advertising.

14. ASSIGNMENT. With the prior written consent of the Association, the Manager may assign its rights and duties under this Agreement, as long as the Assignee agrees, in writing, to assume and perform the terms and covenants of this Agreement. Upon such assumption, the Manager shall be released from any and all obligations hereunder.

15. SEVERABILITY. In the event that any portion of this Agreement is held to be illegal, void, or otherwise inoperative by a court of law or other tribunal having jurisdiction, that

portion shall be severed from this Agreement, and the remaining portions of the Agreement shall remain in full force and effect.

16. APPLICABLE LAW, VENUE, AND ATTORNEYS' FEES. This Agreement shall be construed under the laws of the State of Florida. In the event there is a suit brought hereon, such suit shall be filed in Okaloosa County, Florida, the prevailing party in such action shall be entitled to attorneys' fees.

17. DISCLOSURE OF AFFILIATION. Manager does hereby disclose that Manager is an affiliate of the developer of HERON at Destin West Beach and Bay Resort, a condominium.

IN WITNESS WHEREOF, the parties hereby execute this Agreement.

WITNESSES:

_____

_____

Date:_____

FOR THE ASSOCIATION:

(Corporate Seal)
HERON AT DESTIN WEST BEACH AND BAY RESORT CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation

By:_____
Name :_____
Title: _____

WITNESSES:

_____

_____

Date:_____

FOR THE MANAGER:

(Corporate Seal)
DESTIN WEST RESORT MANAGEMENT, INC., a Florida corporation

By:_____
Name :_____
Title: _____

** OFFICIAL RECORDS **
BK 2428 PG 1335

This instrument prepared by and after recording return to:

Leo J. Salvatori, Esq.
Quarles & Brady LLP
4501 Tamiami Trail North, Suite 300
Naples, Florida 34103

FILE # 2005965 RCD: Apr 09 2003 @ 09:52AM
Newman C. Brackin, Clerk, Okaloosa Cnty Fl

AGREEMENT

This Agreement is made and entered into this 24th day of March, 2003, by and between **DESTIN WEST BEACH AND BAY RESORT COMMUNITY ASSOCIATION, INC.**, a Florida not-for-profit corporation hereinafter referred to as "Gulfside Community Association"; and **DESTIN WEST BEACH AND BAY RESORT-BAYSIDE PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation, hereinafter referred to as "Bayside Master Association".

W I T N E S S E T H

WHEREAS, Gulfside Community Association is the Community property owners association for a project commonly known as Destin West Beach and Bay Resort-Gulfside ("Gulfside Project"), located upon the premises described on Exhibit A attached hereto ("Gulfside Community Property"), having certain power and authority over certain common properties and amenities referred to as Community Property, all as further defined and described in that Community Property Agreement, which Community Property Agreement is recorded in Official Record Book 2381, Page 698, of the Public Records of Okaloosa County, Florida.

WHEREAS, Bayside Master Association is the master association for a proposed project to be known as Destin West Beach and Bay Resort-Bayside ("Bayside Project"), a project now under development to be located upon the premises described on Exhibit B attached hereto and incorporated herein by virtue of this reference ("Bayside Common Properties"). Incident thereto, Bayside Master Association will have certain power and authority over certain common properties and amenities to be constructed thereon.

WHEREAS, collectively, Destin West Beach and Bay Resort-Gulfside and Destin West Beach and Bay Resort-Bayside, formed a project commonly known as Destin West Beach and Bay Resort ("Resort").

WHEREAS, it is the intention of the developers of the Resort, as well as the Gulfside Community Association and the Bayside Master Association, that Unit Owners or Members within both the Gulfside Project and Bayside Project would have the right to utilize the Community Property of the Gulfside project, as that term is further described in the Community Property Agreement; and, further, the Common Property of the Bayside Project, which term shall be later more fully defined in a Declaration of Covenants to be recorded encumbering the Bayside Project, and shall include certain common areas and amenities to be constructed within the Bayside Project.

