Angelina "Angel" Colonneso

Clerk of the Circuit Court

Manatee County

P.O. Box 25400
Bradenton, FL 34206

Official Records Receipt

Recording

Username: kgowen

Changed By: cwelke

Receipt#: 900080409 **Payee Name:** SW FLORIDA LAND INVESTORS LLC

Receipt Date: 08/21/2017

Instrument: 201741080165 - BK2689/PG2121 RESTRICTION

001000000341100	RECORDING FEE $5/$4	$45.00
199000000341150	PRMTF $1/$.50	$6.00
001000000208911	PRMTF FACC $.10	$1.10
199000000341160	PRMTF CLERK $1.90	$20.90
001000000208912	PRMTF BCC $2	$22.00
001000000341400	INDEXING NAMES	$0.00
	Instrument Total:	**$95.00**

Receipt Total: $95.00

Amount Tendered: $95.00
Overage: $0.00

Check $95.00 000503

Amount Paid:

This instrument prepared by:
Michael J. Prohidney, Esquire
Florida Bar No. 0905801
Tilden & Prohidney, P.L.
431 12th Street West, Suite 204
Bradenton, Florida 34205

CERTIFICATE OF AMENDMENT TO THE DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR HARBOUR WALK AND AMENDMENT TO BY-LAWS OF HARBOUR WALK HOMEOWNERS' ASSOCIATION, INC.

This Amendment ("Amendment") is made the 21st day of August, 2017, by SW FLORIDA LAND INVESTORS LLC, a Florida limited liability company, hereinafter referred to as the "Declarant," and joined by HARBOUR WALK HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, hereinafter referred to as the "Association."

WITNESSETH:

WHEREAS, the Declaration of Covenants, Restrictions and Easements for Harbour Walk, was recorded in Official Records Book 1786, Page 1635, et. seq., of the Public Records of Manatee County, Florida and amendments thereto (hereinafter, the "Declaration");

WHEREAS, Declarant became the "declarant" under the Declaration pursuant to that certain Assignment and Assumption of Declarant's Rights Harbour Walk dated February 4, 2016 and recorded in Official Records Book 2606, Page 5383, et. seq., of the Public Records of Manatee County, Florida (the "Assignment");

WHEREAS, pursuant to Section 14.07(d)(2) of the Declaration, the Declarant has the right to unilaterally amend the Declaration as long as the Declarant owns a portion of the subdivision;

WHEREAS, the By-Laws of Harbour Walk Homeowners Association, Inc. (the "Bylaws") were recorded as Exhibit "D" to the Declaration in Official Records Book 1786, Page 1710, et. seq., of the Public Records of Manatee County, Florida;

WHEREAS, pursuant to Article X of the Bylaws in conjunction with Sections 3.02, 14.07 and 14.09 of the Declaration, the Declarant has the right to unilaterally amend the Bylaws as long as the Declarant has the right to appoint a majority of the Board of Directors of the Association;

WHEREAS, Declarant owns property within the subdivision and has the right to appoint a majority of the Board of Directors of the Association and therefore has the right to unilaterally amend the Declaration and Bylaws;

WHEREAS, the Declarant desires to amend the Declaration and Bylaws as provided herein.

NOW THEREFORE, in consideration of the foregoing recitals, Declarant does hereby amend the **Declaration** to provide as follows. Any capitalized term not herein defined shall have the meaning ascribed to it in the Declaration. The existing provisions of the Declaration amended by this Certificate of Amendment have been significantly revised. Refer to the Declaration, as originally recorded, for the prior language of the Section(s) that have been amended.

