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RECORDED
CHAPMAN GREEN, CLERK
SUSAN THOMPSON

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DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS FOR DANIELS PARKWAY CENTER

This Declaration made this 28th day of January, 1997, by RICHARD G. COUCH, Trustee, and CHARLES L. and MARILYN G. YOUNG, hereinafter referred to as "Declarants", for the purpose of creating the Daniels Parkway Center.

WITNESSETH

WHEREAS, Declarants are the owners of record of that real property located in Lee County, Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Declarants have subdivided said property according to the plat attached hereto as Exhibit "B" and made a part hereof; and

WHEREAS, Declarants desire to provide for the operation, maintenance, and enhancement of property values, amenities, and opportunities in or for present and future owners of such land or any portion thereof, and for the operation and maintenance of easements and improvements thereon including, but not limited to, the roadways and the Surface Water Management System approved by the South Florida Water Management District, and to this end desires to subject the real property described in Exhibit "A," to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarants have incorporated under the laws of the State of Florida, a non-profit corporation known as DANIELS PARKWAY CENTER PROPERTY OWNERS' ASSOCIATION, INC., for the purpose of exercising the functions stated by and within this Declaration; and

WHEREAS, Declarants desire to establish a class of those persons entitled to the use and benefit of such lands and improvements thereon and their respective rights and obligations relative to such use and benefit and the payment of their respective shares of the costs of operation, maintenance, repair, replacement and administration.

NOW, THEREFORE, Declarants declare that all of the property described in Exhibit "A" hereto which is owned by Declarants at the time of recording this Declaration is and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to the DANIELS PARKWAY CENTER PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation not for profit, whose purpose is to administer the property described in Exhibit "A" in accordance with the provisions of this Declaration and the governing documents of the Association. The Articles of Incorporation are attached as Exhibit "C" and the Bylaws as Exhibit "D" and made a part hereof.

Section 2. "Daniels Parkway Center" shall mean and refer to the subdivision which is the subject of this Declaration of Covenants, Easements and Restrictions for Daniels Parkway Center.

Section 3. "Declarants" shall mean and refer to RICHARD G. COUCH, TRUSTEE, and CHARLES L. and MARILYN G. YOUNG, their respective successors and assigns.

Section 4. "Lot" shall mean and refer to any lot platted for purposes of sale and development for a permitted use under Article V, Section 2, and located within the lands described in Exhibit "A", or within lands annexed pursuant to Article XI, Section 6 hereof, together with improvements thereon.

Section 5. "Member" shall mean and refer to all of the record fee simple owners of any Lot. Any legal entity, upon acquiring record title to any Lot, shall automatically become a Member of the Association, and upon conveyance or transfer of such ownership, said Owner's membership in the Association shall automatically cease. Change of membership shall be established by the delivery to the Association of a certified copy of the recorded deed or other instrument evidencing transfer of title to a Lot. The Member's share or interest in the assets of the Association shall not be transferred or hypothecated except as an appurtenance to his or her Lot.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot subject to this Declaration, provided, however, that notwithstanding any applicable theory, shall not mean or refer to the mortgagee of any mortgage upon such Lot unless and until such mortgagee has acquired title pursuant to foreclosure or any other proceeding in lieu of foreclosure.

Section 7. "Roadways" shall mean and refer to all of Tracts "A" and "B" described in Exhibit "B" (and any additional tracts intended for the purposes described herein below in connection with an annexation of additional land under Article XI, Section 6) and dedicated to the Association,

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and all roadway improvements constructed therein by Declarants or others to provide ingress and egress by vehicles and pedestrians to, from, and between the Lots and the off-site access easements and public rights-of-way which adjoin and serve the lands subject hereto.

Section 8. "Surface Water Management System", as approved by South Florida Water Management District Permit Number 36-03132-P, shall mean and refer to the collection facilities, improvements or natural systems whereby surface waters are collected, controlled, conveyed, impounded or obstructed; and shall include all such facilities or systems, whether located in the landscape and drainage easements depicted on Exhibit "B" or in the Roadways. The term includes dams, impoundments, reservoirs, weirs, canals, swales, pertinent works and works as defined in Section 373.403, Florida Statutes.

Section 9. "Lift Station" shall mean and refer to a sanitary sewer pumping station, grinder pump or similar facilities, constructed in Daniels Parkway Center for the purpose of providing sanitary sewer service to one or more of the Lots, and shall be specifically referred to as "Lift Station X" where "X" is the number of the Lot or Lots serviced by a particular pumping station. For example, the initial stage of construction planned within Daniels Parkway Center includes a pumping station designed to provide sanitary sewer service to Lots 1 through 4. Thus "Lift Station 1-4" shall mean and refer to that certain sanitary sewer pumping station to be constructed in the 30' x 30' easement at the southwest corner of Lot 4 and which shall be designed to provide service to Lots 1 through 4.

ARTICLE II ASSOCIATION PROPERTY

Section 1. The Association property shall include those easements described in Exhibit "B" hereto and such other easements which shall hereafter be conveyed to the Association by Declarants and any such other parties as may have an ownership interest in any property which shall hereafter become subject to this Declaration by amendment.

Section 2. The Association property shall include fixed improvements such as weirs, culverts, gravity sewers and related collection facilities, the Surface Water Management System, sewer lift stations, shrubs, groundcovers and all other landscaping/buffering improvements within buffer areas specifically required as a condition of planned development zoning, road improvements including but not limited to surface pavement, sidewalks, curbs, gutters and any other fixed improvements as constructed by the Association or conveyed to the Association by Declarants and other parties.

Section 3. The Association property shall include the fee simple title to the Roadways within the Daniels Parkway Center, subject to easements in favor of each Lot Owner.

Section 4. The Association property shall include such personal property as may hereafter be conveyed to or purchased by the Association.

ARTICLE III MAINTENANCE AND REPAIR

Section 1. Maintenance Duties of Owners. Each Owner shall maintain his Lot in such a manner so as not to adversely affect the Surface Water Drainage System. The Owner shall keep all portions of their Lot which are subject to drainage easements free and clear of all materials at all times, and shall do nothing to change the slope of the ground within such easements except by written authorization of the Association. In addition, each Owner shall at all times keep his Lot and all buildings, improvements, and appurtenances thereon, if any, in a safe, clean, wholesome condition and comply in all respects with all applicable government, health, fire, and police requirements and regulations; and each Owner will remove at his own expense any accumulation of rubbish of any character whatsoever which may accumulate on the Lot.

Section 2. Maintenance Duties of the Association. The Association shall be responsible for all maintenance of the following:

1. The Roadways within the Daniels Parkway Center.
2. Any and all Lift Stations that may be constructed within Daniels Parkway Center, the operation and maintenance expenses of each of which shall be assessed separately and exclusively to the Lot or Lots serviced by each said Lift Station, proportionally to the sewer demand generated by the uses developed on such Lot or Lots as determined by Lee County at the time of permitting of such uses. The term "Lift Station" shall not include such associated force main as is not accepted for maintenance by Lee County. The operation and maintenance expenses of any such private force main shall be assessed in the same manner as all other operation and maintenance costs of the subdivision.
3. The Surface Water Management System. The Association shall maintain the Surface Water Management System in accordance with the original plans and specifications of the South Florida Water Management District Permit Number 36-03132-P and any modifications thereto.
4. Any buffer areas and open space areas owned by the Association shall be preserved and maintained by the Association so that its use and enjoyment as open space is not diminished or destroyed.

Section 3. Association Funding. The Association shall not be obligated to undertake any repairs or maintenance until such time as sufficient funds have been obtained from the Owners.

Section 4. Failure to Act. In the event the Association fails to maintain any Association property, or any Owner hereunder fails to maintain their Lot, any Owner or Member shall have the right, upon continued failure to maintain by the defaulting party for a period of ten (10) days following written notice thereof, to itself carry out necessary maintenance actions and in such event shall be reimbursed all documented costs thereof upon written demand to the defaulting party and

other parties hereunder responsible for reimbursement of a share of such maintenance costs except for any proportional share thereof which is the ultimate responsibility of the party undertaking the maintenance responsibility of the defaulting party. In the event the Association's failure to maintain any Association property, or the failure of any Owner to maintain its Lot, results from or creates an emergency situation endangering life, limb, or property, then any Owner or group of Owners shall be entitled to take such action as may be reasonably necessary to abate the emergency, and to be reimbursed therefor in accordance with this section, without being required to provide ten (10) days notice to the defaulting party in advance of such action; provided only that such notice as is reasonable to require under the circumstances of the emergency shall be given.

ARTICLE IV INSURANCE, DESTRUCTION OR DAMAGE TO SYSTEM

Section 1. Insurance. The Board of Directors of the Association shall have the right by two-thirds (2/3) majority vote to elect to assess Members and to purchase and continue in effect hazard and liability insurance as may be available in such amount as the Board in its sole discretion may determine to protect against loss by insurable hazards for the fixed improvements and other property of the Association. Such insurance if authorized shall be purchased by the Association for the benefit of the Association.

Section 2. Destruction of or Damage to Property: Effect. In the event of any damage to or destruction of any improvements or any part thereof maintained by the Association pursuant to this Declaration, such improvements shall be promptly repaired and restored by the Association using the proceeds of any insurance purchased by the Association, if any. If there is no insurance, or the proceeds of such insurance are inadequate to cover the cost of such repair and restoration, Lot Owners shall be assessed on an equitable basis according to the provisions for special assessments (Article IX, Section 5) for the expense of such repair and restoration.

ARTICLE V COVENANTS AND RESTRICTIONS

Section 1. Alterations and Additions. No improvements or structure of any kind (including, but not limited to a building, fence, wall, walkway, or drive) other than those originally constructed by Declarants, or their designees, shall be constructed on the easements which are part of the Surface Water Management System. A fence, walkway, or drive may be authorized by the Association provided that plans, specifications, and material for same showing its nature, kind, size, materials, and location have been approved in writing by the Association. Such approval by the Association may be denied without cause, in the sole discretion of the Association.

Section 2. Use Restrictions. Permitted uses shall be limited to those permitted under Commercial Planned Development (CPD) zoning and the Master Concept Plan approved by the Lee County Board of County Commissioners in Resolution Z-93-045, as amended by Administrative Amendment #DO-96-031, and as may be amended in the future, the applicable zoning ordinances and governing land use development codes depending on the location of the Lot and subject to the following limiting conditions:

a) No obnoxious or offensive use may be made of any Lot, nor may any activity be conducted on any Lot which interferes with the peaceful use and possession of any other lot.

b) No Owner shall use nor permit the use of his Lot for any illegal activity.

c) The following uses of Lots are specifically prohibited:

1. Auto wrecking, salvage yards, used material yards or junk yards.
2. Residential uses except where incidental to industrial uses, such as a night watchman's quarters or quarters required for a mini-warehouse. Hotels and motels shall not constitute residential use.
3. Acid manufacture.
4. Asphalt plants.
5. Abattoirs.
6. Creosote treatment or manufacture.
7. Fertilizer manufacturing.
8. Gunpowder, fireworks, or other explosives manufacturing.
9. Petroleum refining.
10. Paper or pulp mills.
11. Poison or toxic gas manufacturing.
12. Portland cement and/or lime manufacturing or processing.
13. Saw mills.
14. Slag or rock crushing.

15. Stockyards or feedlots.

16. Rendering plants or glue works.

Section 3. Parking. Each Lot Owner shall provide for adequate parking on his own Lot.

Section 4. Loading. Each Lot of the land devoted to site development shall provide sufficient on-site loading facilities to accommodate site activities, and all loading movements, including turn-arounds, shall be made off of the public right-of-way and the Roadways.

Section 5. Trash Containers. Rubbish and garbage facilities shall be screened so as to not be visible from any streets or right-of-way or the Roadways.

Section 6. Building Set Backs. The minimum building set backs shall be twenty feet (20') from the front property line, ten feet (10') from the side property lines and ten feet (10') from the rear property line.

ARTICLE VI EASEMENTS AND RIGHTS IN THE SURFACE WATER MANAGEMENT SYSTEM

Section 1. Members Easement of Enjoyment. Subject to the provisions of this Declaration, every Member, his agents, licensees, and invitees, shall have a permanent and perpetual easement for the use and enjoyment of the Surface Water Management System for the impoundment and drainage of stormwater runoff from each respective Lot; and each easement shall be appurtenant to and shall pass with the title to every Lot. Notwithstanding the provisions of Article VIII, Section 2 (e) and Article XI, Section 4, this provision shall not be amended to limit the term or scope of any easement herein granted, or the rights of any Owner therein, without the unanimous consent of all Owners.

Section 2. Limitation of Members' Easements. The rights and easements of use and enjoyment in the Surface Water Management System created hereby shall be subject to the following:

(a) The right of Declarants and of the Association to retain money for the purpose of improving the Surface Water Management System; and

(b) The right of the Association to dedicate or transfer all or any part of the Surface Water Management System and other Association properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Members; provided that no such dedication or transfer, determination as to the purposes or as to the conditions

hereof, shall be effective unless an instrument signed by the appropriate officers of the Association certifying that at a special or regular meeting of Members called for such purpose, of which thirty (30) days written notice was sent to each Member, that the vote of two-thirds (2/3) of the total voting rights in the Association exercised by Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer; and

(c) The right of the Association to grant exclusive and non-exclusive easements and rights-of-way over portions of the Surface Water Management System to Members of the Association when such would not adversely affect the Surface Water Management System and the Association deems it appropriate; and

(d) The right of the Declarants, without approval of the Association, the mortgagee of any Lot, or the membership, to add additional property to this Declaration and to dedicate easements, rights-of-way over such property in accordance with the terms of this Declaration; and

(e) The right of the Association to adopt and to enforce at any time rules and regulations governing the use of the Surface Water Management System, including the right to fine Members as provided in the Bylaws, for any violation thereof. Any rule and regulation so adopted shall apply until rescinded or modified as if originally set forth at length in this Declaration.

ARTICLE VII EASEMENTS AND RIGHTS IN THE ROADWAYS

Section 1. Members Easement of Enjoyment. Subject to the provisions of this Declaration, every Member, his agents, licensees, and invitees, shall have a permanent and perpetual easement for the use and enjoyment of the Roadways for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians; and each easement shall be appurtenant to and shall pass with the title to every Lot. Notwithstanding the provisions of Article VIII, Section 2(e) and Article XI, Section 4, this provision shall not be amended to limit the term or scope of any easement herein granted, or the rights of any Owner therein, without the unanimous consent of all Owners.

Section 2. Utility Easements. Declarants hereby establish and create for the benefit of each Lot, and grant to the Owners of each Lot, as well as their respective successors and assigns, an easement in, to, over, under, across and upon the Roadways and upon the adjacent ten (10) foot strips of land as shown on Exhibit "B", for the purpose of installation, operation, maintenance, repair, replacement, removal and relocation of underground storm sewer lines, sanitary sewer pipes, water and gas mains, electric power lines, telephone lines, and other underground utility lines ("Utility Line(s)") to serve the improvements located on each Lot. The use and exercise of the easements granted herein shall be subject to the following limitations:

(a) the easements must be exercised in such a manner as to not unreasonably interfere with the operation of any business; and

(b) if, in the exercise of the easements, any portion of the Roadways is disturbed, that area must be restored as expeditiously as possible to the condition which existed immediately preceding the disturbance.

Section 3. Limitation of Members' Easements. The rights and easements of use and enjoyment in the Roadways created hereby shall be subject to the following:

(a) The right of Declarants and of the Association to retain money for the purpose of improving the Roadways; and

(b) The right of the Association to dedicate or transfer all or any part of the Roadways and other Association properties to Lee County or any successor in interest for such purposes and subject to such conditions as may be agreed by the Members; provided that no such dedication or transfer, determination as to the purposes or as to the conditions hereof, shall be effective unless an instrument signed by the appropriate officers of the Association certifying that at a special or regular meeting of Members called for such purpose, of which thirty (30) days written notice was sent to each Member, that the vote of two-thirds (2/3) of the total voting rights in the Association exercised by Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer; and

(c) The right of the Declarants, without approval of the Association, the mortgagee of any Lot, or the membership, to add additional property to this Declaration and to dedicate easements, rights-of-way over such property in accordance with the terms of this Declaration; and

(d) The right of the Association to adopt and to enforce at any time rules and regulations governing the use of the Roadways and all facilities situated thereon, including the right to fine Members as provided in the Bylaws, for any violation thereof. Any rule and regulation so adopted shall apply until rescinded or modified as if originally set forth at length in this Declaration.

ARTICLE VIII MEMBERSHIP AND VOTING RIGHTS

Section 1. Every person or entity that is a record owner of a fee or undivided fee interest in a Lot which is subject by covenants of record to assessments by the Association, is a Member of the Association, provided, however, that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. Voting rights.

(a) Members shall vote on the following matters:

1. Any increase in the annual assessment beyond the maximum permitted by this Declaration;
2. Special capital assessments;
3. Mergers, consolidations or dissolutions;
4. Conveyance or dedication of any Association property;
5. Amendments of this Declaration;
6. Amendments of the Articles of Incorporation and Bylaws of the Association;
7. Election of the Board of Directors.

(b) **Exercise of vote.** The vote for any membership which is held by more than one person shall be exercised by that person designated in a certificate filed with the Association; an entity other than a natural person shall file a certificate with the Association designating that person authorized to cast the vote held by such entity. The voting certificate may be revoked at any time except the day of the meeting for which notice has been given, during which the person designated in such certificate is entitled to cast the vote with respect to such certificate.

(c) A vote may be cast in person or by proxy. Such proxy must be filed with the Association prior to the date of any scheduled or special meeting and shall be effective for a maximum period of ninety (90) days.

(d) There shall be one (1) vote appurtenant to each platted Lot.

(e) The Association shall have the right to suspend the voting rights of any Member for any period during which any assessment remains unpaid, or for such period that may be determined by the Board of Directors for any violation of this Declaration, the Association's Articles, Bylaws, or published rules and regulations.

ARTICLE IX

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each and every Lot Owner, their successors and assigns, and such other additional property as may become subject

to this Declaration by annexation pursuant to the provisions of Article X, Section 6, hereby covenants and each successor owner of any portion thereof, by acceptance of a deed thereto, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

(a) Annual assessments; and

(b) Special assessments for capital improvements and other expenditures that the Association deems appropriate, such assessments to be fixed, established and collected from time to time as hereafter provided. Declarants may choose not to participate in special assessments and shall so notify the Association in writing within fifteen (15) days receipt of the Association's notice of the special assessment. The provision requiring both Declarants' assent in order to approve a special assessment may not be changed by amendment.

Section 2. The annual and special assessments, together with interest thereon, costs, and reasonable attorneys' fees incurred by the Association in collecting them, shall be a charge and continuing lien against the Lot against which each such assessment is made and shall also be the personal obligation of the person or entity that was the Owner of such Lot at the time when the assessment fell due.

Section 3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes of administering the DANIELS PARKWAY CENTER PROPERTY OWNERS' ASSOCIATION, INC., operating, maintaining, repairing and making additions to the shrubs, groundcovers and all other landscaping/buffering improvements within buffer areas specifically required as a condition of planned development zoning, road improvements including but not limited to surface pavement, Roadways, gravity sewers and related collection facilities, Lift Stations (in accordance with the provisions and limitations spelled out in Article III, Section 2), and the Surface Water Management System as approved and permitted by South Florida Water Management District and its successors as it may be subsequently modified; paying the operating costs of the Association; and such other purposes as deemed proper by the membership.

Section 4. Basis and Maximum Annual Assessments. The annual assessments shall be based upon square footage of land area as set forth in Exhibit "B", except for assessments for operation and maintenance of Lift Stations, which shall be specifically limited to specific Lots, and shall be calculated on the basis spelled out in Article III, Section 2. The annual assessment shall be determined by the Board of Directors for the next succeeding year and each year thereafter. The maximum annual assessment may not be increased more than fifteen percent (15%) above the previous year, without the consent of Members in accordance with the provisions hereafter provided in this Article. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum without the need for a special meeting or a vote of the Members.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying in whole or in part, the cost of any

construction or reconstruction, unexpected repair or replacement of a described capital improvement for the Surface Water Management System, Roadways or other Association property including but not limited to weirs, culverts, gravity sewers and related collection facilities, Lift Stations (provided that any such special assessment for a Lift Station shall be specifically limited to the specific Lot or Lots serviced by that particular Lift Station), shrubs, groundcovers and all other landscaping/buffering improvements within buffer areas specifically required as a condition of planned development zoning, road improvements including but not limited to surface pavement, sidewalks, curbs, gutters and any other fixed improvements as constructed by the Association or conveyed to the Association by Declarants and other parties, for the common benefit of all Lots, including the necessary fixtures and personal property related thereto, provided that, any such assessment exceeding the aggregate amount of One Dollar (\$1.00) per one thousand (1,000) square feet of land area in any year shall have the assent of both Declarants and two-thirds (2/3) of the voting interest of all Owners who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. The provision requiring both Declarants' assent in order to approve a special assessment may not be changed by amendment.