NOW, THEREFORE, in consideration of the mutual premises contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. The above captioned recitals are true and correct.

2. Gulfside Community Association does hereby agree that the Bayside Project is party of the Community, as that term is defined in the Community Property Agreement. As such, the owners of all units now or hereafter existing within the Bayside Project, all Members of the Bayside Master Association, and their respective guests, tenants, licensees and invitees, shall be entitled to utilize the Community Property of the Gulfside Community Association, in accordance with, and subject to, the terms and provisions of the Community Property Agreement.

3. Bayside Master Association does hereby agree that the owners of all units nor or hereafter existing in the Gulfside Project, and all Members of the Gulfside Community Association, together with all guests, tenants and invitees thereof, shall be entitled to utilize the Common Property of the Bayside Master Association, in accordance with, and subject to, the terms and provisions of any Declaration of Restrictive Covenants of the Bayside Master Association now or hereafter existing.

4. The parties hereto do hereby acknowledge and agree that as a result of execution of this Agreement, more persons may be utilizing their common facilities than would be the case if use of the common facilities was limited only to each respective association's members, guests, and invitees. However, each association does hereby further acknowledge and agree that the burden to be borne by the Gulfside Community Property and Bayside Master Property as a result of the execution of this Agreement is equivalent. As such, the Gulfside Community Property Association and Bayside Master Property Association do hereby agree that each shall alone bear the costs and expenses of maintaining their respective common facilities, and not assess the other association, nor its unit owners and/or members, for the same.

5. Tolbert Gulfside Development Company and Tolbert Bayside Development Company, the developers of the Resort, do hereby consent and agree to the foregoing.

6. This Agreement shall terminate thirty (30) years from the date of recordation hereof. However, the term of this Agreement shall automatically extend for successive periods of ten (10) years, unless both the Gulfside Community Association and Bayside Master Association record a document within twelve (12) months preceding the date this Agreement is due to expire, wherein said parties agree to terminate this Agreement.

7. During the term of this Agreement, neither the Gulfside Community Association nor the Bayside Master Association shall have the power nor authority to treat the unit owners, members, tenants, guests, licensees or invitees of any portion of the Resort any differently than others, it being the express intention of the parties thereto that the common facilities be available to all as though the Resort was governed by a single association, without differentiation as to where the person resides, owns or rents. Nothing herein shall prohibit one association from promulgating reasonable rules and regulations, nor assessing reasonable use fees to tenants or renters, so long as said rules, regulations and fees are applied without discrimination against a person or class based solely on the portion of the Resort owned, or rented by them.

8. This Agreement is being delivered and is intended to be performed in the State of Florida, and shall be construed and enforced in accordance with the laws of that state. In the event that any action is brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reimbursement for all reasonable attorneys' fees and costs incurred, including those incident to any appeal. The parties further agree that in the event any litigation is brought to enforce or interpret the terms of this Agreement, the exclusive forum thereof shall be the Circuit Courts of Okaloosa County, Florida.

9. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

10. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11. This Agreement is intended to be the complete and final expression of the understanding between the parties hereto, and no other representations, written or oral, other than those herein contained, have been relied upon by any party hereto in the entering into this Agreement.

Signed, sealed and delivered
in our presence

Witness #1 (print name below)
Wm. G.P. Kreuser

Witness #2 (print name below)
Janet L Dale

(Corporate Seal)
DESTIN WEST BEACH AND BAY RESORT COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation

By:
Fred E. Tolbert, III, as President

Witness #1 (print name below)
Wm. G.P. Kreuser

Witness #2 (print name below)
Janet L Dale

(Corporate Seal)
DESTIN WEST BEACH AND BAY RESORT-BAYSIDE PROPERTY OWNERS ASSOCIATION, INC, a Florida not-for-profit corporation

