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Shadow Wood Community Association, Inc
9990 Coconut Road, Suite 102
Bonita Springs, FL 34135

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Declaration: Book: 2909 Page: 838

AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR SHADOW WOOD

THIS AMENDMENT ("Amendment") to the Declaration of Covenants, Conditions and Restrictions for Shadow Wood is made by Long Bay Partners LLC ("Declarant").

W I T N E S S E T H:

WHEREAS, on January 14, 1998, Declarant filed that certain Declaration of Covenants, Conditions and Restrictions for Shadow Wood, recorded in Book 2909, Page 838, *et seq.*, of the Official Records of Lee County, Florida (as amended and supplemented from time to time, the "Declaration");

WHEREAS, pursuant to the terms of Section 19.1 of the Declaration, Declarant may unilaterally amend the Declaration for any purpose until termination of the Class "B" membership, so long as such amendment does not substantially conflict with the "Master Plan" (as defined in the Declaration); and

WHEREAS, the Class "B" membership has not terminated and this Amendment does not substantially conflict with the Master Plan.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby amends the Declaration as follows:

1.

All capitalized terms used herein, but not defined, shall have the meanings set forth in the Declaration.

2.

Section 3.2 of the Declaration is hereby amended by deleting subsection 3.2(a) in its entirety and replacing it with the following:

3.2. Authority to Enact Use Restrictions.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Use Restrictions. The Board shall send notice to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Such notice shall be sent (i) by United States mail; (ii) by electronic mail; or (iii) by broadcast or publication via a medium readily available throughout the Properties. Neighborhood Representatives shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless disapproved at a meeting by Neighborhood Representatives representing at least two-thirds (2/3) of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Neighborhood Representatives to consider disapproval except upon receipt of a petition of the Neighborhood Representatives as required for special meetings in the By-Laws. Upon such petition of the Neighborhood Representatives prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

3.

Section 3.2 of the Declaration is hereby further amended by deleting subsection 3.2(b) in its entirety and replacing it with the following:

3.2. Authority to Enact Use Restrictions.

(b) Alternatively, the Neighborhood Representatives, at an Association meeting duly called for such purpose, may adopt Use Restrictions which modify, cancel, limit, create exceptions to, or expand the Use Restrictions by a vote of Neighborhood Representatives representing at least two-thirds (2/3) of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

4.

Section 6.4 of the Declaration is hereby amended by deleting Subsection 6.4(c) in its entirety.

Section 7.3 of the Declaration is hereby amended by deleting Subsection 7.3(b) in its entirety and replacing it with the following:

7.3. Insurance.

(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Lee County area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Florida which satisfies the requirements of the Federal National Mortgage Association, if applicable, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefit of the Association and its Members;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;

(vii) provide a waiver of subrogation under the policy against any Owner or household member of a Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

6.

Section 7.3 of the Declaration is hereby amended by deleting Subsection 7.3(c) in its entirety and replacing it with the following:

7.3. Insurance.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Neighborhood Representatives representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Neighborhood Representatives, levy Special Assessments to cover the shortfall.

7.

Section 7.5 of the Declaration is hereby amended by deleting Section 7.5 in its entirety and replacing it with the following:

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly or by reasonable implication by the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members. In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

8.

Section 8.4 of the Declaration is hereby amended by deleting such Section in its entirety and replacing it with the following:

8.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, after the termination of the Class "B" membership any Special Assessment shall require the affirmative vote or written consent of Neighborhood Representatives (if a Common Expense) or Owners (if a Neighborhood Expense) representing at least two-thirds (2/3) of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

9.

Section 8.11 of the Declaration is hereby amended by deleting subsections 8.11(b) and (c) in their entirety and replacing such subsections with the following:

8.11 Transfer Fees.

(b) Fee Limit. The Board shall have the sole discretion to determine whether a transfer fee shall be charged and, if so, the amount and

method of determining any such transfer fee, which may, but is not required to, be determined based upon a sliding scale which varies in accordance with the "Gross Selling Price" of the property or another factor as determined by the Board; provided, however, any such transfer fee shall be equal to an amount not greater than one percent of the Gross Selling Price of the property. For the purpose of determining the amount of the transfer fee, the Gross Selling Price shall be the total cost to the purchaser of the property, excluding taxes and title transfer fees as shown by the amount of tax imposed on transfers of real property by the State of Florida and Lee County.

