

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 6	#Names: 2	
Trust: 3.50	Rec: 49.00	Serv: 1.00
Deed: 0.00		Excise: 0.00
Mtg: 0.00		nt Tax: 0.00

PREPARED BY AND RETURN TO:
Cathleen A. Wysor, City clerk
City of Melbourne
900 East Strawbridge Avenue
Melbourne, FL 32901

SECOND AMENDMENT
TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS, LICENSES AND EASEMENTS
FOR ALAMANDA KEY

THIS SECOND AMENDMENT TO DECLARATION is made this 28th day of June, 2005, by Alamanda Key, LLC, a Florida Limited Liability Company, whose address is 400 High Point Drive - Suite 500, Cocoa, Florida 32926.

RECITALS:

WHEREAS, the Owner and the Developer of Alamanda Key is Alamanda Key, LLC, a Florida Limited Liability Company;

WHEREAS, no person or legal entity holds a mortgage or other security agreement encumbering Alamanda Key;

WHEREAS, Alamanda Key, LLC, as the Owner and the Developer of Alamanda Key and as the Declarant, recorded the subdivision plat of Alamanda Key - Phase 1 in Plat Book 52, Page 83, Public Records of Brevard County, Florida (herein referred to as "Alamanda Key" or "Alamanda Key - Phase 1");

WHEREAS, simultaneous therewith, the Declarant Alamanda Key, LLC on February 16, 2005, did also record the Declaration of Covenants, Conditions, Restrictions, Reservations, Licenses and Easements for Alamanda Key in Official Records Book 5423, Page 2393, Public Records of Brevard County, Florida (herein: the "Original Declaration");

WHEREAS, on April 8, 2005, the Declarant, Alamanda Key, LLC, did record the First Amendment to the Declaration of Covenants, Conditions, Restrictions, Reservations, Licenses and Easements for Alamanda Key in Official Records Book 5449, Page 2977, Public Records of Brevard County, Florida (herein: the "First Amendment");

WHEREAS, Alamanda Key, LLC, a Florida Limited Liability Company, is on the date hereof the sole owner in fee simple absolute of all lots, tracts and other parcels of land as depicted on the plat of Alamanda Key, LLC;

WHEREAS, pursuant to Section 11.10, the Declarant has the absolute right to amend the Original Declaration as amended by the First Amendment;

WHEREAS, the Declarant executes this Second Amendment to the Declaration for the purpose of evidencing the following amendments and modifications of the Original Declaration, as amended by the First Amendment, which shall be effective *nunc pro tunc* to February 15, 2005; and

WHEREAS, the purpose of this instrument is to correct certain scrivener's errors in the Original Declaration, including omission of a recording reference in the first recital of the Original Declaration, supplying a Plat Book and Page number in Section 1.16 of the Original Declaration, supplying a legal description in Exhibit "A" as referenced in Section 1.18 of the Original Declaration, and to subordinate the Original Declaration, as amended by the First Amendment and this instrument, to the Stormwater Maintenance Agreement for Alamanda Key - Phase 1, as recorded on ~~June~~^{July}, 2005, in Official Records Book ~~5492~~, Page ~~8271~~, Public Records of Brevard County, Florida,

NOW, THEREFORE, the Declarant, as the fee simple owner of all real property depicted upon the plat of Alamanda Key - Phase 1 as recorded in Plat Book 52, Page 83, Public Records of Brevard County, Florida, does hereby declare that the foregoing Subdivision shall be held, sold, and conveyed subject to the followings covenants, conditions, restrictions, easements, and reservations which are for the purpose of protecting the value and desirability of, and which will run with, the Subdivision and be binding on all parties having any right, title, or interest in the Subdivision or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof:

1. Recitals. Each and all of the foregoing recitals be and the same are hereby declared to be true and correct and incorporated herein.