By:
Fred E. Tolbert, III, as President

** OFFICIAL RECORDS **
BK 2428 PG 1337

CONSENT

Witness #1 (print name below)
Wm. G.P. Kreuser

Witness #2 (print name below)
Janet L. Dale

(Corporate Seal)
TOLBERT GULFSIDE DEVELOPMENT COMPANY, a Florida corporation

By:
Fred E. Tolbert, III, as President

Witness #1 (print name below)
Wm. G.P. Kreuser

Witness #2 (print name below)
Janet L. Dale

(Corporate Seal)
TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation

By:
Fred E. Tolbert, III, as President

** OFFICIAL RECORDS **
BK 2428 PG 1338

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 24th day of March, 2003, by **Fred E. Tolbert, III**, as President of DESTIN WEST BEACH AND BAY RESORT COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation; as President of DESTIN WEST BEACH AND BAY RESORT-BAYSIDE PROPERTY OWNERS ASSOCIATION, INC, a Florida not-for-profit corporation; as President of TOLBERT GULFSIDE DEVELOPMENT COMPANY, a Florida corporation; and as President of TOLBERT BAYSIDE DEVELOPMENT COMPANY, a Florida corporation, who is personally known to me.

Ruth A. Kantner
NOTARY PUBLIC [NOTARY SEAL]

PLEASE PRINT OR TYPE NAME OF NOTARY
My Commission Expires:

Ruth A. Kantner
MY COMMISSION # CC991909 EXPIRES
April 3, 2005
BONDED THRU TROY FAIN INSURANCE, INC.

EXHIBIT A TO THE COMMUNITY PROPERTY AGREEMENT

LEGAL DESCRIPTION: COMMUNITY PROPERTY [2.983 ACRES]

A PARCEL OF LAND IN UNSECTIONALIZED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA, DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF BLOCK 15, SANTA ROSA ISLAND SUBDIVISON, AS RECORDED IN PLAT BOOK 3, PAGE 36 OF THE OFFICIAL RECORDS; THENCE SOUTH 08°14'00" WEST, 18.05 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98; THENCE SOUTH 85°51'40' EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 588.96 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 85°51'40" EAST (SOUTH 85°51'16"E, MEASURED), A DISTANCE OF 199.87 FEET TO A CONCRETE MONUMENT, SAID POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE RETURNING TO THE POINT OF BEGINNING, PROCEED SOUTH 04°06'06" WEST, 39.96 FEET; THENCE NORTH 85°53'53" WEST, 83.94 FEET; THENCE SOUTH 04°06'06" WEST, 347.02 FEET; THENCE SOUTH 85°53'53" EAST, 8.96 FEET; THENCE SOUTH 04°06'06" WEST, 51.96 FEET; THENCE SOUTH 85°53'53" EAST, 31.39 FEET; THENCE SOUTH 35°13'32" EAST, 18.40 FEET; THENCE SOUTH 04°11'39" WEST, 90.27 FEET; THENCE NORTH 85°48'21" WEST, 5.37 FEET; THENCE SOUTH 04°11'39" WEST, 378.4 FEET, MORE OR LESS, TO THE APPROXIMATE MEAN HIGH WATER LINE OF THE GULF OF MEXICO; THENCE EASTERLY ALONG SAID APPROXIMATE MEAN HIGH WATER LINE, A DISTANCE OF 191.0 FEET, MORE OR LESS, TO A POINT WHICH BEARS SOUTH 08 °16'20" WEST FROM SAID POINT "A"; THENCE NORTH 08°16'20" EAST, A DISTANCE OF 919.0 FEET, MORE OR LESS, TO SAID POINT "A"; THENCE NORTH 85°51'16" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98, A DISTANCE OF 199.87 FEET TO THE POINT OF BEGINNING, CONTAINING 4.67 ACRES, MORE OR LESS, ALL IN OKALOOSA COUNTY, FLORIDA.