The Amendments to the **Declaration** are as follows:

1. The existing Section 3.04 of the Declaration entitled Election of Board of Directors, is hereby deleted, in its entirety, and replaced with a new Section 3.04, which shall read as follows:

> 3.04. Election of Board of Directors. Directors of the ASSOCIATION shall be elected at the annual meeting of the MEMBERS in the manner provided in the BY-LAWS. Directors may be removed and vacancies on the BOARD shall be filled in the manner provided in the BY-LAWS. After the TURNOVER DATE as described in Section 1.24, the Board of Directors shall consist of three (3) to five (5) directors who shall serve for two (2) year staggered terms. In order to establish the staggered terms, at the first election after the TURNOVER DATE, the majority of the director positions shall have terms of two (2) years each and the remaining minority of director positions shall have terms of one (1) year each. After the initial election of directors by the Members of the ASSOCIATION, all future directors shall have two-year terms.

2. The existing Section 5.08 of the Declaration entitled Uniformity, is hereby amended as follows (underscore indicates new language; ~~strikethrough~~ indicates deleted language):

> 5.08. Uniformity. Each PARCEL shall bear a proportionate share of the COMMON EXPENSE and all REGULAR, SUPPLEMENTARY and IMPROVEMENT ASSESSMENTS applicable to each individual PARCEL. The proportionate share of each PARCEL shall be equal to a fraction, the numerator of which is one (1) and the denominator is one hundred eighty eight (188). So long as the DECLARANT'S guarantee of the "Deficiency", as hereafter defined in Section 5.19, is in effect,

DECLARANT owned PARCELS are exempt under this Section 5.08. REGULAR, SUPPLEMENTARY and IMPROVEMENT ASSESSMENTS may be collected at such intervals as may be determined by the BOARD. SPECIAL and SERVICE ASSESSMENTS will be neither uniform in amount nor level because of their nature, but they shall be handled and processed in a uniform and non-discriminatory manner and all PARCELS and OWNERS similarly situated shall be assessed in a uniform manner.

So long as DECLARANT'S guarantee of the Deficiency under Section 5.19 is in effect, the REGULAR ASSESSMENT shall be established by the BOARD based upon the anticipated COMMON EXPENSE and number of PARCELS subject to assessment <u>and</u> the number of PARCELS anticipated to become subject to assessment for the then current year, taking into consideration the DECLARANT'S rights under Section 5.19. Any surplus may be carried forward to succeeding years. So long as DECLARANT'S guarantee of the Deficiency is in effect, the BOARD shall not establish a REGULAR ASSESSMENT for any year that would result in a REGULAR ASSESSMENT greater than $1,493.00, per year, exclusive of CATV Services that may be provided to the OWNER's PARCELS, increased by ten percent (10%) for each year that has elapsed since January 1, 2012. <u>Subject to the provisions of Section 5.19,</u> after the TURNOVER DATE or the earlier termination of DECLARANT'S guarantee of the Deficiency under Section 5.19, the BOARD shall establish a budget based upon the anticipated COMMON EXPENSE and divide it by the total number of PARCELS within HARBOUR WALK then subject to assessment, to the extent so subject, to arrive at the REGULAR ASSESSMENT.

3. The existing Section 5.19 of the Declaration, entitled <u>Declarant Assessment</u>, is hereby amended as follows (<u>underscore</u> indicates new language; ~~strikethrough~~ indicates deleted language):

<u>5.19 Declarant Assessment</u>

(a) Notwithstanding any provisions of this DECLARATION or the ARTICLES or BY-LAWS to the contrary, prior to the TURNOVER DATE, DECLARANT (which term shall, for the purposes of this Section, include any affiliate of DECLARANT so designated by DECLARANT) shall not be obligated for nor subject to any REGULAR, SUPPLEMENTARY and IMPROVEMENT ASSESSMENT for any LOT or PARCEL which it may own. DECLARANT shall, however, be liable for SPECIAL or SERVICE ASSESSMENTS in connection with PARCELS owned by it during its period of exemption, and shall be liable for any IMPROVEMENT ASSESSMENTS to which it may consent in writing. ~~(b)~~ In consideration of such exemption, DECLARANT shall be responsible for paying the difference between (1) the ASSOCIATION'S expenses of operation otherwise to be funded by REGULAR ASSESSMENTS and (2) the amount received from OWNERS other than DECLARANT in payment of the REGULAR ASSESSMENTS levied against such OWNER'S LOTS and PARCELS (the "Deficiency"). The Deficiency shall not include any reserves for replacement, operating reserves, depreciation reserves, capital expenditures or Special Assessments for compliance, services or improvement.