Section 6. Date of Commencement of Annual Assessments; Due Date. The annual assessments provided for herein shall commence on the date, which shall be the first day of a month, fixed by the Board of Directors of the Association to be the date of commencement.

(a) The first annual assessment shall be made for the balance of the calendar year and divided by the number of three month periods or fraction thereof remaining in that year. The assessments for any year after the first year shall be divided by four (4). The assessments attributable to a quarter shall be due and payable in advance on the first day of that quarter. The maximum assessment for the first year following such fractional year shall be based upon an amount equal to the assessment for the fractional calendar year divided by the number of days in that fractional year and multiplied by 365.

(b) The due date of any special assessment under this Section shall be fixed in the resolution authorizing such assessment.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall:

(a) Prepare, or cause to be prepared, a budget for the next calendar year providing for the common expenses which shall include the expenses of and reserves for, if required by law, the operation, maintenance, repair and replacement of the common properties and improvements thereon, costs of carrying out the powers and duties of the Association; and any other expenses which may be assessed under the provisions of this Declaration, the Bylaws, the applicable Rules and Regulations of the South Florida Water Management District or its successors, or the Association through its Board of Directors. Any expense not authorized under the foregoing must be submitted to and approved by a majority of the membership at a meeting with notice or by written consent.

Any budget shall be subject to change to cover actual expenses at any time. Such changes shall be adopted consistent with the provisions of the Bylaws.

(b) Adopt the budget and set the annual assessment for each assessable Lot based upon the number of square feet of surface area in each Lot and in all of the Lots combined, provided that no item proposed as a special assessment and not approved by the Declarants as provided for in Article IX, Section 5 shall be included in an adopted annual budget. Adoption of the annual budget shall be by vote of the Board of Directors at a meeting open to the membership with notice.

(c) Prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner or his representative designated in writing.

(d) Written notice of the assessment shall be sent to every Owner subject thereto.

(e) The Association shall, upon demand, at any time furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessment.

(a) If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien upon the Lot and shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

(b) If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date such payment was due at the rate of the lower of the maximum rate authorized by law or eighteen percent (18%) per annum, and the Association shall bring an action at law against the Owner personally obligated to pay same or to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of preparing and filing the Complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be affixed by Court together with the cost of the action.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment to be provided for herein shall be subordinate to the lien of any mortgage or any mortgages now or hereafter placed upon such Lot subject to the assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer

of such Lot pursuant to a decree of foreclosure, or any other conveyance in lieu of foreclosure. Such sale or transfer shall not release such Lot from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment.

Section 10. Compliance Assessment Lien. Each Owner shall comply, or cause compliance, with all covenants, requirements and obligations contained in this Declaration including, without limitation, the obligation with regard to non-interference with the easements and properties of the Association. Upon the failure of Owner to comply with any of his obligations hereunder, the Association, in addition to any other enforcement rights it may have hereunder, may take whatever action it deems appropriate to cause compliance, including without limitation, cleaning, repair, maintenance and reconstructive activities, and the removal of improvements or any other action consistent with the requirements and obligations contained herein. All costs incurred by the Association in causing such compliance shall be deemed a "compliance assessment" against the assessable property of the non-complying Owner, and shall be immediately due and payable from the non-complying Owner, to the Association. Such assessment may be foreclosed in the same manner as regular assessments and special assessments.

ARTICLE X ARCHITECTURAL CONTROL

Section 1. Architectural Review Board. The architectural review, a control function of the Association, shall be administered and performed by the three (3) member Architectural Review Board ("ARB"), which shall consist of the Declarants or their designee, and one (1) other Member selected by mutual agreement of both Declarants. Each ARB member shall serve until his death or resignation. Upon the death or resignation of any ARB Member, the remaining Members shall continue to serve; a majority of the then existing Members of the ARB is sufficient for approval. Upon the death or resignation of all Members the ARB shall cease to exist and the approval of the ARB shall no longer be required for any purpose. The powers of the ARB may be revived thereafter only upon a majority vote of the membership at a meeting with notice.

Section 2. Review and Approval. No building, fence nor any other improvement or substantial structure or any kind shall be built, nor any subdivision or re-platting of any Lot or Lots be made, unless and until the plans, specifications and location of the same shall have been submitted to and approved in writing by the ARB. All requests for variances to any restrictions imposed by this Declaration shall be submitted in writing to the ARB for approval. The ARB shall have the power to excuse violations of these restrictions in its sole and absolute discretion if the ARB finds that a violation has not caused substantial harm to the general plan of development. However, the ARB shall not approve any variance which would allow actions which would violate regulations of Lee County or the South Florida Water Management District, nor shall the ARB excuse any violation of these restrictions which is also a violation of regulations of Lee County or the South Florida Water Management District. Decisions of the ARB are not subject to review by any Owners' group.

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Section 3. Approval. Approval shall be stated in writing. Failure to approve or to deny approval within thirty (30) days of receiving all the information reasonably required by the ARB to make its decision shall constitute approval.

Section 4. Temporary Construction Easements. In connection with any construction work to be performed within Daniels Parkway Center, Declarants hereby establish and create for the benefit and burden of the Daniels Parkway Center and the Owners of the Lots within the Daniels Parkway Center, as well as their respective tenants, customers, employees, agents, business invitees, successors and assigns, non-exclusive and temporary easements for incidental encroachments upon the other Lots which may be required and may occur as a result of construction, so long as said encroachments are in furtherance of the reasonable requirements of construction work expeditiously pursued and so long as the constructing Party provides customary and sufficient insurance protecting the Owners of the affected Lot against the risks involved. Each Owner, and its agents, architects, engineers, and contractors shall cooperate and use reasonable efforts to coordinate any and all construction, and the use of staging areas to minimize the period and degree of interference with any other Lot Owner. The Declarants may, at their option, promulgate and impose reasonable rules and regulations concerning the performance of construction or other work including, without limitation:

(i) designating construction entrance ways, traffic ways, and exit points to and from the respective construction sites to the public rights-of-way adjacent to the Daniels Parkway Center; and

(ii) designating and assigning staging, storage, and parking areas so as to accommodate the constructing party while minimizing interference with the other Lots.

ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions shall be by any procedure at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, now or hereafter imposed by the provisions of this Declaration, either to restrain violation or to recover damages against the land, to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Joint and Several Obligations. Each and every obligation of an Owner of any Lot hereunder shall be the joint and several obligation of each Owner of a simple interest of any such Lot described in Exhibit "B" as hereinafter amended, and any demand, notice or other communication or action given or taken hereunder or pursuant hereto or by one of such joint Owners, shall be deemed given, taken or received by all such joint Owners.

Section 3. Severability. Invalidation of any one of these covenants, easements, or restrictions by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit and enforcement of the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty-five (25) years from the date on which this Declaration is recorded in the Public Records of Lee County, Florida, after which time such covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners exercising no less than ninety percent (90%) of the total voting interests of the Association has been recorded, agreeing to change said covenants, conditions and restrictions in whole or in part. No easement shall be granted, modified, or revoked unless unanimous consent of all Owners is first obtained. Provided, however, that no such agreement to terminate this Declaration and the covenants, conditions and restrictions hereof, unless made and recorded in the Public Records of Lee County, Florida, one (1) year in advance of the effective date of such termination and unless written notice of the proposed termination is sent to every Owner and mortgage on file in the Association records.

Section 5. Amendments. During the initial twenty-five (25) year period from the date on which this Declaration is recorded in the Public Records of Lee County, Florida, this Declaration may be amended by duly executed and recorded instruments signed by a President or a Vice-President of the Association, attested by the Secretary and an affirmative statement that such amendment was adopted in accordance with the provisions of this Declaration and the Bylaws. Amendments to the Articles of Incorporation and the Bylaws of the Association shall not be considered amendments to this Declaration, and shall be accomplished in the manner set forth in said Articles and Bylaws. A copy of each amendment to this Declaration shall be recorded in the Public Records of Lee County, Florida, and shall refer to Official Records Book Number and first page of this Declaration as recorded. Except as otherwise provided, this Declaration may be amended at any time and from time to time by the Association's Board of Directors except any amendment which would affect the Surface Water Management System shall first be approved by the South Florida Water Management District.

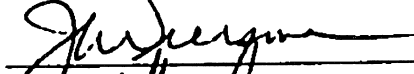
Section 6. Annexation. Additional land other than that described in Exhibit "A" and depicted on Exhibit "B" attached hereto may be annexed to the property and shall be subject to the terms of this Declaration, the Articles of Incorporation of Daniels Parkway Center Property Owners' Association, Inc., and the Bylaws upon the consent of a two-thirds majority of the Board of Directors during the first three (3) years following the recordation of this Declaration in the Public Records of Lee County, Florida. Thereafter, annexation shall require ninety percent (90%) of the voting interests of Members present in person or proxy at a meeting held with notice at which a quorum has been obtained.

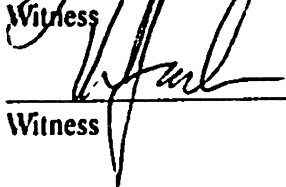
Section 7. Captions. The paragraph captions are for convenience only, and shall not be deemed to in any way affect or limit the interpretations or content of the paragraphs.

Section 8. Reduction. If any covenant, restriction, easement or provision contained in this instrument is invalid or unenforceable because its duration as provided above exceeds a permissible or reasonable duration under any statute or rule of law or equity, then it is expressly agreed by the Declarants, and any party having any interest in the property subject to this Declaration or interest in the Association and Association property that the duration of said covenant, restriction, easement or provision shall automatically be limited and reduced, ipso facto, to such duration as will be deemed permissible or reasonable under the applicable statute or rule of law or equity.

IN WITNESS WHEREOF, the Declarants herein, RICHARD G. COUCH, TRUSTEE, and CHARLES L. and MARILYN G. YOUNG have caused this instrument to be executed as of the day and year first above written.

Signed and acknowledged
in the presence of:

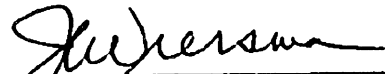


Witness


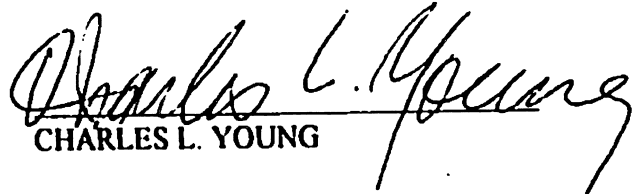
Witness




RICHARD G. COUCH, TRUSTEE



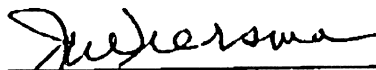
Witness



CHARLES L. YOUNG



Witness



Witness



MARILYN G. YOUNG



Witness

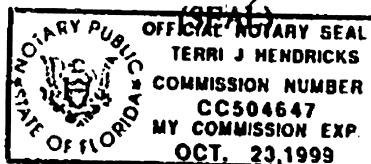
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28 day of January, 1997, by RICHARD G. COUCH, TRUSTEE, personally known to me or who produced Florida Drivers License # _____ as identification.

Terri J. Hendricks
Notary Public

My Commission Expires:

11-23-99



STATE OF FLORIDA
COUNTY OF LEE

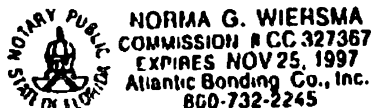
The foregoing instrument was acknowledged before me this 24th day of January, 1997, by CHARLES L. YOUNG, personally known to me or who produced Florida Drivers License # _____ as identification.

Norma G. Wiersma
Notary Public

(SEAL)

My Commission Expires:

11-25-97



STATE OF FLORIDA
COUNTY OF LEE

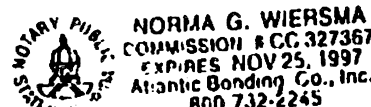
The foregoing instrument was acknowledged before me this 24th day of January, 1997, by MARILYN G. YOUNG, personally known to me or who produced Florida Drivers License # _____ as identification.

Norma G. Wiersma
Notary Public

(SEAL)

My Commission Expires:

11-25-97



FAWTDATA/SCH YOUNG DANIELS DEC

Exhibit "A"

DR2798 PG3958

DANIELS PARKWAY CENTER

A SUBDIVISION LYING IN
SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

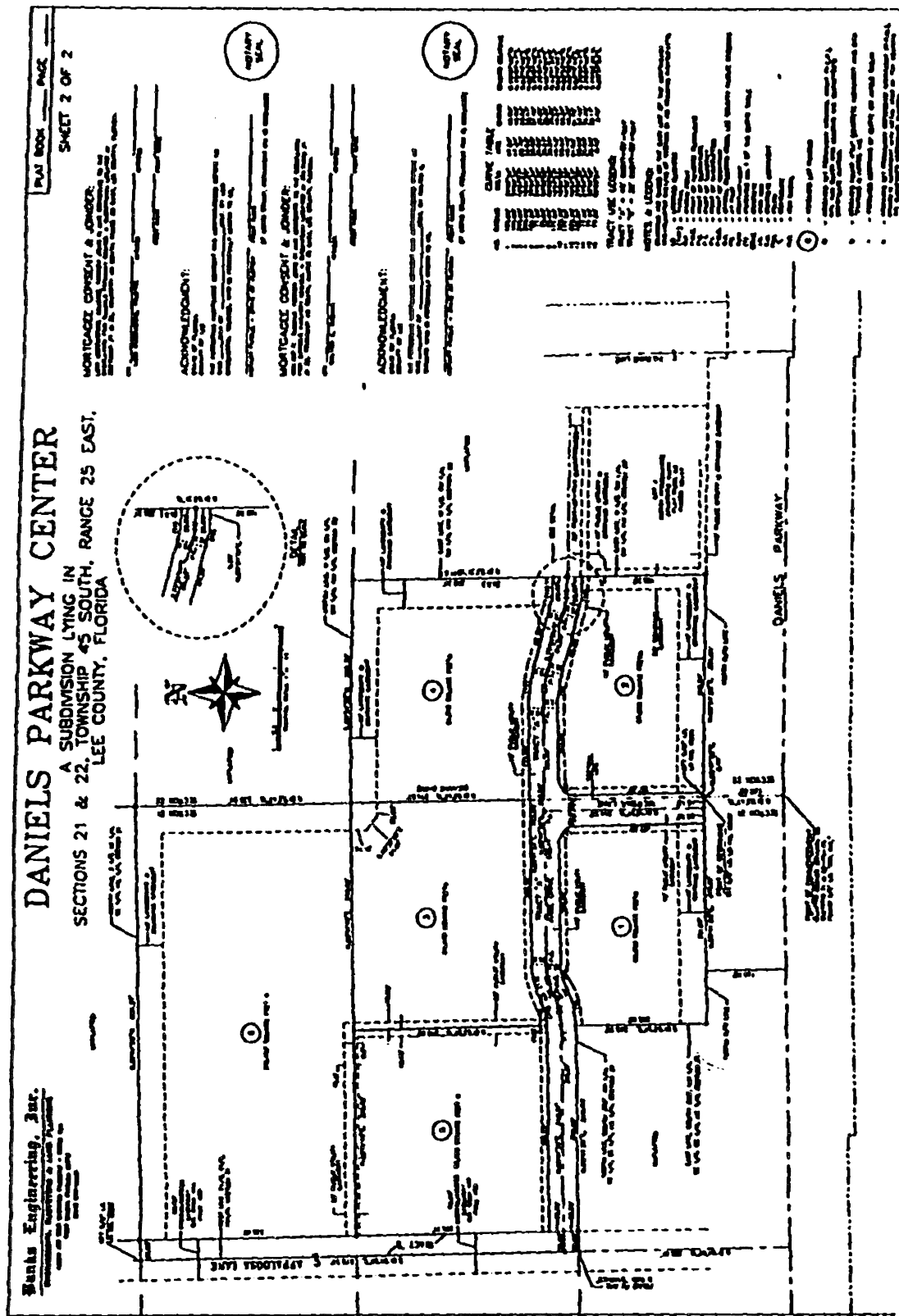
DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 21 AND 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, THENCE N.01°03'47"W. ALONG THE SECTION LINE COMMON TO SAID SECTIONS 21 AND 22 FOR 120.00 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY (220 FEET WIDE) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE N.88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 0.41 FEET; THENCE N.89°34'32"E. ALONG SAID RIGHT-OF-WAY LINE FOR 321.91 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 22; THENCE N.01°03'31"W. ALONG SAID EAST LINE FOR 541.67 FEET TO THE NORTH LINE OF SAID FRACTION OF A SECTION; THENCE S.89°34'30"W. ALONG SAID NORTH LINE FOR 322.36 FEET TO SAID SECTION LINE; THENCE N.01°03'47"W. ALONG SAID SECTION LINE FOR 330.84 FEET TO THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S.88°41'55"W. ALONG SAID NORTH LINE FOR 681.27 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E1/2) OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S.01°04'07"E. ALONG SAID WEST LINE FOR 672.57 FEET TO THE NORTH LINE OF THE SOUTH 320.00 FEET OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE N.88°41'35"E. ALONG SAID NORTH LINE OF SAID FRACTION OF A SECTION FOR 340.60 FEET TO THE EAST LINE OF SAID FRACTION OF A SECTION; THENCE S.01°03'57"E. ALONG SAID EAST LINE FOR 200.00 FEET TO A POINT OF INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE N.88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 340.59 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST AS BEARING N.01°03'47"W.

PARCEL CONTAINS 16.09 ACRES MORE OR LESS.



State of Florida



Department of State

CR2798 PG3960

I certify the attached is a true and correct copy of the Articles of Incorporation of DANIELS PARKWAY CENTER PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation, filed on February 14, 1997, as shown by the records of this office.

The document number of this corporation is N97000000869.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Seventeenth day of February, 1997



CR2EO22 (2-95)

Sandra B. Northam

Sandra B. Northam
Secretary of State

This instrument was prepared by:
Allen, Knudsen & DeBoest, P.A.
Christopher N. Davies, Esq.
1415 Hendry Street
Fort Myers, FL 33901

FILED
97 FEB 14 AM 10:47
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
DR2798 PG3961

ARTICLES OF INCORPORATION
OF
DANIELS PARKWAY CENTER
PROPERTY OWNERS' ASSOCIATION, INC.

Articles of Incorporation executed by the undersigned for the purpose of forming a corporation under the Florida Not For Profit Business Corporation Act.

ARTICLE I

The name of this corporation shall be Daniels Parkway Center Property Owners' Association, Inc., and the initial address of this corporation shall be 2180 West First Street, Suite 500, Fort Myers, Florida 33901.

ARTICLE II

The purpose for which this corporation is organized is to operate the Daniels Parkway Center.

ARTICLE III

Each record Owner of title to a lot within the Daniels Parkway Center shall be a member of the Daniels Parkway Center Property Owners' Association, Inc.

ARTICLE IV

This corporation shall commence its existence immediately upon the filing of these Articles of Incorporation and shall exist perpetually thereafter unless sooner dissolved according to law. In the event that the corporation is dissolved, the property consisting of the Stormwater Management System will be conveyed and/or dedicated to a similar not for profit corporation in order to assure continued maintenance in perpetuity.

OR2798 P63962

ARTICLE V

The name and residence of the subscriber to these Articles of Incorporation is as follows:

Richard G. Couch
2180 West First Street, Suite 500
Fort Myers, FL 33901

ARTICLE VI

The affairs of this corporation are to be managed initially by a Board of three (3) Directors. The Directors shall be elected each year as provided for in the Bylaws.

ARTICLE VII

The names of the officers who are to serve until the first election or appointment under the Articles of Incorporation are:

Richard G. Couch	- President
Charles L. Young	- Vice President
Frederick A. Beuning	- Secretary/Treasurer

ARTICLE VIII

The number of persons constituting the first Board of Directors shall be three (3) and their names and addresses are as follows:

Richard G. Couch
2180 West First Street
Fort Myers, FL 33901

Frederick A. Beuning
1031 E. Fowler Avenue
Tampa, FL 33612

Charles L. Young
Post Office Box 81
Mentor, OH 44061

ARTICLE IX

Amendments to these Articles of Incorporation may be proposed and adopted at any regularly or specially called meeting of the members of the Association by a majority vote of all the members. Due notice of the meeting must have been given as provided for in the Bylaws. Any amendment which would affect the Stormwater Management System, including water management portions of common areas, shall require the prior approval of the South Florida Water Management District.