LESS AND EXCEPT "GARAGE PARCEL".

DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF BLOCK 15, SANTA ROSA ISLAND SUBDIVISON, AS RECORDED IN PLAT BOOK 3, PAGE 36 OF THE OFFICIAL RECORDS; THENCE SOUTH 08°14'00" WEST, 18.05 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98; THENCE SOUTH 85°51'40' EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 588.96 FEET TO A POINT; THENCE DEPARTING SAID RIGHT-OF-WAY, SOUTH 04°06'06" WEST, 39.96 FEET; THENCE NORTH 85°53'53" WEST, 52.69 FEET; THENCE SOUTH 04°06'06" WEST, 16.56 FEET TO THE POINT OF BEGINNING OF SAID "GARAGE PARCEL"; THENCE SOUTH 85°53'54" EAST, 141.45 FEET; THENCE SOUTH 04°06'06" WEST, 25.70 FEET; THENCE NORTH 85°53'54" WEST, 13.42 FEET; THENCE SOUTH 04°06'06" WEST, 155.33 FEET; THENCE NORTH 85°53'54" WEST, 141.49 FEET; THENCE NORTH 04°06'06" EAST, 25.70 FEET; THENCE SOUTH 85°53'54" EAST, 13.45 FEET; THENCE NORTH 04°06'06" EAST, A DISTANCE OF 155.33 FEET TO THE POINT OF BEGINNING, CONTAINING 0.548 ACRES, MORE OR LESS, ALL IN OKALOOSA COUNTY, FLORIDA.

[CONTINUED ON FOLLOWING SHEET]