~~(c)~~(b) DECLARANT may at anytime give written notice to the ASSOCIATION that it is withdrawing its guaranty of assessments, effective not sooner than sixty (60) days after such notice, whereupon, DECLARANT shall waive its right to total exemption from REGULAR and SUPPLEMENTARY ASSESSMENTS. Sixty (60) days after the giving of such notice or sixty (60) days after the TURNOVER DATE, whichever first occurs, each developed PARCEL owned by the DECLARANT shall thereafter be assessed at ~~fifty~~ ten percent ~~(50 %)~~ (10%) of the REGULAR and SUPPLEMENTARY ASSESSMENT established for PARCELS owned by REGULAR MEMBERS other than the DECLARANT; provided, however, DECLARANT shall continue not to be responsible for any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or special assessments for compliance, services or improvements not consented to by DECLARANT. For purposes of this Section 5.19, a "developed" PARCEL shall mean a PARCEL owned by the DECLARANT subject to this DECLARATION and for which water and sewer service has been installed by DECLARANT in the dedicated right-of-way adjacent to the PARCEL and the street adjacent to the PARCEL has been paved to City of Bradenton standards and accepted for maintenance by the City of Bradenton. Any PARCEL owned by DECLARANT that is not a developed PARCEL, as herein defined, shall continue to be exempt from ASSESSMENT notwithstanding that DECLARANT may have withdrawn its guaranty of ASSESSMENTS as herein provided.

(c) ~~(d)~~ Nothing contained herein shall be interpreted or construed to in any way restrict or limit the right of the DECLARANT to guarantee to a particular purchaser or group of purchasers of PARCELS that the REGULAR ASSESSMENT for a stated fiscal year or any part thereof shall not exceed a stated amount, which amount may be more or less than the REGULAR ASSESSMENT payable by other OWNERS, provided the DECLARANT obligates itself to pay the difference between such guaranteed assessment and the actual REGULAR ASSESSMENTS payable by the OWNER benefiting from the guarantee, unless, however, the DECLARANT has elected, pursuant to this Section 5.08, to pay the ASSOCIATION, on an annual basis, the difference between the actual COMMON EXPENSES and the REGULAR ASSESSMENTS collectible from OWNER other than the DECLARANT, in which case the DECLARANT shall not be obligated to pay the ASSOCIATION the difference between any guaranteed assessment and the REGULAR ASSESSMENTS, which would be payable by the OWNER benefiting from the guarantee. For the purpose of this exemption, DECLARANT shall include any Partial Successor DECLARANT with respect to PARCELS conveyed to such Partial Successor DECLARANTS and owned and held for development and sale to individual OWNERS, if and to the extent DECLARANT shall provide by separate written agreement with such Partial Successor DECLARANT for such exemption. DECLARANT may condition such exemption for any Partial Successor DECLARANT upon a binding agreement by such Partial Successor DECLARANT share in the guarantee by DECLARANT hereinabove provided. Notwithstanding anything to the contrary contained in this DECLARATION, this Article V, Section 5.19, shall not be amended at any time without the express prior written consent and joinder by the DECLARANT to such amendment.

(d) In the event the DECLARANT (or any assignee) no longer controls the BOARD but continues to own a portion of the PROPERTY, or any LOT, then the DECLARANT shall have the right to veto any action taken by the BOARD if the DECLARANT determines that such action materially and adversely affects the DECLARANT'S interest in the community. Action of the BOARD shall be submitted to the DECLARANT within ten (10) calendar days of adoption of such action. In the event a written veto is not delivered by the DECLARANT to the BOARD within ten (10) business days of actual receipt of the action, then the action shall be deemed approved.