ARTICLE X

Each member of the corporation shall have one (1) vote.

ARTICLE XI

This corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation.

ARTICLE XII

No part of the net earnings of this corporation shall inure to the benefit of any member or individual, except through the acquisition, construction, management, maintenance or care of association property or through the rebate of the excess membership dues, fees or assessments.

ARTICLE XIII

The powers of this corporation shall include and be governed by the following provisions:

A. This corporation shall have all of the common law and statutory powers of a corporation not for profit.

B. This corporation shall have all of the powers reasonably necessary to implement its purposes including but not limited to the following:

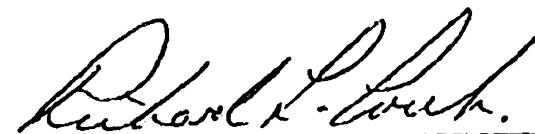
1. To do all of the acts required to be performed by it under its Bylaws.
2. To make, establish and enforce rules and regulations covering the use of the real property and personal property of the corporation.
3. To make, levy and collect assessments for the purpose of obtaining funds from its members to pay for the operational expenses of this corporation and costs of collection and to use and expend the proceeds of the assessment in the exercise of its powers and duties hereunder including, but not limited to, assessments for operation and maintenance of the Stormwater Management System.

4. To maintain, repair and operate its real and personal property.
5. To enforce by legal means the obligations of the members of this corporation.
6. To contract for professional management and to confer upon such management company a certain of the power and duties of this corporation.
7. To operate, maintain and manage the Stormwater Management System as permitted by the South Florida Water Management District including, but not limited to, all lakes, retention areas, culverts and related appurtenances.

ARTICLE XIV

In addition to the powers set forth in Article XIII, Section 7, above, the corporation shall own the Stormwater Management System. Each member within the corporation shall have the right to enforce the assurances that the drainage system, easements and rights-of-way shall be continuously maintained.

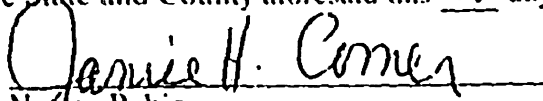
IN WITNESS WHEREOF, the undersigned, being the Incorporator hereinbefore named, for the purpose of forming a corporation to do business both within and without the State of Florida, under the laws of Florida, make and file these Articles of Incorporation, hereby declaring and certifying that the facts herein stated are true, and hereunto set my hand and seal this 13 day of February, 1997.

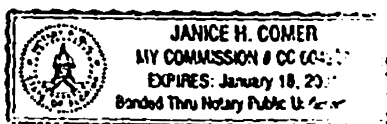

Richard G. Couch, Incorporator

STATE OF FLORIDA
COUNTY OF LEE

The foregoing Articles of Incorporation was acknowledged before me this 13 day of February, 1997, by RICHARD L. Couch, who is personally known to me or has produced his FL DRIVER'S LICENSE (type of identification) as identification and who did (did not) take an oath.

WITNESS my hand and official seal in the State and County aforesaid this 13th day of February, 1997.


Notary Public
My Commission Expires:




**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE
SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM
PROCESS MAY BE SERVED**

In compliance with the laws of Florida, the following is submitted:

First, that Daniels Parkway Center Property Owners' Association, Inc., desiring to organize under the laws of the State of Florida, has named Christopher N. Davies, Esquire, Allen, Knudsen & DeBoest, P.A., 1415 Hendry Street, Fort Myers, County of Lee, State of Florida 33901, as its statutory Registered Agent.

Having been named as Registered Agent and to accept service of process for the above stated corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligation of my position as Registered Agent.

Dated: 2/13/97


Christopher N. Davies

FILED
97 FEB 14 AM 10:47
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

This instrument was prepared by:
Allen, Knudsen & DeLoest, P.A.
Christopher N. Davies, Esq.
1415 Hendry Street
Fort Myers, FL 33901

Exhibit "D"

0R2798 P63966

BYLAWS
OF
DANIELS PARKWAY CENTER PROPERTY
OWNERS' ASSOCIATION, INC.

1. IDENTITY - These are the Bylaws of Daniels Parkway Center Property Owners' Association, Inc., a not for profit Florida corporation. The purpose for which this corporation is organized is to operate the Daniels Parkway Center, a commercial real estate development located on Daniels Road, Lee County, Florida.

1.1. OFFICE - The office of Daniels Parkway Center Property Owners' Association, Inc. shall be at Saxon House, Suite 500, 2180 West First Street, Fort Myers, Florida or such other location within the County as may from time to time be determined by the Board of Directors.

1.2. FISCAL YEAR - The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

1.3. SEAL - The seal of the Association shall be circular in shape, bear the abbreviated name of the Association, the word "Florida," and the year of establishment, 1996.

2. MEMBERS' MEETINGS

2.1. ANNUAL MEETINGS - Annual members' meetings shall be held in Lee County or at such other convenient location as may be determined by the Board of Directors in conjunction with the election of Directors and for transacting any business authorized to be transacted by the members.

2.2. SPECIAL MEETINGS - Special members' meetings shall be held whenever called by the President, Vice President or by a majority of the Board of Directors and when requested by written petition signed and dated from at least fifty percent (50%) of the members entitled to vote. Such meetings shall be held within or without the State of Florida. Such petition shall state the purpose(s) of the meeting. The business at any special meeting shall be limited to the items specified in the petition, and contained in the notice of the meeting.

2.3. NOTICE OF MEETINGS. Whenever the applicable laws of the State of Florida or the provisions of the Articles of Incorporation or these Bylaws require or authorize the members to take any action at a meeting (either annual or special), a notice of such meeting, signed by an officer of the Association, shall be mailed to each member having the right and entitled to vote at such meeting, at his address as it appears on the records of the Association, not less than ten (10) nor more than sixty (60) days before the date set for such meeting. Such notice may be waived

either before, at, or after such meeting. Notice of any meeting of members shall be conclusively deemed to have been waived by any member who shall attend such meeting.

2.4. QUORUM - A quorum at members' meetings shall consist of persons entitled to cast a majority of the voting interests of the entire membership. Decisions made by a majority of the voting interests represented at a meeting at which a quorum is present in person or by proxy shall be binding and sufficient for all purposes except such decisions as may require a larger percentage in which case the percentage required in the governing documents, or applicable law, shall govern.

2.5. PROXIES - Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the particular meeting designated therein or an adjournment thereof, and must be filed with the Secretary before or at the voter registration immediately preceding the meeting. A photographic, photostatic or equivalent reproduction of a proxy is a sufficient proxy.

2.6. NO QUORUM - If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.7. ORDER OF BUSINESS - The order of business at annual members' meetings and, as far as applicable at all other members' meetings, may be:

- (a) Election of a Chairman of the meeting, unless the President or Vice President of the Association is present then he (or she) shall preside.
- (b) Registering proxies and counting votes.
- (c) Proof of Notice of meeting or waiver of notice.
- (d) Calling of the roll.
- (e) Reading and disposal of any unapproved minutes.
- (f) Reports of Directors.
- (g) Reports of Committees.
- (h) Announcement of the results of the election of Directors.
- (i) Unfinished business.
- (j) New business.
- (k) Adjournment.

3. BOARD OF DIRECTORS

3.1. NUMBER, TERM, AND QUALIFICATIONS. The affairs of the Corporation shall be governed initially by a Board composed of three (3) persons appointed by the Developer, as named in the Articles of Incorporation of the corporation. Directors shall be elected by a majority of the voting interests at the time and place at which the annual meeting is scheduled to occur; provided, at least one Director shall be associated in some capacity with each of the Declarants under the Declaration of Covenants, Easements and Restrictions for Daniels Parkway Center for so long as each Declarant retains ownership in a Lot or Lots, and at all times when at least one Lot is owned by a party unaffiliated with either Declarant at least one Director shall be associated in some capacity with a Lot Owner other than one of the Declarants. Each of the Directors shall hold office until the Annual Meeting held next after his election and until his successor shall have been elected and shall qualify, or until he shall resign, or shall have been removed as provided by law.

3.2. ORGANIZATIONAL MEETING - The organizational meeting of each newly elected Board of Directors to elect officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present. Unless otherwise noticed, it shall be held immediately following the annual meeting.

3.3. REGULAR MEETINGS - Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless noticed previously, shall be given to each Director personally or by mail, telephone or telecopier at least three (3) days prior to the day named for such meeting.

3.4. SPECIAL MEETINGS - Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than three day's notice of the meeting (except in an emergency) shall be given personally or by mail, telephone or telecopier, which notice shall state the time, place and purpose of the meeting.

3.5. WAIVER OF NOTICE - 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. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.

3.6. BOARD MEETINGS, QUORUM AND VOTING - A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of Directors present at a meeting at which a quorum is present shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.

3.7. PRESIDING OFFICER - The presiding officer at Directors' meetings shall be the President if such an officer has been elected; and if none, then the Vice President shall

preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

3.8. DIRECTOR COMPENSATION - Directors shall serve without pay unless the voting interests annually authorize Director's fees, but shall be entitled to reimbursement for expenses reasonably incurred.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS - All of the powers and duties of the Association existing under the Florida Not for Profit Corporation Act (Chapter 617, Florida Statutes), the Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by lot owners when such is specifically required. Such powers and duties of the Directors shall include, but shall not be limited to, the following:

4.1. TO ADOPT BUDGETS, BORROW MONEY AND MAKE AND COLLECT ASSESSMENTS AGAINST owners to defray the costs of the Association.

4.2. TO USE THE PROCEEDS OF ASSESSMENTS in the exercise of its powers and duties.

4.3. TO MAINTAIN, REPAIR, REPLACE AND OPERATE the Association property.

4.4. TO ENACT RULES AND REGULATIONS concerning the use of the Association property.

4.5. TO RECONSTRUCT THE ASSOCIATION PROPERTY AFTER CASUALTY and the further improvement of the property.

4.6. TO ENFORCE by legal means the provisions of applicable laws and the condominium documents.

4.7. TO CONTRACT FOR MANAGEMENT of the Association.

4.8. TO CARRY INSURANCE for the protection of the unit owners and the Association.

4.9. TO PAY THE COST OF ALL UTILITY SERVICES rendered to the Association and not billed to owners of individual lots.

4.10. TO EMPLOY PERSONNEL and designate other officers for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

4.11. TO BRING AND DEFEND SUITS, MAKE AND EXECUTE CONTRACTS, DEEDS, MORTGAGES, LEASES and other instruments by its officers and to purchase, own, lease,

convey and encumber real and personal property. To grant easements and licenses over the property necessary or desirable for proper operation of the Association.

5. OFFICERS

5.1. EXECUTIVE OFFICERS - The executive officers of the Association shall be the President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistant officers as may be desired, all of whom shall be elected annually by and from the Board of Directors and who may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary.

5.2. PRESIDENT - POWERS AND DUTIES - The President shall be the chief executive officer of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.

5.3. VICE PRESIDENT - POWERS AND DUTIES - The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

5.4. SECRETARY - POWERS AND DUTIES - The Secretary shall keep the minutes of all proceedings of the Directors and the members; shall attend to the giving and serving of all notices to the members and Directors and other notices required by law; shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed; shall keep and have custody of the records of the Association, except those of the Treasurer; and shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

5.5. TREASURER - POWERS AND DUTIES - The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; shall keep the assessment rolls and accounts of the members; shall keep the books of the Association in accordance with good accounting practices; and shall perform all other duties incident to the office of the Treasurer of a corporation.

5.6. EMPLOYEE COMPENSATION - The compensation of all employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association.

5.7. INDEMNIFICATION - Every Director and every officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, arbitration, or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, officer, or committee member of the Association. Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. Notwithstanding anything contained herein to the contrary, in instances where the Director, officer, or committee member admits or is adjudged guilty of willful

malfeasance, misfeasance or nonfeasance in the performance of their duties, the indemnification provisions contained herein shall not apply. Otherwise, the foregoing right of indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which such Director, officer or committee member may be entitled by common law or statute.

5.8. DELEGATION - To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management.

6. FISCAL MANAGEMENT - Shall be in accordance with the following provisions:

6.1. BUDGET - A proposed annual budget of common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Daniels Parkway Center Property Owners' Association, Inc., including insurance and management fees, if any, and for all of the unpaid operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year.

6.2. MAILING - A copy of the proposed annual budget shall be mailed or delivered to the lot owners not less than ten (10) days prior to the meeting of the directors at which the budget will be adopted together with a notice of the meeting.

6.3. ASSESSMENTS - The shares of the lot owners of the common expenses may be made payable in quarterly installments in advance and shall become due on the first day of each such period and which shall become delinquent ten (10) days thereafter. The Association shall have the right to accelerate assessments of an owner delinquent in the payment of common expenses. Accelerated assessments shall be due and payable on the date a claim of lien is filed in the Public Records of Lee County, Florida and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

6.4. SPECIAL ASSESSMENTS AND CHARGES - Assessments and charges for expenses which are not provided for and funded in the Budget shall be made by the Board of Directors, and the time of payment shall likewise be determined by them.

6.5. LIABILITY FOR ASSESSMENTS AND CHARGES - A lot owner shall be liable for all assessments and charges coming due while the owner of a lot, and such owner and owner's grantees after a voluntary conveyance.

6.6. LIENS FOR ASSESSMENTS - The unpaid portion of an assessment including an accelerated assessment which is due, together with costs, interest and reasonable attorneys' fees for collection, shall be secured by a lien upon the lot.

6.7. UNPAID CHARGES - Unpaid charges which are due together with costs, interest and reasonable attorney's fees including appeals for collection shall be the basis for an action at law by the Association against the lot owner.

6.8. COLLECTION - INTEREST; ADMINISTRATIVE LATE FEE; APPLICATION OF PAYMENTS - Assessments paid on or before ten (10) days after the date due

shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest lawful rate from time to time (now eighteen percent (18%) per annum) from the date due until paid. In addition to such interest the Association may charge an administrative late fee. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees and then to the assessment payment first due. All interest collected shall be credited to the common expense account.

6.9. COLLECTION - SUIT - The Association, at its option, may enforce collection of delinquent assessments by suit at law, by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, together with those which have become due by acceleration plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees, including appeals. The Association must deliver or mail by certified mail to the unit owner a written notice of its intention to foreclose the assessment lien thirty (30) days before commencing foreclosure, unless Notice of Contest of Lien has been filed. The lien shall secure only assessments, interest, costs and attorneys fees and not fines, charges or other fees.

6.10. ACCOUNTS - All sums collected from assessments or charges shall be credited to accounts from which shall be paid the expenses for which the respective assessments or charges are made.

6.11. ASSOCIATION DEPOSITORY - The depository of the Association shall be a bank or banks or state or federal savings and loan associations or a member firm of the New York Stock Exchange with offices in Florida and as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

6.12. COMMINGLING OF FUNDS PROHIBITED - All funds shall be maintained separately in the Association's name provided that reserve and operating funds may be commingled for purposes of investment, but separate ledgers must be maintained for each account.

6.13. FINANCIAL REPORTS - A complete financial report of actual receipts and expenditures of the Association shall be made annually.

7. PARLIAMENTARY RULES - A parliamentary procedure such as Robert's Rules of Order uniformly applied shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the Articles of Incorporation or Bylaws of the Association or with the laws of the State of Florida.

8. BYLAW AMENDMENTS - Amendments to the Bylaws shall be adopted in the following manner:

8.1. NOTICE of the subject matter of a proposed amendment shall be included in the notice of any meeting or the text of any written agreement at which or by which a proposed amendment is considered.

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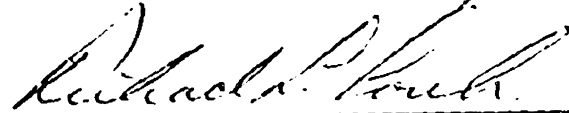
8.2. **PROPOSAL OF AMENDMENTS** - An amendment may be proposed by either a majority of the Directors or by not less than fifty percent (50%) of the voting interests.

8.3. **ADOPTION OF AMENDMENTS** - A resolution or written agreement adopting a proposed amendment must receive approval of sixty-seven percent (67%) of the voting interests of the Association.

8.4. **EFFECTIVE DATE** - An amendment when adopted shall become effective only after being recorded according to law.

8.5. **PROPOSED AMENDMENT FORMAT** - Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BY-LAW. SEE BY-LAW NUMBER _____ FOR PRESENT TEXT."

The foregoing were adopted as the first Bylaws of DANIELS PARKWAY CENTER PROPERTY OWNERS' ASSOCIATION, INC. on this 17 day of February, 1997.



RICHARD G. COUCH, PRESIDENT

0R2798 PG3974

CONSENT AND JOINDER OF MORTGAGEE

The undersigned is the owner and holder of a mortgage dated January 19, 1988, recorded in Official Records Book 1965, Page 323, of the Public Records of Lee County, Florida, which is a lien upon a portion of the premises herein referred to as DANIELS PARKWAY CENTER and hereby consents to, and joins in, the foregoing Declaration of Covenants, Easements and Restrictions for Daniels Parkway Center as to the land described in Exhibit "A" attached hereto.

Signed, sealed and delivered
in the presence of:

Stacy J. Graham
Witness

Walter C. Thomas
Walter C. Thomas

STACY J. GRAHAM
Printed Name

Christine N. Davies
Witness

CHRISTOPHER N. DAVIES
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 19TH day of February, 1997 by Walter C. Thomas who is personally known to me or who produced FL D.L. # T520-903-19-055-0 as identification.

Stacy J. Graham
Notary Public

(Seal)

My Commission Expires:



Stacy J. Graham
MY COMMISSION # 00544549 EXPIRES
August 14, 1999
BONDED THRU TROY FARM INSURANCE, INC.

DANIELS PARKWAY CENTER

A SUBDIVISION LYING IN
SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 21 AND 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, THENCE N.01°03'47"W. ALONG THE SECTION LINE COMMON TO SAID SECTIONS 21 AND 22 FOR 120.00 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY (220 FEET WIDE) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE N.88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 0.41 FEET; THENCE N.89°34'32"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 321.91 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 22; THENCE N.01°03'31"W. ALONG SAID EAST LINE FOR 541.67 FEET TO THE NORTH LINE OF SAID FRACTION OF A SECTION; THENCE S.89°34'30"W. ALONG SAID NORTH LINE FOR 322.36 FEET TO SAID SECTION LINE; THENCE N.01°03'47"W. ALONG SAID SECTION LINE FOR 330.84 FEET TO THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S.88°41'55"W. ALONG SAID NORTH LINE FOR 681.27 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E1/2) OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S.01°04'07"E. ALONG SAID WEST LINE FOR 672.57 FEET TO THE NORTH LINE OF THE SOUTH 320.00 FEET OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE N.88°41'35"E. ALONG SAID NORTH LINE OF SAID FRACTION OF A SECTION FOR 340.60 FEET TO THE EAST LINE OF SAID FRACTION OF A SECTION; THENCE S.01°03'57"E. ALONG SAID EAST LINE FOR 200.00 FEET TO A POINT OF INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE N.88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 340.59 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST AS BEARING N.01°03'47"W.

PARCEL CONTAINS 16.09 ACRES MORE OR LESS.

CONSENT AND JOINDER OF MORTGAGEE

The undersigned is the owner and holder of a mortgage dated October 30, 1992, recorded in Official Records Book 2359, Page 4, of the Public Records of Lee County, Florida, which is a lien upon a portion of the premises herein referred to as DANIELS PARKWAY CENTER and hereby consents to, and joins in, the foregoing Declaration of Covenants, Easements and Restrictions for Daniels Parkway Center as to the land described in Exhibit "A" attached hereto.

Signed, sealed and delivered
in the presence of:

Christopher H. Davies
Witness

Lori Greenberg, Trustee
Lori Greenberg, Trustee

CHRISTOPHER H. DAVIES
Printed Name

Stacy J. Graham
Witness

STACY J. GRAHAM
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 17th day of February, 1997 by Lori Greenberg, Trustee who is personally known to me or who produced FL D.L. # 6651-538-44-920 as identification.

Stacy J. Graham
Notary Public

(Seal)

My Commission Expires:



Stacy J. Graham
MY COMMISSION # CC544849 EXPIRES
August 14, 1999
BONDED THROUGH TROY FARM INSURANCE, INC.