2. Amendment to First Recital. Using underlined language to denote new text and ~~stricken through~~ language to denote deleted text, the first recital to the Original Declaration appearing on Official Records Book 5423, Page 2393, Public Records of Brevard County, Florida, contains a scrivener's error which is hereby revised and amended as follows:

WHEREAS, the Declarant is the record owner of fee simple title to certain real property situate in Brevard County, Florida, which is more particularly described as Alamanda Key - Phase 1, recorded in Plat Book 52, ~~1~~, Page ~~83, 164~~, Public Records of Brevard County, Florida (the "Subdivision"); and

3. Amendment to Section 1.16 of the Original Declaration. Using underlined language to denote new text and ~~stricken through~~ language to denote deleted text, Section 1.16 of the Original Declaration appearing on Official Records Book 5423 at Page 2396, Public Records of Brevard County, Florida, contains a scrivener's error in that the blanks for the plat book and page of the Alamanda Key plat were not completed and which Section 1.16 is hereby revised and amended as follows:

1.16 "Plat" shall mean and refer to the plat of Alamanda Key - Phase 1, as recorded in Plat Book 52, Pages 83 through 84, inclusive, Public Records of ~~the~~ Brevard County, and any subsequently recorded plats of additional Phases which add or annex additional property to the Alamanda Key Subdivision.

4. Section 1.18 of the Original Declaration. Section 1.18 of the Original Declaration appearing on Official Records Book 5423 at Page 2396, Public Records of Brevard County, Florida, references Exhibit "A" which is the metes and bounds legal description of Alamanda Key -Phase 1. However, Exhibit "A," the legal description, was not attached to the Original Declaration. Set forth below is the metes and bounds legal description of Alamanda Key - Phase 1 which is the legal description, Exhibit "A," referenced in the Original Declaration.

A parcel of land lying in the Southeast ¼ of the Southwest ¼ and the West ¼ of the Southwest ¼ of the Southeast ¼ of Section 16, Township 28 South, Range 37 East, being a portion of Lots 4, 5, and 6 of the plat of "Florida Indian River Land Company" as recorded in Plat Book 1 at Page 164 of the Public Records of Brevard County, Florida; said subject parcel being more fully described as follows:

Begin at the southeast corner of the plat of "Belle Terrace", said plat being recorded in Plat Book 50 at Pages 91 and 92 of said Public Records; thence S. 00°16'07" E. along the West line of the

70.00 foot wide right-of-way of Stack Boulevard as described in O.R. Book 2430 at Page 0588 of said Public Records, a distance of 715.75 feet to a point-of-cusp of a 25.00 foot radius curve concave to the Southwest; thence departing said West right-of-way line, Northwesterly, along an arc of said curve, through a central angle of 90°00'00", an arc distance of 39.27 feet to a point-of tangency; thence S. 89°43'53" W., a distance of 70.00 feet to the point-of-curvature of a 25.00 foot radius curve concave to the Southeast; thence Southwesterly, along an arc of said curve, through a central angle of 90°00'00", an arc distance of 39.27 feet to a point of tangency; thence S. 00°16'07" E., a distance of 10.15 feet; thence N. 89°40'09" W., a distance of 1,228.61 feet to the point-of-curvature of a 25.00 foot radius curve concave to the northeast; thence Northwesterly along an arc of said curve through a central angle of 88°48'13" an arc distance of 38.75 feet to a point-of-tangency; thence N. 00°51'56" W., a distance of 118.36 feet; thence S. 89°08'04" W., a distance of 170.00 feet to the East line of a 50.00 foot wide drainage and public utilities right-of-way recorded in O.R. Book 2430, Page 0597 of said Public Records; thence N. 00°51'56" W., along said East line, a distance of 26.00 feet; thence departing said East line, N. 89°08'04" E., a distance of 170.00 feet; thence N. 00°51'56" W., a distance of 93.22 feet to the point-of-curvature of a 25.00 foot radius curve concave to the southeast; thence northeasterly along the arc of said curve, through a central angle of 90°49'10", an arc distance of 39.63 feet to a point-of-tangency; thence N.89°57'14" E., a distance of 565.43 feet; thence N. 00°02'46" W., a distance of 260.00 feet; thence S. 89°57'14" W., a distance of 114.71 feet; thence N. 00°02'46" W., a distance of 170.00 feet to the North line of said Southeast ¼ of the Southwest ¼ of Section 16; thence N. 89°57'14" E. along said North line and along the South line of said plat of "Belle Terrace", a distance of 637.95 feet to the Northwest corner of said West ¼ of the Southwest ¼ of the Southeast ¼ of Section 16; thence N. 89°47'36" E., along the North line of said West ¼ and said South line of the plat of "Belle Terrace", a distance of 260.33 feet to the Point of Beginning,