** OFFICIAL RECORDS **
BK 2428 PG 1339

AND LESS AND EXCEPT "CONDOMINIUM", DESCRIBED AS

A PARCEL OF LAND IN UNSECTIONALIZED TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA, DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF BLOCK 15, SANTA ROSA ISLAND SUBDIVISON, AS RECORDED IN PLAT BOOK 3, PAGE 36 OF THE OFFICIAL RECORDS; THENCE SOUTH 08°14'00" WEST, 18.05 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98; THENCE SOUTH 85°51'40' EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 588.96 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 85°51'40" EAST (SOUTH 85°51'16"E, MEASURED), A DISTANCE OF 199.87 FEET TO A CONCRETE MONUMENT; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE OF U.S.HIGHWAY 98, SOUTH 08°16'20" WEST, A DISTANCE OF 270.82 FEET; THENCE NORTH 81°43'40" WEST, 78.70 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 08°22'25" WEST, 18.33 FEET; THENCE NORTH 81°37'35" WEST, 2.51 FEET; THENCE SOUTH 08°22'25" WEST, 18.01 FEET; THENCE NORTH 81°37'35" WEST, 7.03 FEET; THENCE SOUTH 08°22'25" WEST, 22.48 FEET; THENCE SOUTHEASTERLY, 35.73 FEET ALONG THE ARC OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 213.47 FEET, A CENTRAL ANGLE OF 09°35'21", AND A CHORD BEARING SOUTH 30°32'43" EAST, 35.68 FEET; THENCE SOUTH 69°27'50" EAST, 22.49 FEET; THENCE NORTH 20°32'10" EAST, 9.03 FEET; THENCE SOUTH 69°27'50" EAST, 13.33 FEET; THENCE SOUTH 20°32'10" WEST, 29.33 FEET; THENCE NORTH 69°27'50" WEST, 10.67 FEET; THENCE SOUTH 72°18'03" WEST, 8.05 FEET; THENCE SOUTHERLY, 68.40 FEET ALONG THE ARC OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 213.75 FEET, A CENTRAL ANGLE OF 18°20'01", AND A CHORD BEARING SOUTH 07°54'18" EAST, 68.11 FEET; THENCE SOUTH 01°21'02" WEST, 77.58 FEET; THENCE NORTH 88°38'58" WEST, 5.95 FEET; THENCE SOUTH 01°21'02" WEST, 44.72 FEET; THENCE NORTH 88°38'58" WEST, 4.90 FEET; THENCE SOUTH 46°21'02" WEST, 8.24 FEET; THENCE SOUTH 01°21'02" WEST, 5.51 FEET; THENCE NORTH 88°38'58" WEST, 32.67 FEET; THENCE NORTH 01°21'02" EAST, 5.51 FEET; THENCE NORTH 43°38'58" WEST, 8.24 FEET; THENCE NORTH 88°38'58" WEST, 4.90 FEET; THENCE NORTH 01°21'02" EAST, 44.72 FEET; THENCE SOUTH 88°38'58" EAST, 10.30 FEET; THENCE NORTH 01°21'02" EAST, 13.90 FEET; THENCE NORTH 88°38'58" WEST, 11.25 FEET; THENCE NORTH 01°21'02" EAST, 19.23 FEET; THENCE SOUTH 88°38'58" EAST, 11.33 FEET; THENCE NORTH 01°21'02" EAST, 4.00 FEET; THENCE NORTH 43°38'58" WEST, 8.24 FEET; THENCE NORTH 88°38'58" WEST, 5.51 FEET; THENCE NORTH 01°21'02" EAST, 35.05 FEET; THENCE SOUTH 88°40'25" EAST, 10.64 FEET; THENCE NORTH 03°08'58" WEST, 4.39 FEET; THENCE NORTH 48°08'58" WEST, 6.67 FEET; THENCE SOUTH 87°51'02" WEST, 5.92 FEET; THENCE NORTH 03°08'58" WEST, 14.73 FEET; THENCE NORTH 10°39'16" WEST, 15.99 FEET; THENCE NORTH 76°08'32" EAST, 10.61 FEET; THENCE NORTH 18°08'58" WEST, 4.34 FEET; THENCE NORTH 63°08'58" WEST, 6.67 FEET; THENCE SOUTH 72°51'02" WEST, 5.92 FEET; THENCE NORTH 18°08'58" WEST, 14.80 FEET; THENCE NORTH 25°41'06" WEST, 16.00 FEET; THENCE NORTH 61°21'02" EAST, 7.25 FEET; THENCE NORTH 30°08'38" WEST, 8.65 FEET; THENCE SOUTH 57°51'02" WEST, 7.72 FEET; THENCE NORTH 33°13'44" WEST, 14.78 FEET; THENCE NORTH 40°38'58" WEST, 16.15 FEET; THENCE NORTH 46°21'02" EAST, 10.60 FEET; THENCE NORTH 48°08'58" WEST, 4.32 FEET; THENCE SOUTH 86°51'02" WEST, 6.67 FEET; THENCE SOUTH 42°51'02" WEST, 5.92 FEET; THENCE NORTH 48°08'58" WEST, 14.72 FEET; THENCE NORTH 55°38'58" WEST, 15.95 FEET; THENCE NORTH 30°23'37" EAST, 10.61 FEET; THENCE NORTH 63°08'58" WEST, 4.26 FEET; THENCE SOUTH 71°51'02" WEST, 6.67 FEET; THENCE SOUTH 27°51'02" WEST, 5.92 FEET; THENCE NORTH 63°08'58" WEST, 14.72 FEET; THENCE NORTH 70°38'58" WEST, 16.08 FEET; THENCE NORTH 16°21'02" EAST, 10.60 FEET; THENCE NORTH 78°08'58" WEST, 4.32 FEET; THENCE SOUTH 58°51'02" WEST, 6.67 FEET; THENCE SOUTH 12°51'02" WEST, 5.92 FEET; THENCE NORTH 78°08'58" WEST, 15.08 FEET; THENCE NORTH 07°21'02" EAST, 60.97 FEET; THENCE SOUTHEASTERLY, 142.98 FEET ALONG THE ARC OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 210.47 FEET, A CENTRAL ANGLE OF 38°55'25", AND A CHORD BEARING SOUTH 63°17'34" EAST, 140.25 FEET; THENCE NORTH 46°36'30" EAST, 8.10 FEET; THENCE NORTH 08°22'25" EAST, 20.00 FEET; THENCE NORTH 81°37'35" WEST, 8.67 FEET; THENCE NORTH 08°22'25" EAST, 13.67 FEET; THENCE SOUTH 81°37'35" EAST, 38.51 FEET TO THE POINT OF BEGINNING, CONTAINING 0.583 ACRES, MORE OR LESS, ALL IN OKALOOSA COUNTY, FLORIDA.