DANIELS PARKWAY CENTER

A SUBDMISION LYING IN
SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 21 AND 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, THENCE N.01°03'47"W. ALONG THE SECTION LINE COMMON TO SAID SECTIONS 21 AND 22 FOR 120.00 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY (220 FEET WIDE) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE N.88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 0.41 FEET; THENCE N.89°34'32"E. ALONG SAID RIGHT-OF-WAY LINE FOR 321.91 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 22; THENCE N.01°03'31"W. ALONG SAID EAST LINE FOR 541.67 FEET TO THE NORTH LINE OF SAID FRACTION OF A SECTION; THENCE S.89°34'30"W. ALONG SAID NORTH LINE FOR 322.36 FEET TO SAID SECTION LINE; THENCE N.01°03'47"W. ALONG SAID SECTION LINE FOR 330.84 FEET TO THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S.88°41'55"W. ALONG SAID NORTH LINE FOR 681.27 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E1/2) OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S.01°04'07"E. ALONG SAID WEST LINE FOR 672.57 FEET TO THE NORTH LINE OF THE SOUTH 320.00 FEET OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE N.88°41'35"E. ALONG SAID NORTH LINE OF SAID FRACTION OF A SECTION FOR 340.60 FEET TO THE EAST LINE OF SAID FRACTION OF A SECTION; THENCE S.01°03'57"E. ALONG SAID EAST LINE FOR 200.00 FEET TO A POINT OF INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE N.88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 340.59 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST AS BEARING N.01°03'47"W.

PARCEL CONTAINS 16.09 ACRES MORE OR LESS.

CONSENT AND JOINDER OF MORTGAGEE

The undersigned is the owner and holder of a mortgage dated October 12, 1993, recorded in Official Records Book 2434, Page 420, of the Public Records of Lee County, Florida, which is a lien upon a portion of the premises herein referred to as DANIELS PARKWAY CENTER and hereby consents to, and joins in, the foregoing Declaration of Covenants, Easements and Restrictions for Daniels Parkway Center as to the land described in Exhibit "A" attached hereto.

Signed, sealed and delivered
in the presence of:

J. Clifford Wiersma
Witness

J. CLIFFORD WIERSMA
Printed Name

Norma G. Wiersma
Witness

NORMA G. WIERSMA
Printed Name

Richard M. Diamond, Trustee u/d
3/29/91 f/b/o Richard M. Diamond

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 19th day of February, 1997 by Richard M. Diamond, Trustee u/d 3/29/91 f/b/o Richard M. Diamond, who is (personally known) to me or who produced _____ as identification.

Norma G. Wiersma
Notary Public

(Seal)



NORMA G. WIERSMA
COMMISSION # CC 327367
EXPIRES NOV 25, 1997
Atlantic Bonding Co., Inc.
800 732-2245

My Commission Expires: 11/25/97

0R2798 PG3979

DANIELS PARKWAY CENTER
A SUBDIVISION LYING IN
SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 21 & 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 21 AND 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, THENCE N 01°03'47"W. ALONG THE SECTION LINE COMMON TO SAID SECTIONS 21 AND 22 FOR 120.00 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY (220 FEET WIDE) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE N 88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 0.41 FEET; THENCE N 89°34'32"E. ALONG SAID RIGHT-OF-WAY LINE FOR 321.91 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 22; THENCE N 01°03'31"W. ALONG SAID EAST LINE FOR 541.67 FEET TO THE NORTH LINE OF SAID FRACTION OF A SECTION; THENCE S 89°34'30"W. ALONG SAID NORTH LINE FOR 322.36 FEET TO SAID SECTION LINE; THENCE N 01°03'47"W. ALONG SAID SECTION LINE FOR 330.84 FEET TO THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S 88°41'35"W. ALONG SAID NORTH LINE FOR 681.27 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E1/2) OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE S 01°04'07"E. ALONG SAID WEST LINE FOR 672.57 FEET TO THE NORTH LINE OF THE SOUTH 320.00 FEET OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 21; THENCE N 88°41'35"E. ALONG SAID NORTH LINE OF SAID FRACTION OF A SECTION FOR 340.60 FEET TO THE EAST LINE OF SAID FRACTION OF A SECTION; THENCE S 01°03'57"E. ALONG SAID EAST LINE FOR 200.00 FEET TO A POINT OF INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE N 88°41'33"E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 340.59 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST AS BEARING N 01°03'47"W.

PARCEL CONTAINS 16.09 ACRES MORE OR LESS.

MAPLE GREEN LEE CITY
97 MAR -6 PM12:41

Prepared by:
Thomas H. Gunderson, Esq.
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street (33901)
PO Box 280
Fort Myers, FL 33902-0280
(239) 334-4121

INSTR # 2006000356449, Pages 59
Doc Type DOC, Recorded 09/14/2006 at 09:36 AM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$503.00
Deputy Clerk MISTENES
#1

DECLARATION OF CONDOMINIUM
OF
DANIELS CENTER III OFFICE CONDOMINIUM

THIS DECLARATION is made as of the 1st day of August, 2006 by DPC LOT 6, LLP, a Florida limited liability partnership, its successors and assigns, herein called "Developer", having an address of 8991 Daniels Center Drive, Suite 103, Fort Myers, Florida 33912.

WHEREIN, the Developer makes the following declarations:

1. **PURPOSE**. The purpose of this Declaration is to submit the fee title to the real property and improvements described and to be constructed thereon to the condominium form of ownership as Daniels Center III Office Condominium, and for use in the manner provided in Chapter 718, Florida Statutes, herein called the "Condominium Act," for the creation and operation of a condominium located in Lee County, Florida, in accordance with the terms and conditions of this Declaration.

Developer declares that all of the hereinafter described property is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the limitations, restrictions, easements, conditions and covenants hereinafter contained, all of which are declared and agreed to be in furtherance of a plan for the protection, maintenance, improvement, and sale of the Condominium Property for the purpose of enhancing the value, use, desirability and attractiveness of the Condominium Property. All provisions of this Declaration, including without limitation, the easements, uses, limitations, obligations, covenants, conditions, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all the Condominium Property and all parties having or acquiring any right, title or interest in and to the Condominium Property, or any part thereof, and their successors and assigns.

The Unit Owner's individual share in the Common Elements, Expenses and Surplus shall be determined by the following fraction: unit square footage / total square footage of units submitted to condominium.

1.1 **NAME AND ADDRESS**. The name by which this condominium is to be identified is Daniels Center III Office Condominium, having a mailing address of 8991 Daniels Center Drive, Suite 103, Fort Myers, Florida 33912.

1.2 THE REAL PROPERTY. The real property owned in fee title by Developer, together with easements, which by this instrument are submitted to the condominium form of ownership, is located in Lee County, Florida, and described in Exhibit "A".

1.3 SITE PLAN AND GRAPHICS. The site plan and graphics are attached to this Declaration as Exhibit "B" and incorporated herein by reference.

2. DEFINITIONS. The terms used in this Declaration and the exhibits hereto shall have the meaning stated in the Condominium Act and as follows unless the context otherwise requires:

2.1 "ARTICLES OF INCORPORATION" means the Articles of Incorporation attached hereto as Exhibit "C" and includes any filed amendments thereto.

2.2 "ASSESSMENT" or "ASSESSMENTS" means the cost of maintenance, repair and management of the Condominium Property hereinafter defined which is to be paid by the Unit Owner or Unit Owners hereinafter defined and includes, but is not limited to, amounts necessary to meet Common Expenses hereinafter. Assessments shall also include special Assessments where such special Assessments are duly adopted by the Association.

2.3 "ASSOCIATION" means Daniels Center III Office Condominium Association, Inc., a Florida corporation not-for-profit, and its successors.

2.4 "ASSOCIATION CERTIFICATE" means a certificate of the Association in recordable form executed by the President or Vice President and attested to by the Secretary or Assistant Secretary of the Association.

2.5 "BOARD OF DIRECTORS" means the duly qualified members of the board of administration of the Association.

2.6 "BUILDING AND IMPROVEMENTS" means the structures and improvements located on the real property.

2.7 "BYLAWS" means the Bylaws attached hereto as Exhibit "D" and adopted by the Association and includes any duly adopted amendments thereto.

2.8 "COMMON ELEMENTS" means those portions of the Condominium Property not included within the Units, including Association personal property required for enjoyment, maintenance and operation of the condominium.

2.9 "COMMON EXPENSES" means: (i) expenses of administration, maintenance, operation, insurance, repair and betterment of the Common Elements, including those portions of Units to be maintained and repaired by the Association, and all other costs and expenses required to fulfill the duties of the Association; (ii) all expenses declared to be Common Expenses by this Declaration, the Articles of

Incorporation, the Bylaws of the Association, and Florida law; and (iii) any valid charge imposed against the entire Condominium Property.

2.10 "COMMON SURPLUS" means all receipts of the Association, including but not limited to Assessments, rents, profits and revenues, in excess of the aggregate amount of Common Expenses.

2.11 "CONDOMINIUM" means the Daniels Center III Office Condominium.

2.12 "CONDOMINIUM DOCUMENTS" means this Declaration, all exhibits attached hereto, including the survey and site plan of the condominium, which are recorded in the Public Records of Lee County, Florida, as the same may be amended from time to time.

2.13 "CONDOMINIUM PARCEL" means a Unit, together with the undivided share in the Common Elements which is appurtenant to the Unit.

2.14 "CONDOMINIUM PROPERTY" shall have the meaning set forth in the Condominium Act.

2.15 "COUNTY" means Lee County, Florida.

2.16 "DEVELOPER" means DPC LOT 6, LLP, a Florida limited liability company, its successors, and any persons to which it shall have assigned its rights hereunder.

2.17 "INSURANCE TRUSTEE" means the Association or any successor designated by the Association in accordance with Section 8.4.

2.18 "LICENSED ARCHITECT" or "LICENSED ENGINEER" means an architect or engineer, as applicable, licensed to practice in the State of Florida.

2.19 "LIMITED COMMON ELEMENTS" means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units, as specified in the Condominium Declaration, including specifically the portion of the Common Elements wherein the air conditioning unit / pad, installed for the benefit of a single Unit, together with the air space above it.

2.20 "OWNER" means the owner of a unit.

2.21 "RULES and REGULATIONS" means the Rules and Regulations and any amendments thereto which may have been duly adopted by the Association relating to the use of the Condominium Property.

2.22 "UNIT" or "OFFICE UNIT" means a part of the Condominium Property which is subject to exclusive ownership.

2.23 "UNIT OWNER" means the person, persons, or legal entity holding title in fee simple to a Unit.

2.24 "UTILITY SERVICES" means but is not limited to electric power, gas, water, telephone, sewer, drainage, television communication, and garbage and sewage disposal.

3. THE LAND.

3.1 SUBSTANTIAL COMPLETION. The construction of this condominium is not substantially complete at the time of the execution of this Declaration. Upon substantial completion of construction, the Developer shall amend the Declaration to include the Certificate of a Surveyor authorized to practice in the State of Florida, which Certificate shall comply with the provisions of Section 718.104(4)(e), Florida Statutes. Such amendment shall be made unilaterally by the Developer and shall not require the joinder of the Association, any Unit Owner, or mortgagee.

3.2 IMPROVEMENTS - GENERAL DESCRIPTION.

(a) Buildings. Developer proposes to construct certain buildings and associated improvements in accordance with the survey, graphic description and plot plan attached hereto as Exhibit "B."

(b) Other Improvements. The Condominium includes certain landscaping and other facilities which are a part of the Common Elements described herein.

3.3 UNIT BOUNDARIES. Each Unit shall include that part of the building that lies within the following boundaries:

(a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimeter boundaries:

(i) Upper Boundary - The horizontal plane formed by the bottom chord of the roof trusses.

(ii) Lower Boundary - The horizontal plane of the undecorated, finished concrete slab.

(b) Perimeter Boundaries. The perimeter boundary of the Unit shall be the vertical planes of the undecorated and/or unfinished inner surface of the exterior concrete block walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries.

(c) Apertures. Where there are apertures in any boundary including, but not limited to, windows, doors, and skylights, if any, the boundaries of the Unit shall extend to the interior unfinished surfaces of the coverings of such openings, including all

frameworks thereof. Thus, windows, doors, screens, and all frames, casings, and hardware therefor, are excluded from the Unit.

3.4 DANIELS CENTER LAND CONDOMINIUM. The Daniels Center III Office Condominium is located within the Daniels Center Land Condominium. The Daniels Center Land Condominium was established to provide four (4) building pads/land condominium units on which four (4) separate buildings may be constructed upon and associated common areas such as the entrance road, parking areas and landscaping. Daniels Center III Office Condominium Association, Inc. shall be responsible for paying maintenance assessments to the Daniels Center Land Condominium Association, Inc. for maintenance of common areas of the Daniels Center Land Condominium as provided in the Declaration of Condominium, recorded in Official Records Book 4289, Page 1042-1094 Public Records of Lee County, Florida.

3.5 EASEMENTS. Each of the following easements is reserved on, over, across and under the Condominium Property and is a covenant running with the land submitted to condominium form of ownership and, notwithstanding any of the other provisions of this Declaration, may not be amended or revoked and shall survive the termination of the Condominium and the exclusion of any of the real property of the Condominium from the Condominium:

(a) Utilities. Easements are reserved to the Developer, the Association or such utility companies to which the Developer or Association may grant or assign its easements as may be required for the entrance upon, construction, maintenance, repair, replacement and operation of present and future Utility Services to adequately serve the Condominium and such other equipment as may be required throughout the Condominium, it being expressly agreed that Developer, the Association or the utility company making the entry shall restore the property as nearly as practicable to the condition which existed prior to commencement of construction of such utility.

The easement rights created by this paragraph shall include the right of the Unit Owner to enter the attic crawl space of their respective Unit for the purpose of installing, maintaining, repairing, and replacing any facilities or equipment for the furnishing of Utility Services exclusively serving their respective Unit.

In addition, easements are reserved to the Developer, the Association or such utility companies to which the Developer or the Association may grant or assign its easements for such further utility easements over and across the Condominium Property as may be required from time to time to service the Condominium Property.

(b) Encroachments. In the event that any Unit shall encroach upon any of the Common Elements or upon any other Unit for any reason other than the intentional or negligent act of the Unit Owner, or in the event any Common Element shall encroach upon any Unit then an easement for maintenance, replacement, operation and use of the encroaching Unit or Common Element shall exist to the extent of that encroachment for so long as the encroachment shall exist.

(c) Pedestrian and Vehicular Traffic. As further provided in subarticles (f) and (h) of this section, an easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, lanes and other portions of the Common Elements as may from time to time be intended and designated for such purpose and use, and for the vehicular traffic over, through and across such portions of the Common Elements as may be paved from time to time and intended for such purposes, and such easements shall be for the use and benefit of the Unit Owners and those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park upon any portion of the Condominium Property except to the extent that space may be specifically designated for parking purposes.

(d) Developer Rights and Reservations. Until such time as the Developer has completed all of the contemplated improvements and sold all of the Units contained within Daniels Center III Office Condominium, all easements, including, but not limited to, ingress and egress, are hereby reserved and shall exist through and over the Condominium Property as may be required by the Developer for the completion of the contemplated improvements and sale of the Units. Neither the Unit Owners nor the Association, nor the use of the Condominium Property, shall interfere in any way with such completion and sale.

Nothing in this Declaration, the Articles of Incorporation, Bylaws, or the Rules and Regulations shall limit, and no Unit Owner or the Association shall do anything to interfere with, the right of Developer to subdivide or re-subdivide any portion of the Condominium Property, or to complete improvements to and on the Common Elements or any portion of the Condominium owned solely or partially by Developer, or to alter the foregoing, or its construction plans and designs, or to construct such additional improvements as Developer deems advisable in the course of development of the condominium so long as any Unit in the Condominium remains unsold. Such right shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of its business of completing the work and disposing of the Units by sale, lease or otherwise. Each Unit Owner by accepting a deed to a Unit hereby acknowledges that the activities of Developer may temporarily or permanently constitute an inconvenience or nuisance to the Unit Owners, and each Unit Owner hereby consents to such inconvenience or nuisance, without any liability on the part of Developer.

This Declaration shall not limit the right of Developer at any time prior to acquisition of title to a Unit by a purchaser from Developer to establish on that Unit additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Condominium Property. Developer may use any Unit owned by Developer in the Condominium as model complexes or sales or leasing offices. The rights of Developer hereunder and elsewhere in the Declaration, including the exhibits hereto, may be assigned by Developer to any successor in interest to any portion of Developer's interest in any portion of the Condominium by a recorded assignment.

Notwithstanding any other provision of this Declaration, the prior written approval of Developer shall be required before any amendment to this Section 3.5 shall be effective so long as the Developer has at least one (1) Unit for sale in the ordinary course of business in the Condominium. Developer shall be entitled to the nonexclusive use of the Common Elements and any facilities thereon, without further cost for access, ingress, egress, use or enjoyment, in order to show the Condominium Property to its prospective purchasers or lessees and dispose of the Units as provided herein. Developer, its successors and tenants, shall also be entitled to the nonexclusive use of any portions of the Condominium which comprise drives and walkways for the purpose of ingress, egress and accommodating vehicular and pedestrian traffic, all uses incidental to the completion of Daniels Center III Office Condominium to and from the condominium until such time as the Developer has completed all of the contemplated improvements and sold all of the Units contained within the Condominium.

(e) Association Easement. The Association shall have an easement over the Common Elements for the purposes described in this Declaration.

(f) Member's Easements of Use and Enjoyment of Common Elements. Subject to the provisions of this Declaration, every member of the Association shall have for the member, the member's employees, guests and invitees, a nonexclusive easement of access, ingress, egress, use and enjoyment of, over, in and to the Common Elements, as such easements shall be appurtenant to and pass with the title to every Unit. The rights and easements of use and enjoyment of the Common Elements created by this Declaration shall be subject to the restrictions and limitations set forth in this Declaration, the Articles of Incorporation, Bylaws, and the following:

(i) The right of the Association to consent to or otherwise cause the construction of additional improvements on the Common Elements and to consent to or otherwise cause the alteration or removal of any existing improvements on the Common Elements for the benefit of Unit Owners and in accordance with the terms of the Declaration and exhibits;

(ii) The easements reserved to the Developer, Association and grantee utility companies described in Section 3.5(a) and elsewhere in this Declaration;

(iii) The easements for encroachments described in Section 3.5(b) hereof;

(iv) The rights and reservations of Developer as set forth in this Declaration; and

(v) The right of the Association, acting through its Board of Directors, to establish uniform Rules and Regulations pertaining to the use of the Common Elements.

(g) Delegation of Use. Any Unit Owner entitled to the right and easement of use and enjoyment of the Common Elements may delegate such rights to the Unit Owner's tenants, contract purchasers or subtenants who occupy the Unit

Owner's Unit, subject to prior approval and reasonable regulation by the Board of Directors. Such approval shall not be unreasonably withheld. A Unit Owner who has made such a delegation of rights shall not be entitled to the use or enjoyment of the Common Elements for so long as such delegation remains in effect.

(h) Developer Easements and Rights of Entry.

(i) Access. Developer expressly reserves for the benefit of the Developer, nonexclusive easements for access, ingress and egress over all of the Common Elements, including any walkways currently existing in the Condominium, which easements may be conveyed by Developer to Unit Owners and to the Association until such time as the Developer has completed all of the contemplated improvements and sold all of the Units contained within the Condominium. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by Developer, its successors, purchasers and all Unit Owners, their patrons, employees, guests, tenants and invitees, temporarily visiting the Condominium, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Unit.

(ii) Maintenance and Repair. Developer expressly reserves for the benefit of the Board of Directors and all agents, officers and employees of the Association, nonexclusive easements over the Common Elements as necessary to maintain and repair the Common Elements and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Elements shall be appurtenant to, binding upon, and shall pass with the title to every Unit conveyed.

(iii) Easements Deemed to be Created. Should the intended creation of any easement fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easements, then any such grant of easement deemed not to be so created shall, nevertheless, be considered as having been granted directly to the Association for the purpose of allowing the original party or parties to whom the easements were originally granted the benefit of such easement. The Unit Owners designate the Developer and/or Association as their lawful attorney in fact to execute any instrument on their behalf as may hereafter be required or deemed necessary for the purpose of creating such easement.

4. **THE BUILDINGS.**

4.1 UNITS. The Condominium Property shall have constructed thereon the building, as identified in Exhibit "B" attached hereto. The Units within the building are identified as follows: Unit 401, Unit 402, Unit 403, Unit 404, Unit 405, Unit 406, Unit 407, Unit 408, Unit 409, Unit 410.