(c) Purpose. All transfer fees that the Association collects shall be deposited in a segregated account to be used for such purposes as the Board deems beneficial to the general good and welfare of Shadow Wood. By way of example and not limitation, such transfer fees may be used to assist the Association in funding:

(i) preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas, and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation and preservation of the natural environment at The Brooks master planned community and Lee County, Florida;

(ii) programs and activities which serve to promote a sense of community within Lee County, Florida, such as recreational leagues, cultural programs, educational programs, festivals and holiday celebrations and activities, a community computer network, and recycling programs; and

(iii) social services, community outreach programs, and other charitable causes.

10.

Section 9.2 of the Declaration is hereby amended by deleting Section 9.2 in its entirety and replacing it with the following:

9.2. Expansion by the Association.

The Association may also subject additional property to the provisions of this Declaration by recording a Supplemental Declaration in the Public Records describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Neighborhood Representatives representing at least two-thirds (2/3) of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may

become subject to this Declaration in accordance with Section 9.1, the consent of the Declarant shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

11.

Section 10.7 of the Declaration is hereby amended by deleting Section 10.7 in its entirety and replacing it with the following:

10.7. Exclusive Rights to Use Name of Development.

No Person shall use the name "The Brooks" or any derivative thereof in any printed or promotional material without Declarant's prior written consent. However, Owners and Builders may use such name in printed or promotional matter where such term is used solely to specify that particular property is located within The Brooks. Declarant acknowledges and agrees that it shall assign to the Association, by separate agreement, the right to use the name "Shadow Wood" and all logos associated with the Shadow Wood community in southwest Florida. The scope and terms of such assignment shall be governed by the assignment agreement.

12.

Section 11.1 of the Declaration is hereby amended by deleting Subsection 11.1(j) in its entirety and replacing it with the following:

11.1. Easements in Common Area.

(j) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas," as described in Article XIII.

13.

Section 11.5 of the Declaration is hereby amended by deleting such section in its entirety and replacing it with the following:

11.5. Easements for Maintenance, Emergency and Enforcement.

The Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its obligations and responsibilities under the Governing Documents, including its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for

emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcement of the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

14.

Section 13.1 of the Declaration is hereby amended by deleting the third paragraph of such section in its entirety. The revised Section 13.1 shall read as follows:

13.1. Designation and Use of Exclusive Common Area.

Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Exclusive Common Areas are assigned.

Initially, any Exclusive Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Neighborhoods, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area and Exclusive Common Area may be reassigned upon approval of the Board and the vote of Neighborhood Representatives representing at least two thirds (2/3) of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as the Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require the Declarant's written consent.

The Association may, upon approval of a majority of the members of the Neighborhood Committee or board of directors of the Neighborhood Association for the Neighborhood(s) to which any Exclusive Common Area is assigned, permit Owners of Units in other Neighborhoods to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Exclusive Common Area.

15.

Article XIV of the Declaration is hereby amended by deleting Article XIV in its entirety and replacing it with the following:

Article XIV Dispute Resolution

14.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, any Builder, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree to attempt to resolve disputes involving Declarant and/or the Association without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to, directly or indirectly, file a law suit for a Claim described in subsection (b), without first submitting the Claim to the alternative dispute resolution procedures described in Section 14.2.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents;

(iii) the design or construction of improvements within the Properties, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

(iv) trespass, nuisance, property damage, or enforcement of laws, codes, or ordinances relating to or otherwise involving the Association;

(v) the use of or changes to any Unit or Common Area;

- (vi) amendments to the Governing Documents;
- (vii) meetings of the Board or committees of the Board, except for election disputes; or
- (viii) access to official records of the Association,

(c) Notwithstanding the above, the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

(i) any Association action to collect assessments or other amounts due from any Owner;

(ii) any Association action to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Florida Laws and the Governing Documents, including the creation and maintenance of the Community-Wide Standard;

(iii) any suit which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 14.2;

(iv) any suit as to which the applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Article; and

(v) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents, or which is between Declarant and a Builder arising out of the purchase and construction of one or more Units pursuant to a contractual agreement.

Additionally, any election dispute or recall dispute may not be mediated, in accordance with Florida law, and shall be submitted to arbitration in accordance with Section 14.2(e) without first following the procedures set forth in Sections 14.2(b) and 14.2(c).