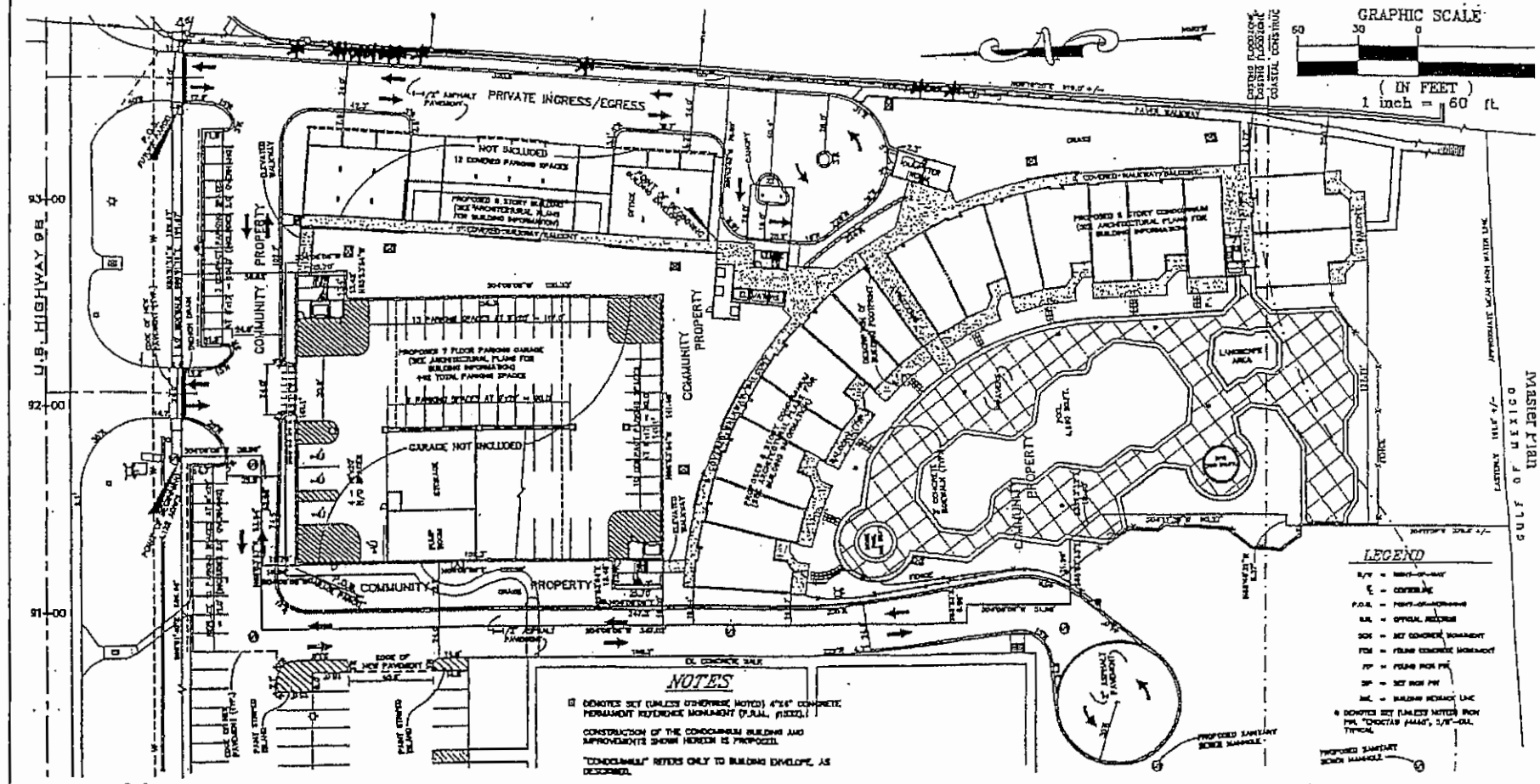
LESS AND EXCEPT "FUTURE PARCEL",

DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF BLOCK 15, SANTA ROSA ISLAND SUBDIVISON, AS RECORDED IN PLAT BOOK 3, PAGE 36 OF THE OFFICIAL RECORDS; THENCE SOUTH 08°14'00" WEST, 18.05 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98; THENCE SOUTH 85°51'40' EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 588.96 FEET TO A POINT; THENCE SOUTH 85°51'16" EAST, 169.79 FEET TO THE POINT OF BEGINNING OF SAID "FUTURE PARCEL"; THENCE CONTINUE SOUTH 85°51'16" EAST, 30.08 FEET; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 08°16'20" WEST, 321.03 FEET; THENCE NORTH 81°43'40" WEST, 4.67 FEET TO A POINT OF CURVATURE; THENCE 77.32 FEET ALONG THE ARC OF SAID CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 31.50 FEET, A CENTRAL ANGLE OF 140°38'26" (CHORD BEARING: SOUTH 78°35'33" WEST, 59.32 FEET TO A POINT OF TANGENCY; THENCE NORTH 31°05'14" WEST, 28.60 FEET; THENCE NORTH 08°16'20" EAST, 54.10 FEET; THENCE SOUTH 81°43'40" EAST, 1.65 FEET; THENCE NORTH 08°16'20" EAST, 210.49 FEET; THENCE SOUTH 85°51'16" EAST, 49.15 FEET; THENCE NORTH 08°16'20' EAST, A DISTANCE OF 50.13 FEET TO THE POINT OF BEGINNING, CONTAINING 0.556 ACRES, MORE OR LESS, ALL IN OKALOOSA COUNTY, FLORIDA.