4.2 APPURTENANCES TO EACH UNIT. The Owner of each Unit shall own a certain undivided interest in the Common Elements and in the Common Surplus which

is appurtenant to the Owner's Unit in accordance with the proportion of square footage of the Unit as related to the total square footage of all Units.

4.3 **LIABILITY FOR COMMON EXPENSES AND SHARE OF COMMON SURPLUS.** Each Unit Owner shall share the Common Expense and Common Surplus to the same extent as he shares in the Common Elements. However, the Developer, at the Developer's option, shall be exempt from paying assessments on units owned by the Developer, provided the Developer pays the portion of the Common Expenses incurred during that period which exceeds the amount assessed against other Unit Owners.

4.4 **SPECIAL ASSESSMENTS.** So long as the Developer holds any Unit for sale in the ordinary course of business the Developer shall be exempt from Assessments for capital improvements as a Unit Owner, unless the Developer gives its approval in writing. The Developer shall further be exempt from any action by the Association that would be detrimental to the sales of Units by the Developer, unless the Developer approves the action in writing.

5. **MAINTENANCE, ALTERATION, AND IMPROVEMENT.** Responsibility for the maintenance, repair, and replacement of the Condominium Property and restrictions upon the alteration and improvement shall be as follows:

5.1 **By the Association.** The maintenance, repair, replacement and operation of the Common Elements shall be the responsibility of the Association and the expense associated therewith shall be designated as a Common Expense, other than those expenses specifically provided to be paid by the individual Unit Owner in subsection 5.2 hereof or in any other section of this Declaration. The Association's responsibility includes, without limitation:

(a) All boundary walls of a Unit and all portions of a Unit contributing to the support of the building in which the Unit is located.

(b) All conduits, ducts, rough plumbing, pipes, wiring and other facilities for the furnishing of Utility Services contained in the portions of a Unit maintained by the Association, if any; and all such facilities contained within a Unit that service part or parts of the Condominium other than the Unit within which contained. This provision excludes from its coverage any facility for the furnishing of Utility Services now or hereafter installed outside any of the Units and intended for the purpose of furnishing such Utility Services only to an individual Unit.

(c) All exterior doors of Units including their exterior surfaces and hardware.

(d) The outside walls of the building.

(e) Any fixtures on the exterior of the building authorized by the Association.

(f) Maintenance, repair and replacement of screens, windows and window glass.

(g) The attic crawl space.

(h) The roof.

(i) Concrete walkways.

(j) Landscaping.

(k) All incidental damage caused to a Unit by reason of the maintenance, repair and/or replacement which is the responsibility of the Association, and such damage shall be promptly repaired by the Association.

All work performed for and on behalf of a Unit Owner which is not the responsibility of the Association shall be charged to the Unit Owner. Additionally, the Association shall have the right but not the obligation to perform any corrective janitorial or repair work within any Unit if the Unit Owner fails to maintain such Unit as required by this Declaration.

Notwithstanding the foregoing provisions, the Association shall not be responsible for the maintenance or replacement of water, sewer or other utility lines or services which serve a specific Unit or Units and which are installed or located below the lower boundary of the Unit.

The main water line shall be maintained, repaired, and replaced by Lee County Utilities; the lateral water and sewer lines shall be maintained, repaired, and replaced by the Association.

5.2 Alteration and Improvement. After the completion of the improvements, including the Common Elements, there shall be no alteration or further improvement of the Common Elements without prior approval in writing of not less than sixty-six percent (66%) of the Unit Owners. Any such alteration or improvement shall not substantially interfere with the rights of any Unit Owners without their consent. This Section shall have no application to the rights vested in the Developer pursuant to this Declaration.

(a) By the Association. All incidental damage caused to any Unit by such work as set forth in Section 5.1 shall be promptly repaired at the expense of the Association.

(b) By Unit Owner. The responsibility of the Unit Owner shall include all maintenance, repair, and replacement of its own Unit. Such shall be at the Unit Owner's sole expense. The Unit Owner's responsibility includes, without limitation, the following:

(i) All conduits, ducts, rough plumbing, pipes, wiring, and other facilities for the furnishing of Utility Services contained in the Unit and which serve only the individual Unit.

(ii) The interior side of any exterior door affording access to the Unit.

(iii) Interior doors and all inside window hardware and locks.

(iv) Carpeting and other floor covering.

(v) The electrical, mechanical and plumbing fixtures and outlets (including connections).

(vi) The circuit breaker panel serving the Unit wherever located.

(vii) Other facilities or fixtures located or contained entirely within the Unit which serve only the Unit.

(viii) Air handlers, air conditioners, ducts, including air conditioning ventilating and heating compressors and systems (whether located within the Unit or not) and other utility facilities excluded from Association maintenance.

(ix) All interior, partition walls which do not form part of the boundary of the Unit.

(x) Any and all Limited Common Elements, the use of which has been assigned the Unit.

It shall be the responsibility of the Unit Owner to repair, maintain and replace all utility lines, whether electric, plumbing or sewer lines or utility lines of any other nature, within the boundaries of the Unit except where such utility lines service part or parts of Units owned by other Owners. This shall be done without disturbing the rights of other Unit Owners.

(c) Reporting. To promptly report to the Association any defect or need for repairs the responsibility for which is that of the Association.

(d) Alteration and Improvement. A Unit Owner may make such alterations or improvements to the Owner's Unit, at the Owner's sole and personal cost, as he may deem advisable, provided all work shall be done without disturbing the rights of other Unit Owners, and further provided that a Unit Owner shall make no changes or alterations to any portion of the exterior of the Unit or the building in which the Unit is located, screening, exterior door, windows, blinds, structural or load-bearing member, or Association maintained electrical service or plumbing service, without first obtaining approval in writing of the Board of Directors. All alterations and improvements shall be in compliance with all existing building codes. No such alteration or improvement may be made without the written approval of the Board of Directors or the Developer if such

alteration or improvement may or would cause an increase in the cost of the insurance carried by the Association.

6. **ASSESSMENTS.** The making and collection of Assessments against Unit Owners for Common Expenses, and for reserves as may from time to time be established by the Association, shall be pursuant to the Bylaws and subject to the following provisions:

6.1 **SHARE OF COMMON EXPENSES** . Each Unit Owner shall be liable for a proportionate share of the Common Expenses and shall share in the Common Surplus, in the same proportion as his undivided interest in the Common Elements, but such right shall not vest or create in any Unit Owner the right to withdraw or receive distribution of his proportionate share of the Common Surplus. Each Unit Owner shall also be liable for all special Assessments levied against the Unit Owner and the Owner's Unit by the Association, as provided for in this Declaration. All Common Expenses and special Assessments, together with interest, costs and attorneys' fees, shall be a separate, distinct and personal obligation of the person/entity who was the Owner of the Unit as to which Assessment was levied at the time when the Assessment fell due, and shall bind the Owner's heirs, personal representatives, successors in title and assigns.

Except as provided elsewhere in this Declaration, upon any voluntary or involuntary conveyance or transfer of a Unit, the new Owner shall be jointly and severally liable with the previous Owner for any unpaid Assessments levied against the previous Owner up to the time the conveyance or transfer was completed, without prejudice to the right of the new Owner to collect the unpaid Assessments from the previous Owner. Any foregoing provision of this section to the contrary notwithstanding, any purchaser/transferee of a Unit shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessments against the seller/transferor; and the purchaser/transferee shall not be liable for, nor shall the Unit transferred be liable for, any unpaid Assessments levied by the Association in excess of the amount set forth in such statement; provided, however, that the purchaser/transferee shall be liable for all Assessments that become due after the date of such statement.

Where an institutional mortgagee or the mortgagee of a first priority mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of the foreclosure of the first priority mortgage or where an institutional mortgagee or mortgagee of a first priority mortgage of record obtains title to the Unit as a result of a conveyance in lieu of foreclosure of the first priority mortgage or pursuant to any other remedy provided in the first priority mortgage, such acquirer of title, its successors and assigns, shall not be liable for the share of Association Common Expenses or Assessments pertaining to such Unit or chargeable to the former Owner of such Unit, unless such mortgage is recorded subsequent to the recording of a claim of lien for such unpaid Assessments. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses proportionately collectible from all of the Unit Owners including such acquirer, its successors in title and assigns.

6.2 PAYMENTS. Assessments and installments thereon paid on or before five (5) days after the day when the same shall become due, shall not bear interest, but all sums not so paid on or before five (5) days after the same are due shall bear interest at the highest lawful rate until paid. The Association shall also have the authority to impose an administrative late fee in the amount provided by law. All payments on account shall be first applied to costs and attorneys' fees incurred in making collection, then to interest, then to administrative late fees, and then to the Assessment payment first due. If any installment of an Assessment remains unpaid thirty (30) days after the same shall become due, the Board of Directors may declare the entire annual Assessment as to that delinquent Owner due and payable in full as if the entire amount was originally assessed.

6.3 LIENS FOR ASSESSMENTS. The Association shall have a lien on each Unit for any unpaid Assessments and for interest thereon, which lien shall also secure the costs of collection by the Association including, without limitation, reasonable attorney's fees incurred by the Association incident to the collection of such Assessment or enforcement of such lien. Said lien shall be effective from and after the time of recording in the Public Records of Lee County of a claim of lien stating the description of the Unit, the name of the record Owner thereof, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of lien shall be signed and verified by an officer of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Liens for Assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property and as otherwise provided by the Condominium Act. In any such foreclosure the Owner of the Unit shall be required to pay a reasonable rental for the Unit and the Association shall be entitled as a matter of law to the appointment of a receiver to collect the same. The Association may also sue to recover a money judgment for unpaid Assessments against an Owner without waiving the lien securing the same. Any lease of a Unit is subordinate to and inferior to any claim of lien of the Association, regardless of when the lease was executed.

6.4 WAIVER OF USE. No Unit Owner may exempt himself from liability for Assessments levied by the Association, or effect the release of his Unit from the lien for unpaid Assessments, by waiver of the use and enjoyment of the Common Elements or the abandonment of his Unit.

6.5 PURPOSE OF ASSESSMENTS. The Assessments levied by the Association shall be used to promote the health, safety and welfare of the occupants of the Units and for operation, replacement, improvement and maintenance of the Condominium Property for the common benefit of all of the Owners for purposes authorized by this Declaration. Nothing in this Declaration, however, shall be construed in such a way as to prohibit the Association from using any Assessments to abate any annoyance or nuisance emanating from outside the boundaries of the Condominium Property.

6.6 CREATION AND ENFORCEMENT OF CHARGES. The Association shall have a non-statutory lien upon the Condominium Parcels to secure payment to the Association by Unit Owners of all fines, charges, costs, and expenses for which they are liable to the Association and which cannot be secured as Assessments, regular or special, under Section 718.116, Florida Statutes as may be amended from time to time. The lien may be foreclosed in the same fashion as a mortgage on real property, shall bear interest at the highest lawful rate, and shall carry with it all costs and attorney's fees, including appeals, incurred in collection.

7. ASSOCIATION. Each Unit Owner shall hold membership in the Association and an undivided interest in the funds and assets held by the Association. Membership and voting rights of each Unit Owner in the Association shall be pursuant to the provisions of the Articles of Incorporation and Bylaws attached hereto as Exhibits "C" and "D," respectively. The operation of the Condominium shall be by the Association which shall fulfill its functions pursuant to the following provisions:

7.1 LIMITATION UPON LIABILITY OF ASSOCIATION. Notwithstanding the duty of the Association to maintain, repair and replace parts of the Condominium Property, the Association shall not be liable for injury or damage, other than the costs of maintenance, repair and replacement caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other Owners or persons.

7.2 MANAGEMENT. The Association may contract for the management and maintenance of the Condominium and authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of Assessments, preparation of records, enforcement of Rules, and maintenance and repair of the Common Elements. The Association shall, however, retain at all times the powers and duties granted them by the Condominium Act, including, but not limited to, the making of Assessments, promulgation of Rules and execution of contracts on behalf of the Association.

7.3 NOTICE TO FIRST MORTGAGEE. An institutional mortgagee or first priority mortgagee, upon request by such mortgagee, shall be entitled to written notification from the Association of any default in the performance by the Owner of the Unit encumbered by its mortgage, of any obligation under this Declaration, the Articles of Incorporation and Bylaws and any amendments thereto, which default is not cured within thirty (30) days.

7.4 BOOKS AND RECORDS. The holders of first priority mortgages shall have the right to examine the books and records of the Association during normal business hours and to require financial statements of the Association within sixty (60) days following the end of the fiscal year of the Association, subject to limitations set forth in Section 15.4.

7.5 RESTRAINT UPON ASSIGNMENT OF SHARES IN ASSETS. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.

8. INSURANCE. Insurance, other than title insurance, which may be carried upon the Condominium Property and the property of the Unit Owners shall be covered by the following provisions:

8.1 AUTHORITY TO PURCHASE. All insurance policies upon the Condominium Property shall be purchased by the Association for the benefit of the Association, and in the case of insurance covering damage to the building and its appurtenances, also shall be for the benefit of Unit Owners and their mortgagees as their interests may appear and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgages of Unit Owners. Such policies and endorsements thereon shall be deposited with the Insurance Trustee, if one has been designated. It shall be the responsibility of the Unit Owners and not the Association to obtain insurance coverage at their own expense upon their personal property and fixtures and in addition to obtaining comprehensive personal liability insurance which shall include covering liability for damage to person or property of others located within the Unit Owner's Unit, or in another Unit, or upon the Common Elements resulting from the negligence of the insured Unit Owner in such amounts as shall from time to time be determined by the Board of Directors, but in no case less than \$100,000.00 for each occurrence. Unit Owners shall furnish the Association with copies of all insurance policies obtained by them if requested in writing by the Association. All Unit Owner and Association property and liability insurance shall contain the waivers provided in subsection 8.2(a)(3).

8.2 COVERAGE.

(a) Casualty. All buildings and improvements upon the land and all personal property included in the Common Elements shall be insured in an amount equal to the full replacement cost, excluding foundation and excavation costs, as determined by the Board of Directors, on not less than an eighty percent (80%) coinsurance basis with a waiver of depreciation endorsement and inflation guard endorsement, if available. Such insurance shall have a reasonable deductible as shall be determined by the Board of Directors. All personal property included in the Common Elements shall be insured. Values of insurance for property shall be determined annually by the Board of Directors. Such coverage shall afford protection against:

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

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, including, without limitation, vandalism, malicious mischief, and water damage;

(iii) The policies shall waive the insurer's right to:

(1) subrogation against the Association and against the Unit Owners individually and as a group;

(2) the pro-rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

(3) avoid liability for a loss that is caused by an act of the Board of Directors of the Association or by one or more Unit Owners.

(4) Such policies shall provide that they may not be canceled or substantially modified without thirty (30) days prior written notice thereof to each of the insureds and to the mortgagees of same where mortgagee endorsements have been issued.

(b) Public Liability. In such amounts and such blanket coverage as may be required by the Board of Directors of the Association and with cross liability endorsement to cover liabilities of the Unit Owners individually and as a group to a Unit Owner.

(c) Workers' Compensation Policy. The Association shall maintain Workers' Compensation Insurance on at least a minimum premium basis.

(d) Fidelity Bonds. Fidelity bonds shall be maintained as may be provided by the Condominium Act, providing coverage against dishonest acts by the Association's officers, directors, and employees, and all others who are responsible for handling funds of the Association.

(e) Other. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

8.3 PREMIUMS. Premiums for insurance policies purchased by the Association shall be a Common Expense and such premiums shall be paid by the Association, except that the amount of increase in the premiums occasioned by misuse or abandonment of a Unit or its appurtenances or of the Common Elements by a Unit Owner shall be paid by that Owner.

8.4 INSURANCE TRUSTEE SHARE OF PROCEEDS. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering property losses shall be paid to the Association or to an Insurance Trustee, if one has been designated, being an institution having offices in the County or such other location as the Board of Directors might agree upon, and possessing trust powers as may from time to time be approved by the Board of Directors of the Association, which trustee is herein referred to as "Insurance Trustee." The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in

trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares but which shares need not be set forth on the records of the Insurance Trustee:

(a) Common Elements. Proceeds on account of damage to the Common Elements shall be held in undivided shares for each Unit Owner, each Owner's share being the same as his undivided share in the Common Elements appurtenant to his Unit.

(b) Units. Proceeds on account of damage to Units shall be held in the following undivided shares:

(i) When the Units are to be restored, for the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Board of Directors of the Association;

(ii) When the Units are not to be restored and the Condominium is not thereafter terminated pursuant to Section 9, for the Owners of damaged Units in proportion to the value of the loss suffered by those Units owned; or

(iii) When the Units are not to be restored and the Condominium is thereafter terminated pursuant to Section 9, for the Owners of all Units in undivided shares in proportion to the respective shares in the Common Elements appurtenant to the Units.

(c) Mortgages. In the event a mortgagee endorsement has been issued as to a Unit, the share of a Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired except as provided in Section 9.1(b). No mortgagee shall have any right to apply or have applied to the reduction of the mortgage debt any insurance proceeds, except distribution of such proceeds made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration. Notwithstanding the foregoing, the mortgagee shall have the right to apply, or have applied to the reduction of its mortgage debt, any or all sums of insurance proceeds applicable to its mortgaged Unit in any of the following events:

(i) Its mortgage is not in good standing and is in default.

(ii) Insurance proceeds are insufficient to restore or repair the building to the condition existing prior to the loss and if additional monies are not available for such purposes.

8.5 DISTRIBUTION OF PROCEEDS. Proceeds of insurance policies received by the Association or the Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(a) Expense of Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

(b) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, remittances to Unit Owners and mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(d) Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association setting forth the names of Unit Owners and/or mortgagees and their respective shares of the distribution.

8.6 ASSOCIATION AS AGENT. The Association is hereby irrevocably appointed agent and attorney-in-fact for each Unit Owner and for each Owner of any other interest in the Condominium Property for the purpose of empowering the Association to negotiate and adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases on behalf of each Unit Owner upon payment of a claim.

8.7 FAILURE TO PROCURE OR PAY FOR INSURANCE. In the event the Association fails to procure or pay the premiums when due for the insurance described in this Section 8, or should the Association otherwise fail to comply with the insurance requirements of this Declaration, then and in that event, the mortgagee holding the greatest dollar volume of mortgages on the Units shall have the right, at such mortgagee's option, to order insurance policies and to advance monies for payment of such insurance, and to the extent of the money so advanced by said mortgagee, said mortgagee shall be subrogated to the Assessment and lien rights of the Association as against the Unit Owners for the payment of such items of Common Expense.

9. RECONSTRUCTION OR REPAIR AFTER CASUALTY OR TAKING.

9.1 DETERMINATION TO RECONSTRUCT OR REPAIR. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(a) Common Elements. If the damaged improvement is a Common Element, the same shall be reconstructed or repaired unless the damages to such Common Element extend to Units, in which case the provisions relative to

reconstruction and repair of Units and Common Elements, as provided in subsection (b), shall pertain.

(b) Improvements on Units and Common Elements. If the damaged improvement is a Unit or a Unit and Common Elements, then the improvement shall be reconstructed and repaired unless seventy-five percent (75%) of the Owners of all Units and all Owners of damaged Units, and seventy-five percent (75%) of all mortgagees, being banks, savings and loan associations and insurance companies, and institutional mortgagees holding first mortgages upon Units, shall within sixty (60) days after casualty agree, in writing, that the same shall not be reconstructed or repaired.

(c) Certificate. The Insurance Trustee may rely upon an Association Certificate or certificate of the managing agent to determine whether or not the Unit Owners and their mortgagees, where so provided, have made a decision whether or not to reconstruct or repair.

(d) Time. If the determination is made as set out herein to reconstruct or repair, said reconstruction or repair shall begin in a reasonable period of time from the date the insurance proceeds are available for distribution, whether held by the Insurance Trustee, if any, or the Association, or Unit Owner.

9.2 PLANS AND SPECIFICATIONS. Any reconstruction or repair must be substantially in accordance with the plans and specifications of the original improvements; or if not, then according to plans and specifications approved by the Board of Directors which shall be of similar kind and quality as the original plans and specifications, and if the damaged property is a building containing Units, by the Owners of all damaged Units therein and their mortgagees.

9.3 RESPONSIBILITY. If the damage is only to those parts of Units for which the responsibility of maintenance and repair is that of Unit Owners, then the Unit Owners shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association, unless caused by a Unit Owner who shall then be solely liable.