14.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice")

by mail or personal delivery to each Respondent, and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the Bound Parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation in accordance with Chapter 720, Florida Statutes.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within 30 days after submitting the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

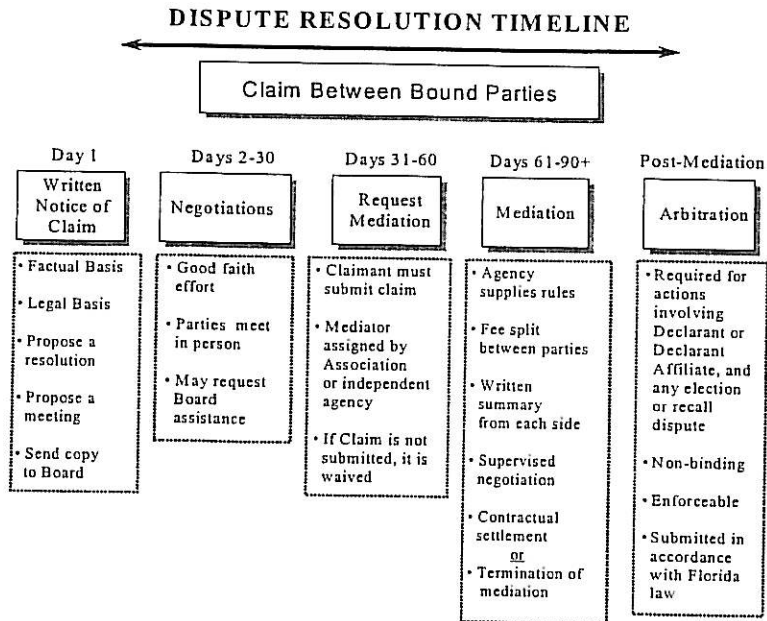
(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Bound

Parties. If any Bound Party thereafter fails to abide by the terms of such agreement, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the agreement shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or each one in equal proportions) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

(e) Arbitration. Any dispute between an Owner or the Association and Declarant or any affiliate of Declarant, including Claims which remain after conclusion of the dispute resolution procedures described in Section 14.2, and any election disputes or recall disputes shall be submitted to non-binding arbitration in accordance with Florida law and this subsection (e). Such disputes shall not be submitted as a lawsuit or other proceeding in any Florida state court or federal court until they are first submitted to arbitration. Notwithstanding the above, disputes affecting the material rights or obligations of a third party who is not a party to or bound by such arbitration shall not be subject to this subsection.

This subsection (e) is an agreement to arbitrate and is specifically enforceable under Florida law. Judgment may be entered upon the arbitration award in any court of competent jurisdiction to the fullest extent permitted under Florida law. Any Claim or issue which is submitted to arbitration under this Section 14.2(e) shall proceed in accordance with procedures set forth in Chapter 720, Florida Statutes.

If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and the Respondent shall be released and discharged from any and all liability to the Claimant arising out of the dispute. The parties shall share equally the costs of conducting the arbitration until a prevailing party is determined; provided, the prevailing party shall be entitled to recover all of its costs incurred in the action, including, without limitation, reasonable attorneys' fees.



14.3. Initiation of Litigation by Association.

After the termination of the Class "B" membership, the Association shall not initiate any judicial or administrative proceeding which is reasonably expected to cost at least \$100,000.00 in legal fees to prosecute to completion unless first approved by Neighborhood Representatives representing at least two-thirds (2/3) of the Class "A" votes in the Association. Any such recommendation to the Class "A" Members must be in writing and must be accompanied by a feasibility analysis including an explanation of the issues, a budget for legal and related expenses, the amount in controversy, the expectation of success, and a copy of bids from a minimum of three qualified law firms.

16.

Exhibit "D" to the Declaration is hereby amended by deleting such Exhibit in its entirety.

[Signatures set forth on the following page]

IN WITNESS WHEREOF, Long Bay Partners LLC, a Florida limited liability company, through its undersigned managing general partner, has duly executed this amendment and affixed its corporate seal thereto as of this 29 day of Dec, 2005.

DECLARANT: LONG BAY PARTNERS LLC, a Florida limited liability company

By: Bonita Bay Properties, Inc., a Florida corporation

Patricia Roman
WITNESS

By: John M. Gleeson
John M. Gleeson

Mussen
WITNESS

Attest: _____

Its: V.P.
[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29 day of Dec, 2005, by John Gleeson, as V.P. for Bonita Bay Properties, Inc., a Florida corporation, on behalf of such entity. He is personally known to me or has produced _____ as identification.

Given under my hand and official seal this 29 day of Dec, 2005

My term of office expires on _____.



Diane Mussen [SEAL]
NOTARY PUBLIC

Diane M. Russell
Printed Name

Commission No. _____