Prepared by and return to:

Stewart B. Capps, Esquire

P.O. Bex 034021 Indialantic, FL 32903



CFN:2002317188 12-13-2002 09. OR Book/Page: 4763 / 3799

Scott Ellis

Deed: 0.00

Mtg:

0.00

Clerk Of Courts, Brevard County

#Pgs: 12 #Names: 2 Trust: 6.50 Rec: 49.

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# FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RIVER OAKS AT AQUARINA

THIS FIFTH AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina ("Fifth Amendment") is made this 3<sup>rd</sup> day of December 2002 by River Oaks at Aquarina Homeowners Association, Inc., a Florida Corporation.

#### WITNESSETH:

WHEREAS, River Oaks at Aquarina Homeowners Association, Inc. is the association under the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina, recorded on September 25, 1995 in Official Records Book 3507, Page 1670, Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, the Declaration was amended by the First Amendment to the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 3624, Page 3748, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Second Amendment to the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4179, Page 3574, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Third Amendment to the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4019, Page 0246, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4210, Page 1579, Public Records of Brevard County, Florida; and

WHEREAS, the River Oaks at Aquarina Declaration of Covenants, Conditions and Restrictions can be amended, as provided for in paragraph 3 by owners of at least two-thirds of the voting interest of the Association which owners have duly voted for said amendment by a properly and officially called meeting of the members.

NOW, THEREFORE, River Oaks at Aquarina Homeowner's Association, Inc. hereby amends the Declaration of Covenants, Conditions and Restrictions of River Oaks at Aquarina as follows:

1. The Third amendment to the Declaration of Covenants, Conditions and Restrictions dated April 30, 1999 and recorded on June 2, 1999 in Official Record Book 4019, Page 0246, Public Records of Brevard County, Florida, is herewith canceled and rescinded.

2. A new Article IX is added with regard to mangrove trimming as follows:

Mangrove Trimming in the Conservation Area: The Board of Directors of River Oaks at Aquarina Homeowner's Association, Inc. has previously obtained a permit by the St. John's River Water Management District and D.E.P. for trimming of the mangroves in the Conservation Area Property owned in common by River Oaks at Aquarina Homeowner's Association, Inc., and in its discretion may elect to trim the mangroves. If River Oaks at Aquarina Homeowner's Association, Inc. elects not to trim the mangroves, then any abutting property owner in Lots 12 through 18 may at their own expense trim the mangroves, provided all applicable exemption or permits are obtained and the trimming is done in accordance with such exemption or permit, and it is done in the areas identified and described in the permit. In the event any owner trims the mangroves in the Conservation Area owned in common by River Oaks at Aquarina Homeowner's Association, Inc. in such a way that violates the permit issued by St. John's River Water Management District or D.E.P., or violates any other state or federal regulatory law, then such owner shall indemnify and hold River Oaks at Aquarina Homeowner's Association, Inc., and its officers and directors harmless for any loss or claim. For purposes of this amendment, loss or claim shall be deemed to include any possible loss or claim, including penalties, administrative fines, damages, or any court costs or attorney's fees incurred in defense of such loss or claim. Should River Oaks at Aquarina Homeowner's Association, Inc. sustain any loss or claim, then such homeowner who causes the loss or claim shall promptly reimburse River Oaks at Aquarina Homeowner's Association, Inc. its damages for the claim or loss within thirty days, and failing that, River Oaks at Aquarina Homeowner's Association, Inc. shall be entitled to impose a lien against the offending property owner, and may enforce that lien as provided for in Articles III and IV of the Declaration of Covenants, Conditions and Restrictions.

3. Except as modified hereby, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Developer has executed this Fifth Amendment on the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Witness Signature

Witness Printed Name

nest Signature

Witness Printed Name

RIVER OAKS AT AQUARINA

HOMEOWNER'S ASSOCIATION, INC.

Dick Geach, President By:

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# STATE OF FLORIDA COUNTY OF BREVARD



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The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of December 2002 by Dick Geach, who is president of River Oaks at Aquarina Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me and did take an oath.

Notary Rublic/State of Florida

Virginia A Cassetta
Virginia A Cassetta
EXPIRES
NOVEMBER 6, 2005
NOVEMBER 6, 2005
BONDED THRU TROY FAIN INSURANCE INC

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Property Owner Keneful John & Mor
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Property Owner
Printed Name: WILL IAM LEE
345 HELLIMUCK SHORE DA
Property Owner  Printed Name: TAMES BATES
Printed Name:
270
Property Owner Printed Name: Johna Turner
Donna Deuren
280 Nammock Share Di
Property Owner;
Printed Name: Kurt F Lutt
355 Hammock Shore Dr.
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Printed Name: Ross DAVIS
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330 Hammody Show D
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Printed Name: INA ULSAMER
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#### KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned owner, or their voting representative, whose address is 375 Hromnock Showe Do in River Oaks at Aquarina Homeowners Association, Inc., constitute and appoint Stewart Cappsecretary of the association, his designee or Diele as nominee, as my true and lawful attorney and proxy with powers of substitution for and in the names and place of the undersigned, to appear, represent and cast votes only as I specifically instruct in reference to the following matters on behalf of Rives Oaks at Aquarina Homeowners Association, Inc., to be held on December 3, 2002 at 5:00 p.m. at the Administration Office, 235 Hammock Shore Drive, Melbourne Beach, Florida.