Together with the Tract "E" Parcel described as follows,

Commence at said Southeast corner of the plat of "Belle Terrace"; thence S. 00°16'07" E., along said West right-of-way line, a distance of

1,136.32 feet to the North line of a 160.00 foot wide easement in favor of the Florida Power & Light Company as recorded in O.R. Book 0436 at Page 0483 of the Public Records which lies 200.00 feet Northerly, by right angle measure, of the South line of said West ¼ and being the Point-of-Beginning of the lands herein described; thence continue S. 00°16'07" E. along said West right-of-way line, a distance of 160.00 to the South line of said easement; thence departing said West right-of-way line, N. 89°59'50" W., along said South easement line, a distance of 259.99 feet to the East line of said Southeast ¼ of the Southwest ¼; thence continue along said South easement line, N. 89°40'09"W., a distance of 663.63 feet; thence departing said South easement line, N. 00°34'22" W., a distance of 160.02 feet to said North easement line; thence along said North easement line, the following two (2) courses to wit: S. 89°40'09" E., a distance of 664.41 feet to the West line of said West ¼; S. 89°59'50" E., a distance of 260.03 feet to the Point of Beginning.

Said combined parcels containing a total of 20.80 acres (906,155 feet) more or less.

5. Using underlined language to denote new text and ~~stricken through~~ language to denote deleted text, a new Article XIII and a new Section 13.1 entitled "Subordination" are hereby added to the Original Declaration, as follows:

13.1 Subordination. The Declaration of Covenants, Conditions, Restrictions, Reservations, Licenses and Easements for Alamanda Key, recorded in Official Records Book 5423, Page 2393, Public Records of Brevard County, Florida, as amended by the First Amendment to the Declaration of Covenants, Conditions, Restrictions, Reservations, Licenses and Easements for Alamanda Key in Official Records Book 5449, Page 2977, Public Records of Brevard County, Florida and other amendments adding or annexing additional lands to the Subdivision making them subject to the Original Declaration, shall all be subject and subordinate to the Stormwater Maintenance Agreement for Alamanda Key - Phase 1, recorded in Official Records Book _____, Page _____, Public Records of Brevard County, Florida, as amended from time to time to add or annex additional lands. Any assessments collected from owners of lots subject to the Original Declaration but collected by virtue

of the foregoing referenced Stormwater Maintenance Agreement shall be superior to assessments collected pursuant to the authority of the Original Declaration. Any lien placed on lots subject to the Original Declaration but collected by virtue of the foregoing referenced Stormwater Maintenance Agreement shall be superior to liens placed upon lots pursuant to the authority of the Original Declaration.

6. This Second Amendment shall be effective nunc pro tunc on February 15th, 2005.

Executed as of the date first above written.

Signed, sealed and delivered in the presence of:

OWNER/DEVELOPER/DECLARANT:

ALAMANDA KEY, LLC, a Florida Limited Liability Company, by and through S&S Enterprises, Inc., a Florida Corporation

Susan C. Timmins
Signature of witness
Print Name: SUSAN C. TIMMINS
Address: 400 HIGH POINT DR, #500
COCOA FL 32926
Kellie D Kelly
Signature of witness
Print Name: Kellie D Kelly
Address: 400 High Point Dr #500
COCOA FL 32926

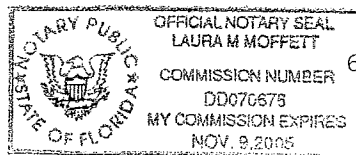
By: Thomas A. Vani, Pres
Thomas A. Vani, its President
Address: 400 High Point Dr, Suite 500
Cocoa, FL 32926

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 28th day of June, 2005, by Thomas A. Vani as President of S&S Enterprises, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Laura M. Moffett
Notary Public at Large
State of Florida
My commission expires:



6/28/05

[Handwritten mark]