9.4 ESTIMATE OF COSTS. When the Association shall have the responsibility of reconstruction or repair, prior to the commencement of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

9.5 ASSESSMENTS FOR RECONSTRUCTION AND REPAIR. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for payment of the cost of reconstruction and repair are insufficient, an Assessment shall be levied against all Unit Owners in sufficient amounts to provide funds for the payment of such costs.

9.6 CONSTRUCTION FUNDS. The funds for the payment of costs for reconstruction and repair after casualty, which shall consist of the proceeds of

insurance held by the Insurance Trustee and funds collected by the Association from Assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

(a) Association. If the total of insurance proceeds and Assessments made by the Association in order to provide funds for the payment of reconstruction and repair which is the responsibility of the Association is more than \$50,000.00, then the sums paid upon such Assessments shall be deposited by the Association with the Insurance Trustee, if one has been designated. In all other cases, the Association shall hold the sums paid upon such Assessments and shall disburse the same in payment of the costs of reconstruction and repair.

(b) Disbursements. The proceeds of insurance collected on account of a casualty and the sums received by the Association from collection of Assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(i) Unit Owner: To the extent that such monies may exist, the portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Unit Owner, shall be paid by the Association (or the Insurance Trustee) to the Unit Owner or, if there is a mortgagee endorsement as to such Unit, then to the Unit Owner and the mortgagee jointly. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners as determined by the Board of Directors. No Owner shall be paid an amount in excess of the cost of reconstruction or repair of such damage. All proceeds shall be used to effect repairs for such damage, and if insufficient to complete such repairs, the Unit Owner shall pay the deficit with respect to such damage and promptly effect the repairs.

(ii) Association - Lesser Damage: If the amount of the estimated cost of reconstruction and repair which is the responsibility of the Association is less than \$50,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors.

(iii) Association - Major Damage: If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is equal to or greater than \$50,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors and upon approval of a Licensed Architect or Engineer employed by the Association to supervise the work.

(iv) 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 a 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 Unit Owners and their mortgagees, jointly, in proportion to the Owner's share in the Common

Elements, but reduced by the amount of any unpaid Assessments against such Unit Owners.

(v) **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 a Licensed Architect or Engineer, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine any other fact or matter relating to its duties hereunder. Instead, the Insurance Trustee may rely upon an Association Certificate 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 a Licensed Architect or Engineer named by the Association shall be first obtained by the Association.

9.7 **NOTICE TO MORTGAGE HOLDERS.** The Association shall provide written notice to first priority mortgage holders on any Units of any substantial damage to any Units, buildings or Common Elements provided that the Unit Owner has submitted to the Association the name of its applicable mortgagee as provided in Section 15.1 of this Declaration. This written notice shall be provided within fifteen (15) days from the date of discovery of such damage.

9.8 **ACTION TO CONTEST CONDEMNATION.** The Board of Directors shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of the Common Elements or which touches upon, concerns or affects the use of the Common Elements. No Unit Owner or tenant of a Unit shall impair or prejudice the action of the Board of Directors in contesting such condemnation. Such restriction or prohibition shall not preclude a Unit Owner or tenant of a Unit from contesting the taking in such condemnation or eminent domain proceeding of the Unit owned or rented by such Unit Owner or tenant or of any trade fixtures or other equipment installed or located in the Unit so owned or rented. In any action contesting a taking by condemnation or eminent domain proceeding, the Board of Directors shall request the court to set forth the allocation of the condemnation award among the Unit Owners affected, taking into account the respective percentage interests in the Common Elements, the effect of the taking on each Unit affected thereby and any other relevant factors.

9.9 **TERMINATION OF CONDOMINIUM AFTER PARTIAL TAKING BY CONDEMNATION.** If any condemnation or eminent domain proceeding results in the taking of:

(a) Two-thirds (2/3) or more of the land comprising the Condominium or one-half (1/2) or more of the building(s) containing the Units, and Owners of Units having fifty percent (50%) of the interest in the Common Elements resolve to terminate the Condominium; or

(b) Less than two-thirds (2/3) of the land comprising the Condominium, but such taking substantially affects the use of the Condominium, or less than one-half (1/2) of the buildings containing the Units, and Owners of Units having seventy-five percent (75%) of the interests in the Common Elements resolve to terminate the condominium, then the condominium shall be terminated and the net proceeds of the award from the condemnation or eminent domain shall be considered one fund and shall be divided among all the Unit Owners and their respective mortgagees in proportion to their respective common interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of such Owner's share all liens on such Owner's Unit.

9.10 DISTRIBUTION OF CONDEMNATION AWARDS. Except as provided in Section 9.9 above and any award obtained by a Unit Owner for the Unit or for any trade fixtures or other equipment as further provided in Section 9.8 above, in the event all or part of the Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Insurance Trustee, if one has been designated, if the award is more than \$50,000.00 and to the Board of Directors if there is no Insurance Trustee or if the award is \$50,000.00 or less. The Board of Directors shall arrange for the repair, restoration or replacement of such Common Elements to the extent reasonably possible, and the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments.

If there shall be a surplus of such proceeds or if the Board of Directors cannot reasonably repair, restore or replace the Common Elements taken, the proceeds shall be distributed among the Unit Owners and their mortgagees as directed by the court, taking into account the respective percentage interests in the Common Elements of the Units affected thereby and any other relevant factors.

9.11 CONDEMNATION PROVISIONS SUBJECT TO EXISTING LAW. All provisions of Sections 9.8 through 9.10 are subject to interpretation in accordance with the law in effect at the time of any condemnation or eminent domain proceeding. Should all or any portion of the provisions of Sections 9.8 through 9.10 be deemed illegal at such time, the distribution of proceeds shall be as a court of law shall determine.

10. USE RESTRICTIONS. The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists.

10.1 PERMITTED USES OF UNITS. All Units shall be used for no purpose other than the permitted uses described in Section 10.2, except for the Common

Elements on which there may be placed landscaping, parking areas and private streets. No part of the Condominium shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any residential or other purpose, nor for any industrial purpose. All such use and operation shall be performed and carried out entirely within a Unit in such a manner that the enclosed operations and uses within the Unit do not cause or produce a nuisance to other portions of the Condominium such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, radiation, air or water pollution, dust or emission of odors, toxic or nontoxic matter.

10.2 SPECIFIC PERMITTED USES. Units shall only be used for general professional, medical, and office purposes, unless another use is authorized in writing, by the Board of Directors and the Developer. Laboratory uses which are ancillary to the use of medical or dental offices or which serve these professions are permitted, subject to the provision of zoning ordinances which may affect the Condominium Property.

10.3 PROHIBITED USES. No Unit may be used for any purpose which would violate the zoning regulations for the Condominium Property. Except with the unanimous consent of the Board of Directors, the Developer, no Unit may be used as a convenience store, funeral home or mortuary, coin laundry, dry cleaners with cleaning facilities on premises, massage parlor, dating service or club, escort service, tattoo parlor, or a firearms or ammunition business.

10.4 OTHER OPERATIONS AND USES. Uses that are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a special case if written plans and specifications for such operations or uses, containing such information as may be requested by the Association, are submitted to and approved by the Board of Directors, and the Developer, which approval shall be based upon analysis of the anticipated effect of such uses upon such other Units and upon the occupants thereof, but shall be in the sole discretion of the Board of Directors.

10.5 COMMON ELEMENTS AND CONDOMINIUM ASSOCIATION PROPERTY. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Unit.

10.6 NUISANCES. No nuisances or noxious or offensive trade of activity shall be allowed to exist upon the Condominium Property, nor shall a use or practice which is the source of annoyance to Unit Owners or which interferes with the peaceful possession and proper use of the property by its Unit Owners be allowed.

A nuisance shall include, without limitation, any of the following conditions:

(a) Emission of dust, sweepings, dirt, cinders, fumes, odors, gases, vapors, acids or other substances into the atmosphere that may adversely affect the use or intended use of any Unit or may adversely affect the health, safety or comfort of persons in the Condominium;

(b) Discharge of waste or any substance or material of any kind into any public or Association-maintained sewer serving the Condominium, or any part thereof, in violation of any law, rule or regulation of any public body or utility having jurisdiction thereof;

(c) The reception at any point outside the boundaries of a Unit of noise or vibrations from any activity, machine, device or combination thereof located in that Unit that unreasonably interferes with the use or enjoyment of any other Unit. 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 Unit Owner shall permit any use of his Unit or the Common Elements that will increase the cost of insurance upon the Condominium Property above that required when the Unit is used for the approved purposes, or that will result in a cancellation of such insurance.

10.7 LAWFUL USE. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor any part of it. Each Unit Owner and occupants shall comply with all of the requirements of the local or state health authorities and with all other applicable governmental rules, codes and laws with respect to the use and occupancy of that Unit, as well as any Association Rules and Regulations.

10.8 INSIDE AND OUTSIDE INSTALLATION. No television, radio or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on any of the buildings or other improvements constructed on the Condominium Property unless and until the same shall have been approved in writing by the Board of Directors and, the Developer. No wiring, air conditioning, water softeners, or other machines shall be installed on the exterior of the building or be allowed to protrude through the walls or roof of the building with the exception of that installed as part of the initial construction, unless the prior written approval of the Board of Directors and the Developer, is obtained. No Owner shall make any exterior addition, change or alteration to the building without the consent of the Board of Directors. No exterior storage of any kind whatsoever shall be allowed on the Common Elements except as authorized by the Board of Directors.

Nothing shall be done in a Unit or in, on or to the Common Elements which will or may tend to impair the structural integrity of or which would structurally alter the building, except as otherwise expressly provided herein. Where appropriate, Units shall be furnished and equipped by the Unit Owner or its tenant with sufficient protective lining, so as to shield other Units and the Common Elements from the effects of x-rays and other radiation or radioactive substances. No Owner shall connect to electric wires, water pipes or air pipes, any apparatus, machinery or device without the consent of the Board of Directors and the Developer. No electronic data processing machines or medical or dental equipment or machines using water or electrical current in excess of that normally anticipated to be used in the Condominium may be used in the Condominium without the prior consent of the Board of Directors and the Developer, which consent may be conditioned upon the special Assessment of maintenance costs against the Unit Owner involved. There shall be no alteration, repair or replacement of

wall coverings within Units which may diminish the effectiveness of the sound control engineering within the building. No doors or windows in the building shall be covered or obstructed so as to be visible from any portion of the Common Elements without the prior written consent of the Board of Directors and the Developer.

10.9 WINDOW TREATMENTS. All Unit Owners shall install window treatments which must be first approved in writing by the Board of Directors and the Developer.

10.10 REGULATIONS. Regulations concerning the use of the Condominium Property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and Bylaws. Copies of such Regulations and amendments thereto shall be furnished by the Association to all Unit Owners.

10.11 LEASING. With the exception of Developer owned Units, all leases of Units must be in writing. The Association must be informed, and must be furnished with a copy, of the lease agreement. The lease of a Unit shall not discharge the Owner thereof from compliance with any of his obligations and duties as a Unit Owner. All of the provisions of this Declaration, the Articles of Incorporation and Bylaws, and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person, corporation or other legal entity occupying a Unit as a tenant to the same extent as against a Unit Owner, and a covenant upon the part of each such tenant to abide by the Rules and Regulations of the Association, and the terms and provisions of the Declaration, Articles of Incorporation and Bylaws, and designating the Association as the Unit Owner's agent for the purpose of and with the authority to terminate any such lease agreement in the event of violation by the tenant of such covenant, shall be an essential element of any such lease or tenant agreement, whether specifically expressed in such an agreement or not. Unless otherwise approved by the Board of Directors, each lease of a Unit or Units shall be for a term of not less than one year. Except for leases made by the Developer, an executed copy of all such leases shall be furnished to the Board of Directors. During the time the Developer owns any Units, any leases of Units shall be subject to the Developer's approval.

10.12 DEVELOPER'S USE. As otherwise provided herein, until such time as the Developer has completed all of the contemplated improvements and has sold all of the Units contained within the Condominium Property, neither the Unit Owners nor the Association, nor their use of the Condominium Property, shall interfere with the completion of the contemplated improvements or sale of said Units. The Developer may make such use of the unsold Units and the Common Elements as may facilitate such completion and sale including, but not limited to, maintenance of a sales office, display of sales signs, leasing said Units and showing the Units for sale to prospective purchasers. Until completion and sale of all the Units by the Developer, no "For Sale" or "Lease" sign may be displayed upon the Condominium Property without the consent of the Developer.

10.13 SIGNS. The Unit shall have an approved standard identification sign, the size, design, and color of which shall not be modified without the express written consent of the Developer so long as it has any Unit for sale in the Condominium. The standard identification sign shall become the personal property of the Unit Owner and shall be maintained, repaired, and replaced by the Unit Owner and at the Unit Owner's expense. No sign, poster, billboard or other advertising devices of any kind shall be permitted on any portion of the Condominium Property except such signs as are approved by the Board of Directors and the Developer, for so long as Developer shall have for sale or lease in the ordinary course of business Units in the Condominium. The size, design, color, style, location and illumination of any such sign, poster, billboard or other advertising, except that of the Developer, are subject to the advance written approval of the Board of Directors. Provided, however, that, except as provided in Section 10.12, the restrictions of this paragraph shall not apply to any sign or notice of customary and reasonable dimension which states that a Unit is for rent or sale, or to such signs as may be required by a legal proceeding. Such sign or notice may be placed within a Unit but not upon the exterior portion of the Common Elements. The Board of Directors may maintain within the Common Elements a master directory of Units which are for sale or lease. Address, identification signs, directories of Units and mail boxes may be maintained by the Association. The Board may summarily cause all unauthorized signs to be removed or destroyed. All advertising signs must comply with all applicable laws and regulations governing the type of advertising permitted of the Owner by all applicable authorities.

10.14 SEPARATION OF INTERESTS. A sale of a Unit shall include all of its appurtenances, whether or not separately described, and appurtenances may not be sold separate from a Unit. A lease of a Unit shall include the parking spaces appurtenant to it, if any, and no parking space may be leased separate from the Unit to which it is appurtenant.

10.15 REFUSE AND WASTE. All rubbish, trash, garbage and other waste shall be regularly removed from each Unit and shall not be allowed to accumulate therein. No refuse container shall be maintained on the Common Elements other than in a location and manner provided for by the Board of Directors, and the Developer, in accordance with its rules adopted from time to time, and no such container shall be kept or maintained in any Unit so as to be visible from the Common Elements. The Association shall be responsible for the costs of refuse storage and collection. The plumbing system within the Condominium shall not be used for any purposes other than those for which they were constructed, and no rubbish, waste or other substance shall be placed in the system so as to obstruct the system.

10.16 HOLD HARMLESS AND INDEMNIFICATION. Each Unit Owner shall be liable to the Association for any damage to the Common Elements of any type or to any equipment thereon which may be sustained by reason of the negligence of said Owner or of his tenants, employees, agents, patients, guests or invitees, to the extent that any such damage shall not be covered by insurance. Each Owner does further, by the acceptance of his deed, agree to indemnify each and every other Owner, and to hold him harmless, from any claim of any person for personal injuries or property damage

occurring within his Unit, unless said injury or damage shall occur by reason of the negligence of any other Owner temporarily visiting the Unit of the indemnifying Owner. Each Unit Owner further agrees to defend, at his expense, any and all remaining Owners who may be sued by any person on a claim for personal injury or property damage alleged to have been sustained within the Unit of the indemnifying Owner.

10.17 DEVELOPER'S USE. Until the Developer has closed the sales of all of the Units, neither the Unit Owners, nor the Association, nor the use of the Condominium Property, shall interfere with the sale of Units. The Developer may make such use of the unsold Units and Common Elements, without charge, as may facilitate sales, including, but not limited to, maintenance of a sales and administrative office, leases of unsold Units, the showing of the Condominium Property, the display of signs and such other uses which are normally associated with the sale and marketing of real property and Units.

10.18 DEVELOPER'S RIGHT OF VETO. Developer shall have the right to veto any action of the Board of Directors, or the membership at large, if such action would, in the sole and exclusive discretion of the Developer, be detrimental to the intended purposes of this Declaration or Developer's interest. This right of veto shall expire upon the sale of the last Unit within the Condominium.

11. RESTRICTIONS ON TRANSFER OF A UNIT.

11.1 TRANSFER. As long as the Developer is an Owner of a Unit, no Unit Owner may transfer the Owner's Unit or any interest therein, without first complying with the provisions of this Section. As used herein, the term "transfer" shall mean any sale, lease, gift or any other disposition or transfer of a Unit, provided that such terms shall not include a mortgage of the Unit, or any interest therein pursuant to a mortgage executed in good faith and for valuable consideration, nor shall such term include any transfer of a Unit or interest therein pursuant to the remedies provided in such mortgage, in a judicial or private foreclosure sale conducted pursuant to such mortgage or a deed in lieu of foreclosure thereof.

11.2 NOTICE OF TRANSFER AND FIRST REFUSAL OPTION. As provided herein, before a valid transfer of any Unit or any interest therein is consummated, the Unit Owner will give written notice thereof by registered or certified mail to the Developer. This notice shall provide the identity of the proposed transferee, the price and terms offered to the proposed transferee and a copy of the proposed contract, lease or other document evidencing the proposed transfer. For a period of ten (10) calendar days after receipt of the notice, the Developer shall have the option to acquire the transferred interest at the price offered and on the other terms and conditions set forth in said notice. Such option shall be exercisable by the Developer by mailing by registered or certified mail, written notice of exercise to the Unit Owner prior to the end of such ten (10) day period that the Developer intends to acquire such Unit on terms set forth in the notice. Notwithstanding any of the terms of the proposed transfer, to the extent that consideration specified in the notice consists of items other than cash, the value of such non-cash items shall be deemed to be their fair market value.

11.3 NON-EXERCISE OF FIRST REFUSAL. If the option hereby granted pursuant to the provisions hereof is not exercised by the Developer thereupon the Unit Owner may transfer the Unit to the proposed transferee provided that: (i) the terms of such transfer are not less favorable to the Unit Owner than the terms disclosed in the notice to the Developer; and (ii) such transfer occurs within ninety (90) days after the notice thereof given to the Developer. If such transfer is not so consummated within the said ninety (90) day period, the Unit Owner must again proceed in accordance with the provisions hereof.

11.4 SUCCESSORS AND ASSIGNEES. The provisions of this section shall be binding on all Unit Owners and their successors, assigns or transferees and shall inure to the benefit of the Developer and its successors and assigns.

12. COMPLIANCE AND DEFAULT. Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, the Articles of Incorporation, the Bylaws, and Rules and Regulations 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 other remedies provided in this Declaration and in the Act.

12.1 ENFORCEMENT. The Association is hereby empowered to enforce this Declaration, the Bylaws, and Rules and Regulations of the Association by entry into any Unit at any reasonable time to make inspection, correction or compliance. The Board of Directors and the Developer and any Owner (not at the time in default hereunder) shall be entitled to bring an action for damages against any defaulting Owner, and in addition may enjoin any violation of this Declaration.

Each remedy provided for in its Declaration shall be cumulative and not exclusive or exhaustive. Without in any way limiting the generality of the foregoing, if the Board of Directors determines that there is a violation of any provision of this Declaration, or determines that an improvement which is the maintenance responsibility of an Owner is in need of installation, repair, restoration or painting, then the Board shall give written notice to the responsible Owner of the condition or violation complained of. Unless the Board of Directors has approved in writing corrective plans proposed by the Owner to remedy the condition complained of within such period of time as may be determined reasonable by the Board of Directors after it has given said written notice, and such corrective work so approved is completed thereafter within the time reasonably allotted by the Board of Directors, the Board of Directors, after due notice, shall undertake to remedy such condition or violation complained of and the cost thereof shall be charged to the Owner and the Owner's Unit which is the subject matter of the corrective work by way of a common law lien as provided elsewhere by this Declaration.

12.2 NEGLIGENCE. A Unit Owner shall be liable to the Association for the expense or any maintenance, repair or replacement rendered necessary by its act, unauthorized or improper installation or maintenance of any improvements, neglect or carelessness or by that of any principals, employees, lessees, or his or their guests, invitees, employees or agents, or by any other person deriving their right and easement of use and enjoyment of the Common Elements from the Unit Owner. Such liability

shall include any increase in insurance premiums occasioned by said use, misuse, occupancy or abandonment of a Unit or its appurtenances, or of the Common Elements. However, the Association may, after notice and hearing, levy a special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Unit Owner or any person for whom the Unit Owner may be liable, as aforesaid. In the case of joint Ownership of a Unit, the liability of the Owners shall be joint and several. After notice, the cost of correcting the damage shall be a special Assessment against the Owner's Unit and may be enforced as provided for herein for the enforcement of other Assessments.