4. The existing Section 13.07 of the Declaration, entitled Amendment, is hereby deleted, in its entirety, and replaced with a new Section 13.07, which shall read as follows:

13.07 Amendment. This Article 13 shall not be amended, notwithstanding any provision of this DECLARATION to the contrary, without the consent in writing of not less than sixty-six percent (66%) of each class of members of the ASSOCIATION present and voting in person or by proxy at a duly authorized meeting called to vote on such amendment, provided, however, the provisions of this Section 13.07 shall not be construed to limit any rights of the DECLARANT to amend this DECLARATION.

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5. A new Section 13.08 of the Declaration, entitled Declarant's Rights, is hereby inserted which shall read as follows:

> 13.08. Declarant's Rights. Notwithstanding any provisions of this DECLARATION or the ARTICLES or BY-LAWS to the contrary, so long as DECLARANT, or any assignee or affiliated entity of DECLARANT, owns one (1) or more LOT within HARBOUR WALK or THE RESERVE AT HARBOUR WALK, the ASSOCIATION shall have no authority to, and shall not, without DECLARANT'S written consent (which consent may be withheld in DECLARANT'S sole discretion), undertake any action which may:

(a) Prohibit or restrict in any manner DECLARANT'S development, construction, sales, marketing, or leasing activities and programs;
(b) Decrease the level of Maintenance services performed by the ASSOCIATION pursuant to this DECLARATION;
(c) Impose any SUPPLEMENTARY ASSESSMENT, IMPROVEMENT ASSESSMENT, or any Fine against DECLARANT and/ or its property;
(d) Alter or amend this DECLARATION, the ARTICLES, the BY-LAWS, or the Architectural Standards and/or Criteria, or promulgate Use Restrictions, Rules, and Regulations;
(e) Modify, amend, or alter the Surface Water Management System;
(f) Terminate or waive any rights of the ASSOCIATION under this DECLARATION;
(g) Terminate or cancel any easements granted hereunder to or by the ASSOCIATION;
(h) Terminate or impair any fashion any easements, powers, or rights of DECLARANT hereunder;
(i) Terminate, modify, or impair in any fashion any contracts between ASSOCIATION and the THE RESERVE AT HARBOUR WALK HOMEOWNERS ASSOCIATION, INC. or any other community within the MASTER ASSOCIATION;
(j) Restrict DECLARANT'S right of use of, access to, or enjoyment of any of the part of the SUBDIVSION;
(k) Materially increase the costs associated with the guardhouse and gate;
(l) Restrict any access through the SUBDIVSION for DECLARANT'S (or any affiliated entity) sales activities in THE RESERVE AT HARBOUR WALK or any community within the MASTER ASSOCIATION; *or*
(m) Take any other action impairing the quality of the SUBDIVISION or the health, safety, or welfare of the MEMBERS (as determined by DECLARANT in its sole discretion).

> In addition, notwithstanding any provisions of this DECLARATION or the ARTICLES or BY-LAWS to the contrary, the DECLARANT, or any

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assignee or affiliated entity of DECLARANT, as long as it owns one (1) or more LOTS in HARBOUR WALK, THE RESERVE AT HARBOUR WALK, BELLA SOLE, or any other LOTS or property within the MASTER ASSOCIATION, shall have the right to:

(a) erect and place one (1) or more signs at each entrance to the SUBDIVISION and on the LOTS remaining for sale, to promote the DECLARANT and advertise such LOT(S) for sale (or any other lots or property that DECLARANT may own within the MASTER ASSOCIATION)

(b) erect or maintain commercial and display signs on wayfinders, "burma shave" type signs or similar, model houses, and other structures throughout the SUBDIVISION, including directions to other communities owned by DECLARANT or its affiliates;

(c) erect or maintain any buildings on any LOT or PARCEL without ARCHITECTURAL REVIEW or approval; and

(d) obtain reasonably unimpeded access through the guardhouse and gate for DECLARANT, its affiliates, invitees, guests and customers.