** OFFICIAL RECORDS **
BK 2428 PG 1340

DESTIN WEST BEACH and BAY RESORT

IN UNSECTIONED, TOWNSHIP 2 SOUTH, RANGE 23 WEST, OKALOOSA COUNTY, FLORIDA



THIS IS A PROPOSED SITE MASTER PLAN ONLY AND IS SUBJECT TO CHANGE (INCLUDING DELETIONS OF PARTS) BY THE DEVELOPER IN ITS SOLE DISCRETION SUBJECT ONLY TO THE MINIMUM REQUIREMENTS SET FORTH IN THE COMMUNITY PROPERTY AGREEMENT INCLUDED IN THIS PROSPECTUS (OFFERING CIRCULAR) REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER.

Prepared by:

CHOCTAW ENGINEERING, INC.
• CIVIL ENGINEERING • ENVIRONMENTAL • SURVEYING
112 TRUXTON AVENUE #LB 1532 E-MAIL: ce@choctaweng.com
PORT WALTON BEACH, FL 32547 Telephone: 850/882-6611 Fax: 850-883-8059

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ANNEXED TO AND EXPRESSLY MADE A PART OF THE DECLARATION OF CONDOMINIUM

DESTIN WEST BEACH and BAY RESORT

CONDOMINIUM PLAT BOOK _____ PAGE _____

SHEET __ OF __ SHEETS

** OFFICIAL RECORDS **
BK 2428 PG 1341