12.3 COSTS AND ATTORNEYS' FEES. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, Articles of Incorporation, Bylaws, management agreement and Rules and Regulations adopted pursuant thereto, and said documents 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 attorneys' fees as may be awarded by the Court, including costs for any applicable proceedings.

12.4 NO WAIVER OF RIGHTS. The failure of the Developer, or the Association, or any Unit Owner to enforce any covenant, restriction or other provisions of the Act, this Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

13. **AMENDMENTS.** Subject to the other provisions of the Declaration relative to amendment, this Declaration may be amended in the following manner:

13.1 NOTICE. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

13.2 RESOLUTION. An amendment may be proposed by either the Board of Directors or by twenty-five percent (25%) of the members. A resolution adopting a proposed amendment must bear the approval of the Board of Directors and the Developer up until such time as all the Units have been conveyed, and two-thirds (2/3) of the members of the Association.

13.3 AGREEMENT. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record Owners of Units in the Condominium in the manner required for the execution of a deed, and such amendments shall be effective when recorded in the Public Records of Lee County, Florida.

13.4 EXCEPTION. Anything herein to the contrary notwithstanding, for so long as the Developer shall hold fee simple title to any Unit, the Developer may amend this Declaration, including but not limited to an amendment that will combine two (2) or more Units owned by Developer, or any amendment required by a governmental agency or an institutional mortgagee willing to make or purchase permanent mortgage

loans secured by Units, by recording such amendment in the Public Records of Lee County, Florida, and such amendment shall be effective without the necessity of a meeting of the Unit Owners or the approval and joinder of any Unit Owner, or the joinder of the Owner and holder of any lien of any first mortgage recorded prior to the amendment. Nor shall any amendment to this Declaration, the Articles of Incorporation, Bylaws, Rules or Regulations, and any exhibits attached hereto, make any change which would in any way affect any of the rights, privileges, powers, and options of the Developer, unless the Developer expressly consents to and joins in the execution of such amendment.

13.5 EXECUTION AND RECORDING. Except where amendment by the Developer is permitted without Owner or Association approval, a copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

14. TERMINATION. The Condominium may be terminated or abandoned in the following manner:

14.1 AGREEMENT. The Condominium may be terminated or abandoned at any time by approval, in writing, of all of the Owners and by all record Owners and holders of mortgages upon Units therein.

14.2 DESTRUCTION OF THE BUILDING OR PARTIAL TAKING BY CONDEMNATION. If it be decided as provided in Section 9.1(b) that the improvements damaged by common casualty shall not be reconstructed or repaired; or if after partial taking by condemnation the Unit Owners resolve to terminate the Condominium as provided within Section 9.9, the condominium form of Ownership will thereby terminate without agreement and the following shall be effective: The Owners of the Common Elements shall thereupon be the Owners, as tenants in common, of the Condominium Property and the assets of the Association. The shares of such tenants in common shall be the same as were their shares of the Common Elements.

14.3 GENERAL PROVISIONS. Upon termination, the former Unit Owners shall become the Owners, as tenants in common, of all Condominium and Association property and the assets of the Association. The shares of such tenants in common shall be the same as were their shares of Common Elements. The mortgagee or lienor of a Unit Owner, shall have a mortgage or lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he or she may receive by reason of such termination. The termination of the Condominium shall be evidenced by a certificate of the Association, executed with the formalities of a deed, and certifying as to the facts effecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of Lee County, Florida.

14.4 AMENDMENT. This Section concerning termination cannot be amended without consent of all Unit Owners and of all record Owners and holders of mortgages upon the Units.

15. **RIGHTS OF MORTGAGEES:**

15.1 NOTICE OF CASUALTY OR CONDEMNATION. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the record holder of any first mortgage on an affected Unit shall be entitled to notice within fifteen (15) days of the date of discovery of damage provided the Unit Owner has submitted the name of the applicable mortgagee to the Association. If the Unit Owner fails to provide such notice the Association shall not be obligated to furnish such notification.

15.2 MORTGAGE FORECLOSURE. Except as otherwise provided by law, if the holder of a first mortgage or an institutional mortgage of record acquires title to a Condominium Parcel as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer of title shall not be liable for the share of the Common Expenses or Assessments attributable to the Condominium Parcel, or chargeable to the former Owner of the parcel, which came due prior to the mortgagee's acquisition of title. Any liability becomes a Common Expense collectible from all Unit Owners, including such acquirer and its successors and assigns. No Owner or acquirer of title to a Condominium Parcel by foreclosure or by a deed in lieu of foreclosure may be excused from the payment of any Assessments coming due during the period of such Ownership.

15.3 REDEMPTION. If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. Any mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Unit at the foreclosure sale.

15.4 RIGHT TO INSPECT BOOKS. The Association shall make available to first mortgagees, requesting same, current copies of the Condominium Documents and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them. Any such inspection shall be completed within five (5) business days from when it is commenced.

15.5 FINANCIAL STATEMENT. Any first mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

15.6 **LENDER'S NOTICES.** Upon written request to the Association, any first mortgagee shall be entitled to timely written notice of:

(a) Any 60-day or longer delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a mortgage.

(b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(c) Any proposed action that requires the consent of a specified percentage of mortgage holders.

16. **SEVERABILITY.** The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations of the Association, and any Exhibits attached hereto, shall not affect the remaining portions thereof.

17. **GENERAL PROVISIONS.**

17.1 **INTERPRETATION.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the creation and operation of a condominium development and for the maintenance of Common Elements, and any violation of this Declaration shall be deemed to be a nuisance. The Section and subsection headings, titles and captions have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the masculine, feminine and neuter shall each include the other unless the context dictates otherwise.

17.2 **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 Condominium Property to the public, or for any public use.

17.3 **NO REPRESENTATIONS OR WARRANTIES.** No representations or warranties of any kind, express or implied, have been given or made by the Developer or its agents or employees in connection with the Condominium Property, or any portion thereof, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration or in contracts entered into between the Developer and Unit Owners.

IN WITNESS WHEREOF, the Developer has executed this Declaration as of the date first above written.

Signed and Sealed
in the Presence of:

DPC LOT 6, LLP
a Florida limited liability partnership

Sherrye Becker
Witness Signature
Sherrye Becker
Type/Print Witness Name

By: Mark D McCleary
Mark D. McCleary, Partner

Josephine Trevino
Witness Signature
JOSEPHINE TREVINO
Type/Print Witness Name

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 1 day of August, 2006, by Mark D. McCleary, as Partner of DPC Lot 6, LLP, a limited liability partnership under the laws of the State of Florida, on behalf of the limited liability partnership, who is personally known to me or who has produced _____ as identification.

C. Schauble
Notary Public Signature

My Commission Expires:

Christina Schauble
Type/Print Notary Name

Commission No.: DD 453738

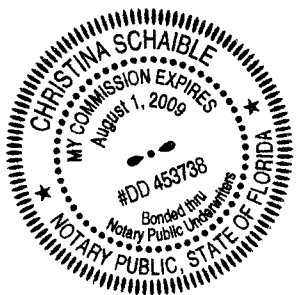



Exhibit "A"

Unit "D" A/K/A Building Pad "D" of Daniels Center Land Condominium, a condominium according to the Declaration of Condominium thereof, as recorded in Official Record Book 4289, Page 1042 of the Public Records of Lee County, Florida.

A CONDOMINIUM
LYING IN
SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST,


community engineering services, inc.
also supplying: *air conditioning* *project management*
96-4646-15 L.A. 0077
6001 Puente Suenor blvd, Suite 201
Pacoima, Calif. 91351
Telephone (818) 864-8777 Fax (818) 864-8644

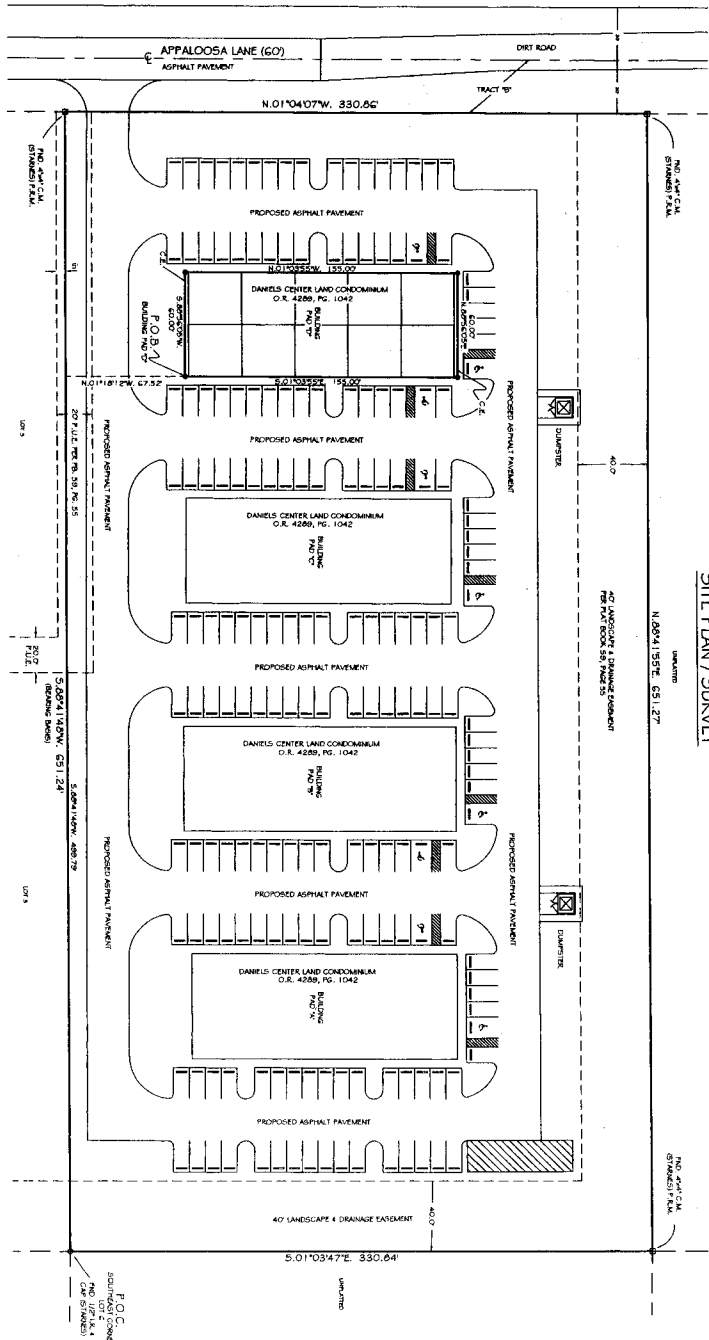
105

LEGEND

[Signature] DATE OF SIGNATURE 7-12-06

DONALD O. SWARTZ, F.S.M., US NO. 4078

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL DATED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.

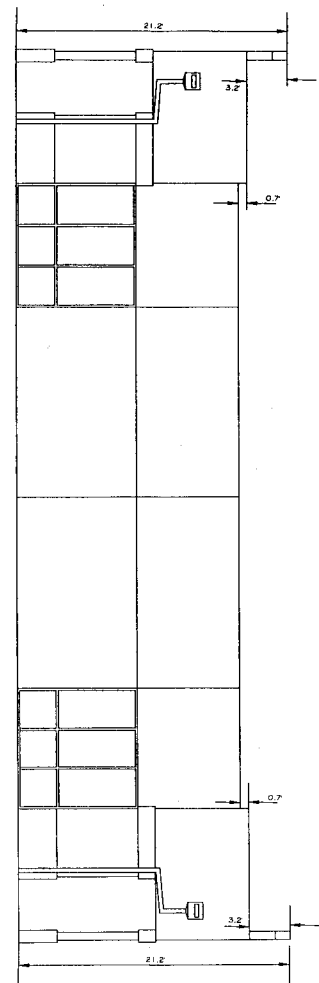
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DANIELS CENTER OFFICE CONDOMINIUM III

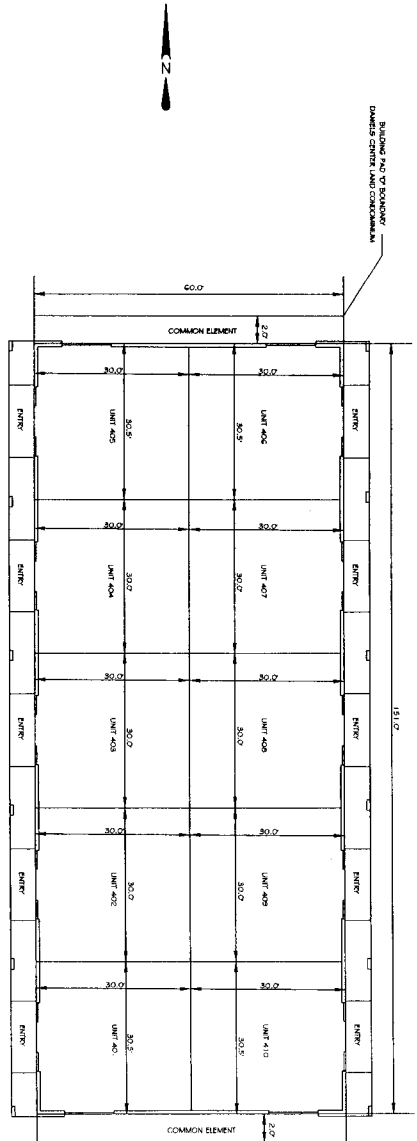
A CONDOMINIUM
LYING IN
SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA



INSTRUMENT NO. _____
SHEET 2 OF 2



END SECTION
NOT TO SCALE



PLAN VIEW
NOT TO SCALE



- GENERAL NOTES:
1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
 2. REFER TO THE REGULATIONS OF CONDOMINIUM FOR THE UNIT'S OWNERS.
 3. THE BUILDING SHALL BE CONSIDERED AS A SINGLE UNIT FOR THE PURPOSES OF THIS INSTRUMENT.
 4. THE BUILDING SHALL BE CONSIDERED AS A SINGLE UNIT FOR THE PURPOSES OF THIS INSTRUMENT.
 5. ALL DIMENSIONS ARE PROVIDED UNLESS NOTED OTHERWISE.

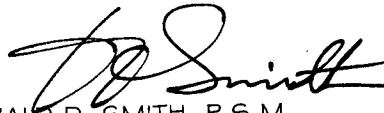
SURVEY CERTIFICATE
SUBSTANTIAL COMPLETION OF A CONDOMINIUM

CERTIFICATION OF SURVEYOR MADE THIS 12th DAY OF JULY, 2006

I HEREBY CERTIFY PURSUANT TO SECTION 718.104(4)(E)F.S., AS AMENDED, THAT THE CONSTRUCTION OF UNITS 401 THROUGH 410 OF DANIELS CENTER OFFICE CONDOMINIUM III AS DEPICTED ON THE ATTACHED EXHIBITS ARE SUBSTANTIALLY COMPLETE; SO THAT SUCH MATERIAL TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM OF DANIELS CENTER OFFICE CONDOMINIUM III, DESCRIBING THE CONDOMINIUM PROPERTY IS AN ACCURATE REPRESENTATION OF THE LOCATIONS AND DIMENSIONS OF THE IMPROVEMNETS AND THAT THE IDENTIFICATION, LOCATION, AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

I FURTHER CERTIFY THAT ALL PLANNED IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING, UTILITY SERVICES, ACCESS TO EACH UNIT AND COMMON ELEMENT FACILITIES ARE SUBSTANTIALLY COMPLETE.

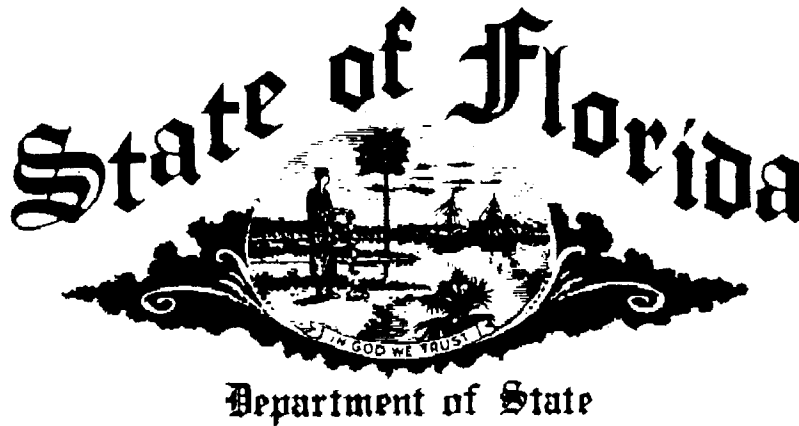
PREPARED BY:



DONALD D. SMITH, P.S.M.

FLORIDA REGISTRATION NO. 4078

DATE: 7.12.06

Exhibit "C"

I certify the attached is a true and correct copy of the Articles of Incorporation of DANIELS CENTER III OFFICE CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on August 15, 2006, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H06000204762. 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 N06000008651.

Authentication Code: 306A00050639-081606-N06000008651-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Sixteenth day of August, 2006



Sue M. Cobb
Sue M. Cobb
Secretary of State

ARTICLES OF INCORPORATION
OF
DANIELS CENTER III OFFICE
CONDOMINIUM ASSOCIATION, INC.

Pursuant to Section 617.02011, Florida Statutes, these Articles of Incorporation are created by DPC Lot 6, LLP, a Florida limited liability partnership, as incorporator, for the purposes set forth below.

All of the capitalized words and phrases used in these Articles of Incorporation that are not otherwise defined in these Articles, and that are capitalized for reasons other than syntax or grammar, shall have the same meanings attributed to such words and phrases as in the Declaration of Condominium.

ARTICLE I
NAME AND PRINCIPAL ADDRESS

The name of the corporation, herein called the "Association," is DANIELS CENTER III OFFICE CONDOMINIUM ASSOCIATION, INC., and its principal address is 8991 Daniels Center Drive, Suite 103, Fort Myers, Florida 33912.

ARTICLE II
PURPOSE AND POWERS

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act for the operation of DANIELS CENTER III OFFICE CONDOMINIUM located in Lee County, Florida.

The Association is organized and shall exist upon a non-stock basis as a corporation not-for-profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, director or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not-for-profit except as limited or modified by these Articles, the Declaration of Condominium, or Chapter 718, Florida Statutes, as it may hereafter be amended, including but not limited to the following:

A. To make and collect Assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the proceeds of the Assessments in the exercise of its powers and duties.

B. To protect, maintain, repair, replace and operate the Association property.

C. To purchase insurance upon the Association property for the protection of the Association and its members.

D. To reconstruct improvements after casualty and to make further improvements of the Condominium Property.

E. To make, amend and enforce reasonable Rules and Regulations governing the use of the Common Elements, and the operation of the Association.

F. To approve or disapprove the transfer of ownership, leasing and occupancy of Units, as provided by the Declaration of Condominium.

G. To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, and the Bylaws, and any Rules and Regulations of the Association.

H. To contract for the management and maintenance of the Association property, to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.

I. To employ accountants, attorneys, architects, and other professional consultants to perform the services required for proper operation of the Condominium.

J. To borrow or raise money for any of the purposes of the Association; to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable instruments and evidences of indebtedness; and to secure the payment of any thereof, and of the interest thereon, any mortgage, pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Association, whether at the time owned or thereafter acquired.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws.

ARTICLE III **MEMBERSHIP**

A. The members of the Association shall consist of all record Owners of a fee simple interest in one or more Units in the Condominium, as further provided in the Bylaws.

B. The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to the member's Unit.

C. The Owners of each Unit, collectively, shall be entitled to the number of votes in Association matters as set forth in the Declaration of Condominium and the Bylaws. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE IV
TERM

The term of the Association shall be perpetual.

ARTICLE V
BYLAWS

The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI
DIRECTORS AND OFFICERS

A. The number of members of the Board of Directors may either be increased or decreased from time to time by the Bylaws, but shall never be less than three (3).

B. The affairs of the Association will be administered by a Board of Directors, which shall be elected by the members in the manner determined by and serve as provided for in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

C. The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its organizational meeting following incorporation and shall serve as provided for in the Bylaws.

ARTICLE VIII
INITIAL DIRECTORS

The initial Directors of the Association shall be:

Mark D. McCleary

Jocelyn F. McCleary

James A. Glase

ARTICLE VII
AMENDMENTS

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

A. Proposal. Amendments to these Articles may be proposed by a majority of the Board of Directors or by petition in writing, signed by the members representing at least twenty-five percent (25%) of the voting interests of the entire membership.