6. <u>Partial Assignment</u>. Declarant, SW Florida Land Investors LLC, a Florida limited liability company, hereby assigns to assignees, LT Investments 2, LLC, a Florida limited liability company, Medallion Home At The Inlets Reserve LLC, a Florid limited liability company, Neal Signature Homes, LLC, a Florida limited liability company, and Margo Holeman and Peter Logan, as Co-Trustees of the 2012 IRREVOCABLE CHILDREN'S TRUST U/A/D December 26, 2012 (collectively, the "Assignees"), the Declarant's Rights contained in the Assignment and pursuant to the Declaration. This assignment is a partial assignment only to the extent that Declarant, SW Florida Land Investors LLC, remains the Declarant and continues to possess all such rights of the Declarant under the Declaration. Assignees, however, shall have the same rights and privileges as Declarant within Harbour Walk.

Declarant does hereby amend the **<u>BYLAWS</u>** to provide as follows. Any capitalized term not herein defined shall have the meaning ascribed to it in the Bylaws. The existing provisions of many of the Bylaws amended by this Certificate of Amendment have been significantly revised. Refer to the Bylaws, as originally recorded, for the prior language of the Section(s) that have been completely amended.

1. Section 3.3 of the Bylaws, entitled <u>Quorum</u>, is hereby amended as follows (<u>underscore</u> indicates new language; ~~strikethrough~~ indicates deleted language):

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3.3. Quorum. A quorum shall exist when the MEMBERS representing ~~a majority~~ forty percent (40%) of all votes are present, either in person, by designated voting representative or by proxy.

2. Section 3.6 of the Bylaws, entitled Proxies, is hereby amended as follows (underscore indicates new language; ~~strikethrough~~ indicates deleted language):

3.6 Proxies: ~~Except for the election of members of the Board of Directors,~~ Votes may be cast in person or by limited proxy. A proxy shall be in writing and signed by the designated voting representative(s), or the OWNER, if no voting representative(s) have been designated. Except as permitted by applicable statutes, a general proxy shall not be used. A proxy shall be valid only for the particular meeting designated in the proxy, and must be filed with the Secretary of the ASSOCIATION before the appointed time of the meeting or any adjournments thereof. A properly executed and delivered proxy may be revoked by a writing delivered to the Secretary prior to the appointed time of the meeting or any adjournment thereof, or by attendance in person of the persons executing said proxy at any meeting or adjournment thereof. In no event shall a proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given.

3. Section 5.2(e) of the Bylaws, entitled Election of Directors, is hereby deleted, in its entirety, and replaced with a new Section 5.2(e), which shall read as follows:

5.2(e) During the turnover meeting when DECLARANT membership terminates and the DECLARANT MEMBER is deemed to be a REGULAR MEMBER pursuant to Section 3.02 of the DECLARATION, the DECLARANT shall appoint a Transition Committee/Interim Board to manage the Association until a Board of Directors is elected by the membership. The DECLARANT, or the Interim Board, shall call a special meeting within sixty (60) days after such date. Such meeting shall be called on not fewer than thirty (30) days' notice. At such special meeting, all REGULAR MEMBERS shall elect a Board of Directors, who shall serve as follows to create two (2) year staggered terms: a majority of the elected directors shall serve until the annual meeting date that is not fewer than eighteen (18) months from the initial election, and a minority of the elected directors shall serve until the annual meeting that is not fewer than twelve (12) months from the date of the initial election. Thereafter, Directors shall be elected annually at the annual meeting pursuant to Section 3.04 of the Declaration.