Vote on the proposed Fifth Amendment to the Declaration of Covenants, Conditions and 1. Restrictions for River Oaks at Aquarina

**FOR** 

**AGAINST** П

The undersigned ratifies and confirms any and all acts and things that the proxy may do or cause to be done in the premises, whether at the meeting referred to above or at any change, adjournment or continuation of it, and revokes all prior proxies previously executed.

DATED:

Property Owner Signature

Robert 5 Anderson

OR Book/Page: 4763 / 3804

## KNOW ALL PERSONS BY THESE PRESENTS:

That th	he unde	ersigned owi	ner, or their voting representative, whose address is 340 Hammolk Sha
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as non names in refer	ninee, a and pla reruc u	as my true a ace of the und the following	nd lawful attorney and proxy with powers of substitution for and in the dersigned, to appear, represent and cast votes only as I specifically instructing matters on behalf of River Oaks at Aquarina Homeowners Association,
Inc., to	be hel	d on Decemb	ber 3, 2002 at 5:00 p.m. at the Administration Office, 235 Hammock Shore
Drive,	Melbo	ourne Beach,	, Florida.
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	<b>X</b>	FOR	□ AGAINST
	to be d	done in the	ratifies and confirms any and all acts and things that the proxy may do or premises, whether at the meeting referred to above or at any change, ion of it, and revokes all prior proxies previously executed.
DATE	D:	11-19-	. 0.2
·			Property Owner Signature

Emery O. Johnson

DATED: //

#### LIMITED PROXY

# KNOW ALL PERSONS BY THESE PRESENTS:

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sh <u>or</u>	e or.	_ in River	Oaks at Aquari	na Home Issociation	n his designee	or Stewa	art Cay	<u> 205                                    </u>
m 0.00	ominee, as	my true a	nd lawful attori dersigned, to ap any matters on w	ney and popear, repr	proxy with pow resent and cast v	ers of subsi otes only as	ntution i s I specif	ically instruct
inc.	to be held	on Decemi	ber 3, 2002 at 5:	00 p.m. at	the Administra	tion Office,	235 Har	nmock Shore
	ve, Melbou							
1.	Vote or Restric	n the propo tions for R	osed Fifth Ame liver Oaks at Ac	endment to quarina	the Declaration	on of Cover	ants, Co	onditions and
•	X	FOR			AGAINST			-
caus adjo	se to be do	ne in the	ratifies and con premises, when tion of it, and re	ther at the	e meeting refe	rred to abo	ve or at	any change,

Property Owner Signature

David Morris

# KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned owner, or their voting representative, whose address is 400 HAMPOR Show in River Oaks at Aquarina Homeowners Association, Inc., constitute and appoint as nominee, as my true and lawful attorney and proxy with powers of substitution for and in the names and place of the undersigned. to appear, represent and cast votes only as I specifically instruct in reference to the following metters on behalf of River Oaks at Aquarina Homeowners Association. Inc., to be held on December 3, 2002 at 5:00 p.m. at the Administration Office, 235 Hammock Shore	L
-Drive-Melbourne Beach, Florida.	

 Vote on the proposed Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina

FOR

□ AGAINST

The undersigned ratifies and confirms any and all acts and things that the proxy may do or cause to be done in the premises, whether at the meeting referred to above or at any change, adjournment or continuation of it, and revokes all prior proxies previously executed.

DATED:

11/19/2002

Property Owner Signature

Timo thy Kenefick

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OR Book/Page: 4763 / 3807

## KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned owner, or their voting representative, whose address is 345 HAMMS
548 13 Din River Oaks at Aquarina Homeowners Association, Inc., constitute and appoint
, secretary of the association, his designee or Vick Good,
as nominee, as my true and lawful attorney and proxy with powers of substitution for and in the
names and place of the undersigned, to appear, represent and cast votes only as I specifically instruct in reference to the following matters on behalf of River Oaks at Aquarina Homeowners Association,
Inc., to be held on December 3, 2002 at 5:00 p.m. at the Administration Office, 235 Hammock Shore
Drive, Melbourne Beach, Florida.
1. Vote on the proposed Fifth Amendment to the Declaration of Covenants, Conditions and
Restrictions for River Oaks at Aquarina
FOR   AGAINST
The undersigned ratifies and confirms any and all acts and things that the proxy may do or cause to be done in the premises, whether at the meeting referred to above or at any change,
adjournment or continuation of it, and revokes all prior proxies previously executed.
adjournment of commutation of it, and revokes an prior proxies previously executed.
DATED: $\frac{12}{2}$ 02
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Property Owner Signature
William T. Lee
William 1. Ce

# KNOW ALL PERSONS BY THESE PRESENTS:

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		Beach, Florida.				
		proposed Fifth Amendm for River Oaks at Aquar		the Declaration of Covenan	its, Conditions and	
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DATED:	17	/18/02				
				Property Owner Sign	gnature	
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# KNOW ALL PERSONS BY THESE PRESENTS:

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cause to be do	dersigned ratifies and confirmation in the premises, whether r continuation of it, and revoke	at the	meeting referred to abor	ve or at any change,
DATED:	11/23/02			
			Property Owner	Signature
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