B. Procedure. Upon any amendment or amendments to these Articles being proposed by said Board or members, such proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

C. Vote Required. Except as otherwise required by Florida law, these Articles of Incorporation may be amended by vote of a majority of the voting interests at any annual or special meeting of the members, or by written consent without a meeting describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, provided that notice of any proposed amendment has been given to the members, and that the notice contains a fair statement of the proposed amendment. Notwithstanding any provisions herein to the contrary, the Developer shall have the power and authority to unilaterally amend these Articles at any time prior to turnover of Association control without the joinder and consent of any Owner or mortgagee.

D. Limitation. No amendment shall be made that is in conflict with the Declaration of Condominium, nor shall any amendment abridge, alter or amend the rights of the Developer or mortgagees of Units without their consent.

E. Effective Date. An amendment shall become effective upon filing with the Florida Secretary of State and recording a certified copy in the Public Records of Lee County, Florida.

ARTICLE IX **INITIAL REGISTERED AGENT**

The initial registered office of the Association shall be at 8991 Daniels Center Drive, Suite 103, Fort Myers, Florida 33912. The initial registered agent at said address shall be Mark D. McCleary.

ARTICLE X **INDEMNIFICATION**

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on them in connection with any legal proceeding (or settlement or appeal of such proceeding) to which they may be a party because of their being or having been a director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that their actions or omissions to act were material to the cause adjudicated and involved:

A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

B. A violation of criminal law, unless the director or officer had no reasonable cause to believe their action was unlawful or had reasonable cause to believe their action was lawful.

C. A transaction from which the director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a director or officer may be entitled.

ARTICLE XI
INCORPORATOR

The name and address of the person signing these Articles of Incorporation is as follows:

DPC Lot 6, LLP
8991 Daniels Center Drive, Suite 103
Fort Myers, Florida 33912

WHEREFORE the incorporator has caused these Articles of Incorporation to be executed this 14 day of August, 2006.

DPC LOT 6, LLP, Incorporator

By: Mark D. McCleary
Mark D. McCleary, Partner

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 14 day of August 2006, by Mark D. McCleary, Partner of DPC Lot 6, LLP, as the Incorporator of DANIELS CENTER III OFFICE CONDOMINIUM ASSOCIATION, INC., a corporation under the laws of the State of Florida, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

C. Schauble
Notary Public Signature

My Commission Expires:

Christina Schauble
Type/Print Notary Name
Commission No.: DD453738




CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE
SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM
PROCESS MAY BE SERVED.

In compliance with the laws of Florida, the following is submitted:

First, that DANIELS CENTER III OFFICE CONDOMINIUM ASSOCIATION, INC.,
desiring to organize under the laws of the State of Florida has named Mark D. McCleary, 8991
Daniels Center Drive, Suite 103, Fort Myers, Florida, County of Lee, State of Florida, as its
statutory Registered Agent.

Having been named the statutory Registered Agent of the above corporation at the place
designated in this Certificate, I hereby accept the same and agree to act in this capacity, and
agree to comply with the provisions of Florida law relative to keeping the registered office open,
and I accept the obligations pursuant to the applicable Florida Statutes.



Mark D. McCleary, Registered Agent

Exhibit "D"
BYLAWS
OF
DANIELS CENTER III OFFICE
CONDOMINIUM ASSOCIATION, INC.

1. **GENERAL.** These are the Bylaws of Daniels Center III Office Condominium Association, Inc., hereinafter the "Association," a corporation not-for-profit organized under the laws of Florida for the purpose of operating an office condominium pursuant to the Florida Condominium Act.

1.1 **Principal Office.** The principal office of the Association shall be at 8991 Daniels Center Drive, Suite 103, Fort Myers, Florida 33912, or at such other place as the Board of Directors may determine.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "corporation not-for-profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions.** The terms used herein shall have the same definitions as stated in the Declaration of Condominium (the "Declaration").

2. **MEMBERS.**

2.1 **Qualification.** The members of the Association shall be the owners of legal title to the Units. In the case of a Unit subject to an agreement for deed, the contract vendor shall be deemed the Owner of the Unit for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events:

(a) Recording in the Public Records of a deed or other instrument evidencing legal title to the Unit in the member.

(b) Approval of membership by the Board of Directors as provided for in the Declaration.

(c) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(d) Delivery to the Association, if required, of a written designation of a primary occupant.

2.2 **Voting Rights; Voting Interests.** The members are entitled to one (1) vote for each Unit owned by them. The right to vote may be denied because of delinquent

Assessments. If a Unit is owned by one natural person, his/her right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by two or more natural persons who are not acting as trustees, that Unit's vote may be cast by any one of the record Unit Owners. If two or more Owners of a Unit do not agree among themselves how their one vote shall be cast, that vote shall not be counted. If the Unit Owner is not a natural person or is a trustee, the vote of that Unit shall be cast by the Unit's primary occupant designated as set forth in the Declaration.

2.3 Approval or Disapproval of Matters. Whenever the decision of a member is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any member who could cast the vote of such Unit at an Association meeting, unless the joinder of all record owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new member's membership becoming effective as provided in 2.1 above; the membership of the prior Owner shall thereby be automatically terminated.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his/her membership, nor does it impair any rights or remedies which the Association may have against any former Owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS; VOTING.

3.1 Annual Meeting. The members shall meet at least once in each calendar year and such meeting shall be the annual meeting. The annual meeting shall be held in Lee County, Florida, each year during the last quarter at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members.

3.2 Special Members' Meetings. Special Members' meetings shall be held whenever called by the Developer, the President, or by a majority of the Board of Directors, and may also be called by members having at least twenty-five percent (25%) of the votes of the entire membership. Such requests shall be in writing, shall state the purpose or purposes of the meeting, and shall be signed by all the members making the request. Business at any special meeting shall be limited to the items specified in the request and contained in the notice of meeting.

3.3 Notice of Meetings. Notice of all members' meetings shall state the time, date, and place of the meeting. The notice shall be mailed to each member at his address as it appears on the books of the Association, or may be furnished by personal delivery. The member bears the responsibility for notifying the Association of any change of address. The notice shall be mailed or delivered at least fourteen (14) days

prior to the date of the meeting. Notice of any meeting may be waived in writing by any member.

3.4 Notice of Annual Meeting; Special Requirements. Notice of the annual meeting, including agenda, shall be mailed, hand delivered, or electronically transmitted to each member at least fourteen (14) days prior to the annual meeting and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days preceding the annual meeting. An affidavit of the officer making such mailing of the notice of the annual meeting shall be retained in the Association records as proof of such mailing. Unless a member waives in writing the right to receive notice of the annual meeting, such notice shall be hand delivered, mailed, or electronically transmitted to each member.

3.5 Quorum. A quorum at a members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least one-third (1/3rd) of the votes of the entire membership.

3.6 Vote Required. The acts approved by a majority of the votes cast at a meeting at which a quorum has been attained shall be binding upon all members for all purposes, except where a higher vote is required by law or by any provision of the Declaration of Condominium, the Articles of Incorporation, or these Bylaws (collectively the "Condominium Documents").

3.7 Proxy Voting. Votes may be cast at a meeting either in person or by limited or general proxy, in certain circumstances in accordance with Florida law. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given and the original must be delivered to the Secretary at least before the appointed time of the meeting. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned to a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

3.9 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (a) Call of the roll or determination of quorum.
- (b) Reading or disposal of minutes of last meeting.
- (c) Reports of Officers.
- (d) Reports of Committees.
- (e) Election of Directors (annual meeting only).
- (f) Unfinished Business.
- (g) New Business.
- (h) Adjournment

3.10 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board Members at all reasonable times and for a period of seven (7) years after the meeting. Minutes must be reduced to written form within ninety (90) days after the meeting at which they were taken.

3.11 Parliamentary Rules. *Robert's Rules of Order* (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the members only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be three (3). Directors shall be elected for a one (1) year term. A Director shall serve until the annual meeting at which his successor is duly elected, unless he sooner resigns or is recalled as provided in 4.5 below. Directors shall be elected by the members at the annual meeting or, in the case of a vacancy, as provided in 4.4 below.

4.2 Qualifications. Except for Directors appointed by the Developer, each Director shall be a member of the Association.

4.3 Nominations and Elections. At each annual meeting, the members shall elect as many Directors as there are regular terms of Directors expiring or vacancies to be filled. The nominating committee, if any, shall nominate its recommended candidates for the office of Director on the floor at the annual meeting, at which time any other

eligible persons may also be nominated. Directors shall be elected by a plurality of the votes cast by written ballot or voting machine at the annual meeting. In the election of Directors, no Unit may cast more than one vote for any nominee, it being the intent hereof that voting for Directors shall be non-cumulative. The candidates receiving the highest number of votes shall be declared elected, except that a run-off may be held to break a tie vote.

4.4 Vacancies on the Board. If the office of any Director or Directors becomes vacant for any reason, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor or successors who shall hold office until the next annual meeting. At the next annual meeting, the members shall elect a person or persons to fill the remaining unexpired term or terms, if any. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board is vacant, the members shall elect successors at a special meeting.

4.5 Removal of Directors. Any or all Directors, except those appointed by the Developer, may be removed with or without cause by a majority vote of the entire membership, either by a written petition or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by twenty-five percent (25%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors at such place and time as may be fixed and announced by the Directors at the annual meeting at which they were elected.

4.7 Other Meetings. Meetings of the Board may be held at such time and place in Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram, at least two (2) days prior to the day named for such meeting.

4.8 Notice to Members. Meetings of the Board of Directors shall be open to members, and notices of all Board meetings shall be posted conspicuously on the Condominium Property at least forty-eight (48) hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting where Assessments against Units are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of the Assessments. No other notice of the proposed agenda need be given. The right of members to attend does not include the right to participate unless invited to do so.

4.9 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of a majority of all Directors. Directors may participate and vote in any meeting of the Board, or meeting of an executive or other committee by means of a conference telephone or similar communications equipment by which means all Directors, committee members, as well as members present at such meeting, can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting for purposes of obtaining a quorum.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Declaration or by applicable statutes.

4.12 Presumption of Assent. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest.

4.13 Adjourned Meetings. The majority of those present at any meeting of the Board of Directors, regardless of whether a quorum has been attained, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.14 The Presiding Officer. The President of the Association, or in his/her absence the Vice President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present.

4.15 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such unless compensation for their services is first approved by at least a majority of the members entitled to vote. Directors and officers shall be compensated for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.16 Committees. The Board of Directors may appoint from time to time such standing or temporary committees, including a nominating committee, as the Board may deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, a Vice President, a Treasurer and a Secretary, all of whom shall be elected

annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he/she shall preside at all meetings of the members and Directors; shall be an ex-officio member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. He/she shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice Presidents. The Vice Presidents, in the order of their seniority, shall in the absence or disability of the President perform the duties and exercise the powers of the President, and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for that purpose and shall perform like duties for the standing committees when required. He/she shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors and shall perform such other duties as may be prescribed by the Board or the President. He/she shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Condominium Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities and the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He/she shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one has been designated.

5.6 Delegation of Management. Certain Association functions for which the responsibility lies with the Directors and its officers may be delegated to a management agent. Such functions may include, without limitation, the collection of Assessments, keeping of records, and the maintenance, repair, and replacement of the Common

Elements. The Association and its officers, however, shall retain at all times the powers and duties provided by law.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its accounts in such federally insured financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.

6.2 Budget. The Board of Directors shall adopt a budget of Common Expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed to or served on each member not less than fourteen (14) days prior to that meeting. An affidavit of the officer making such mailing shall be retained in the Association records as proof of such mailing. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications.

6.3 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget shall include reserve accounts for capital expenditures and deferred maintenance as required by law. These accounts shall include, but are not limited to, roof replacement, and building painting. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item. These reserves shall be funded unless at a duly called meeting of the members, at which a quorum is present, a majority of those members entitled to vote thereat, either in person or by limited proxy, authorize and approve not to fund the reserves or to reduce the adequate funding of the reserves for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the members as required in 6.2 above. Reserves funded under this paragraph shall be used only for the purposes for which they were reserved, unless their use for other purposes is first approved by a majority of the voting interests of the members present in person or by limited proxy at a Members' meeting duly called for such purpose.

6.4 Other Reserves. In addition to the statutory reserves provided in 6.3 above, or in place of them if the members so vote, the Board may establish one or more additional reserve accounts for contingencies, operating expenses, repairs, minor improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special Assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.

6.5 Assessments. Regular annual Assessments based on the adopted budget shall be paid in quarterly installments, in advance, due on the first day of January, April,

July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fifteen (15) days prior to the due date. Failure to send or receive such notice shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last quarterly installment, and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage calculated shall be added or subtracted from each Unit's next quarterly installment due.

6.6 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special Assessments are due on the day specified in the resolution of the Board approving such Assessment.

6.7 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a Common Expense.

6.8 Financial Report. Not later than sixty (60) days after the close of each fiscal year, the Board shall prepare and distribute a financial report showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement for the year, detailed by accounts. Copies of this report shall be furnished to each member.

6.9 Application of Payments and Co-Mingling of Funds. All monies collected by the Association may be co-mingled in a single fund or divided into two or more funds, as determined by the Board of Directors. All payments on account by a Unit Owner shall be applied as to interest, delinquencies, costs and attorneys' fees, other charges, and regular or special Assessments, in such manner and amounts as the Board of Directors may determine, subject to the provisions set forth in the Declaration.

6.10 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations of the United States Internal Revenue Code of 1986, as in effect and hereafter amended.

7. RULES AND REGULATIONS; USE RESTRICTIONS. The Board of Directors may from time to time adopt and amend administrative Rules and Regulations governing the operation, use, maintenance, management and control of the Common Elements and the Association. Copies of such Rules and Regulations shall be furnished to each Unit Owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of a business environment and to the health, happiness and peace of mind of the Unit Owners, and must be uniformly applied and enforced.

8. COMPLIANCE AND DEFAULT; REMEDIES. In addition to the remedies provided in the Declaration, the following provisions shall apply:

8.1 Fines. The Board of Directors may levy reasonable fines against Units whose Owners and tenants commit violations of the Condominium Act, the provisions of the Declaration or Association Rules and Regulations, or condone such violations by their guests or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law. The procedure for imposing such fines shall be as follows:

(a) The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

(i) A statement of the date, time and place of the hearing;

(ii) A statement of the provisions of the Declaration or Association Rules and Regulations which have allegedly been violated; and

(iii) A short and plain statement of the matters asserted by the Association.

(iv) The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

(v) The decision by the Board of Directors shall be final and non-appealable.

8.2 Correction of Health and Safety Hazards. Any violations which are deemed by the Board of Directors to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the Unit Owner.

8.3 Voluntary 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 may submit the dispute to voluntary binding arbitration under the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes.

8.4 Availability of Remedies. Every member, for themselves, their heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the Condominium Property free from unreasonable restraint and annoyance.

9. TRANSFER OF ASSOCIATION CONTROL; DEVELOPER'S RIGHTS.

9.1 Members' Rights to Elect Board of Directors. Members other than the Developer are entitled to elect a majority of the members of the Board of Directors upon the first of the following events to occur:

(a) Seven (7) years after the recording of the Declaration of Condominium for the Daniels Center III Office Condominium; or

(b) Three (3) months after ninety percent (90%) or more of the Units have been conveyed to purchasers.

9.2 Developer's Right to Designate Members of Board of Directors. Except as provided above, the Developer shall be entitled to designate at least one Director as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units.

9.3 Notice of Members' Meeting. Within sixty (60) days after the members other than the Developer are entitled to elect one or more Directors, the Association shall call a meeting of the members, upon not less than thirty (30) days or more than forty (40) days notice, to elect the member or members of the Board. The meeting may be called and the notice given by any member if the Association fails to do so. All members other than the Developer may vote in the election of Directors.

9.4 Developer's Rights. So long as the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer.

(a) Any amendment of the Condominium Documents which would adversely affect the Developer's rights.

(b) Any Assessment of the Developer as a Unit Owner for capital improvements.

(c) Any action by the Association that would be detrimental to the sales or lease of Units by the Developer. However, an increase in Assessments for common expenses shall not be deemed to be detrimental to the sale or lease of Units.

(d) Developer shall have the right to veto any action of the Board of Directors, or the membership at large, if such action would, in the sole and exclusive discretion of the Developer, be detrimental to the Developer's interest. This right of veto shall expire upon the sale of the last Unit within the Condominium.

9.5 Transfer of Association Control. Not more than sixty (60) days after the members other than the Developer elect a majority of the Directors of the Association, the Developer shall relinquish control of the Association, and the members shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by the Developer and all items

and documents that the Developer is required to deliver or turn over to the Association under Florida law. The Developer may turn over control of the Association to the members other than the Developer prior to the above-mentioned dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of the members other than the Developer to elect Directors and assume control of the Association. Provided at least thirty (30) days notice of the Developer's decision to cause its appointees to resign is given to the members, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if the members other than the Developer refuse or fail to assume control.

10. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner:

10.1 Proposal. Amendments to these Bylaws shall be proposed by a majority of the Board or upon written petition signed by at least twenty-five percent (25%) of the voting interests.

10.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by said Board or members, such proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can still be given except as provided in Section 10.3 below.

10.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents, these Bylaws may be amended by concurrence of two-thirds (2/3) of the voting interests present in person or by limited proxy at any annual or special meeting provided that notice of any proposed amendment has been given to all the members in accordance with law. Notwithstanding any provisions herein to the contrary, the Developer shall have the power and authority to unilaterally amend the Bylaws at any time prior to turnover of Association control without the joinder and consent of any owner or mortgagee.

10.4 Limitation. No amendment shall be made that is in conflict with the Declaration, nor shall any amendment abridge, alter or amend the rights of the Developer or mortgagees of Units without their consent.

10.5 Recording; Effective Date. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida. The certificate must identify the book and page of the Public Records where each Declaration of Condominium for all Units operated by the Association is recorded.

11. MISCELLANEOUS.

11.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of the Condominium Documents, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of the Bylaws.

The foregoing constitute the first Bylaws of Daniels Center III Office Condominium Association, Inc., and were duly adopted at the first meeting of the Board of Directors held on the 4 day of August, 2006.

DANIELS CENTER III OFFICE
CONDOMINIUM ASSOCIATION, INC.

(Corporate Seal)

By: Mark D. McClean
Mark D. McClean President
Date: 08-04-06

ATTEST:

Joseph McClean
Joseph McClean Secretary

PREPARED BY:

Thomas H. Gunderson, Esq.
P. O. Box 280
Fort Myers, FL 33902-0280
Pick Up Box 12 - Lee County

MORTGAGEE CONSENT

THE UNDERSIGNED, SUNTRUST BANK, the owner and holder of the following security instruments from **DPC LOT 6, LLP**, a Florida limited liability company:

That certain Mortgage and Security Agreement recorded in Official Records Book 4856, Page 4674; Assignment of Rents and Leases recorded in Official Records Book 4856, Page 4684; UCC-1 Financing Statement recorded in Official Records Book 4856, Page 4689, all in the Public Records of Lee County, Florida;

which security instruments encumber the real property as described therein, hereby consents to the foregoing Declaration of Condominium of Daniels Center III Office Condominium, subordinates its referenced Mortgage interest to said Declaration and consents to the submission of the described property to the condominium form of ownership.

Mortgagee makes no warranty or representation of any kind or nature concerning the Declaration, any of its terms and provisions, or the legal sufficiency thereof, and disavows any development of the condominium, and does not assume and shall not be responsible for any of the obligations or liabilities of the developer contained in the Declaration or other documents issued in connection with the promotion of the condominium. None of the representations contained in the Declaration or other documents shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligation on Mortgagee to any person relying thereon. This consent is limited to the purposes and requirements of Section 718.104, Florida Statutes, and does not affect or impair the lien of the mortgage or the rights and remedies of Mortgagee as set forth in the Mortgage, any of the loan documents evidencing or securing the loan secured by the Mortgage or in the Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed this 7th day of September 2006.

[Signature]
Witness
BRAD STOKANOVIC
Type/Print Name of Witness

[Signature]
Witness
SANDRA GREINER
Type/Print Name of Witness

SunTrust Bank


By: [Signature]
Type Name: Ramy Chatterton
Its: Business Banking Team leader.

STATE OF FLORIDA)
)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 7th day of September 2006, by Ramy Chatterton as BB Team Leader of SunTrust Bank, on behalf of the bank and who is personally known to me or who has produced _____ as identification.

My Commission Expires:

[Signature]
Notary Public.
KAREN BARKER

 Karen Barker
My Commission DD176756
Expires January 09, 2007

Type/Print Name of Witness
Commission No. DD176756