4. Section 5.3 of the Bylaws, entitled Term, is hereby deleted, in its entirety, and replaced with a new Section 5.3, which shall read as follows:

5.3 Term: All Directors will be elected by a plurality of the votes cast by eligible MEMBERS. Directors shall serve for two (2) year staggered terms. To reestablish staggering, if required, a majority of Directors will be elected for a term of two (2) years and a minority of Directors will be elected for a term of one (1) year. At each annual meeting thereafter, a Director shall be elected to serve for a term of two (2) years. Each MEMBER will be entitled to cast one (1) vote with respect to each vacancy to be filled from each slate on which such MEMBER is entitled to vote. There will be no cumulative voting. The Directors elected by the MEMBERS will hold office until their respective successors have been elected by the ASSOCIATION.

5. Section 5.4 of the Bylaws, entitled Qualifications, is hereby amended as follows (underscore indicates new language; ~~strikethrough~~ indicates deleted language):

5.4 Qualifications: Prior to the TURNOVER DATE defined in Section 1.24 of the DECLARATION, Directors may, but need not, be MEMBERS of the ASSOCIATION; provided, however, that any Director elected or designated by DECLARANT pursuant to the DECLARATION, the ARTICLES, and these BY-LAWS need not be MEMBERS. After the TURNOVER DATE, and except for remaining DECLARANT appointed members, if any, Directors must be MEMBERS of the ASSOCIATION. An officer of any corporate owner and a general partner of any partnership owner shall be deemed MEMBERS for the purposes of qualifying for election to the BOARD.

Except as modified by this Amendment, the Declaration and Bylaws shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, SW Florida Land Investors LLC, a Florida limited liability company, being the Declarant herein, has executed this Amendment to The Declaration Of Covenants, Restrictions And Easements For Harbour Walk and Amendment to By-Laws of Harbour Walk Homeowners' Association, Inc.

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Signature Page of Declarant to
CERTIFICATE OF AMENDMENT TO THE DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
HARBOUR WALK AND
AMENDMENT TO
BY-LAWS OF HARBOUR WALK HOMEOWNERS' ASSOCIATION, INC.

IN WITNESS WHEREOF, Declarant has caused these presents to be executed in its name by its officers thereunto duly authorized as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

Print: Tabitha Callis

Print: Heather von Uhlit

"Declarant"

SW FLORIDA LAND INVESTORS LLC,
a Florida limited liability company

By: Land Experts, Inc., a Florida corporation, Manager

By: ______________________
Peter Logan, Vice President

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 21st day of August, 2017, by Peter Logan, as Vice-President of Land Experts, Inc., a Florida corporation, Manager of SW Florida Land Investors LLC, a Florida limited liability company, on behalf of the entities, who is [X] personally known to me or [ ] has produced ______________________ as identification.

Notary Public, State of Florida

Printed Name: Heather L von Uhlit
My Commission Expires:

HEATHER L. VON UHILT
MY COMMISSION # FF 938097
EXPIRES: December 14, 2019
Bonded Thru Notary Public Underwriters

JOINDER BY ASSOCIATION

The Association does hereby join in and adopt the foregoing Amendment to The Declaration Of Covenants, Restrictions And Easements For Harbour Walk And Amendment To By-Laws Of Harbour Walk Homeowners' Association, Inc. and ratifies and accepts the duties and obligations of the Association as prescribed herein.

Signed, sealed and delivered in the presence of:

HARBOUR WALK HOMEOWNERS' ASSOCIATION, INC.

By: ______________________
Charles Tokarz, Vice-President

____
Printed Name: Tabitha Callis

____
Printed Name: Heather von Uhlit

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 21st day of August, 2017, by Charles Tokarz, as Vice-President of HARBOUR WALK HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or has produced ______________________ as identification.

____
Notary Public, State of Florida

Printed Name: Heather L. von Uhlit
My Commission Expires:

HEATHER L. VON UHILT
MY COMMISSION # FF 938097
EXPIRES: December 14, 2019
Bonded Thru Notary Public Underwriters